

PROFFERS

Rolling Oaks LLC

RZ 2002-MV-022

February 24, 2003

Pursuant to Section 15.2-2303(a) Code of Virginia, 1950, as amended, the owners and Rolling Oaks LLC (hereinafter referred to as the "Applicant"), for themselves, successors and assigns in RZ 2002-MV-022, filed for property identified as Tax Map 98-4 ((3)) pt. 11 and 98-4 ((1)) 18, (hereinafter referred to as the "Application Property") hereby proffer the following, provided that the Board of Supervisors approves a rezoning of the Application Property to the PDH-3 District in conjunction with a Conceptual/Final Development Plan (CDP/FDP) for residential development.

1. CONCEPTUAL/FINAL DEVELOPMENT PLAN -

- a. Subject to the provisions of Section 16-204 of the Fairfax County Zoning Ordinance (hereinafter referred to as the "Zoning Ordinance"), development of the Application Property shall be in substantial conformance with the CDP/FDP, consisting of five sheets prepared by BC Consultants dated May 2002 and revised through January 17, 2003.
- b. Pursuant to Paragraph 4 of Section 16-403 of the Zoning Ordinance, minor modifications from the CDP/FDP may be permitted as determined by the Zoning Administrator except as qualified by Proffer 3.e. The Applicant reserves the right to make minor adjustments to the layout, internal lot lines, and lot sizes of the proposed subdivision at time of subdivision plan submission based on final house locations, building footprints, utility locations, and final engineering design, provided that such adjustments do not decrease the amount and general location of open space, tree save, or distances to peripheral lot lines and provided that the area identified on the CDP/FDP for "Proposed Conservation Easement" shall not be reduced in size.
- c. The "Building Restriction Line" as shown on the typical single family detached lot layout on the CDP/FDP shall be shown on the house location plats.

2. TRANSPORTATION -

- a. Subject to Virginia Department of Transportation (VDOT) and Department of Public Works and Environmental Services (DPWES) approval, the Applicant shall dedicate and convey in fee simple to the Board of Supervisors right-of-way for public street purposes of variable dimension measuring up to approximately fifty six (56) feet from the centerline of Rolling Road along the Application Property's Rolling Road frontage as shown on the CDP/FDP. In addition, subject to VDOT and DPWES approval, the Applicant shall dedicate and convey in fee simple to the Board of Supervisors right-of-way for public street and sidewalk

purposes measuring twenty-two (22) feet from centerline within the Application Property as shown on the CDP/FDP. Dedication of the internal right-of-way shall be made at time of recordation of the final subdivision plat. Dedication of the right-of-way for Rolling Road shall be made at time of recordation of the final subdivision plat or upon demand from either Fairfax County or VDOT, whichever shall first occur.

- b. Subject to VDOT and DPWES approval, the Applicant shall construct a public road measuring 28 feet from face of curb to face of curb within the Application Property as shown on the CDP/FDP concurrent with development of the Application Property. The Applicant shall also construct a five (5) foot wide concrete sidewalk on each side of the internal public road as shown on the CDP/FDP concurrent with development of the Application Property.
- c. Concurrent with construction of such internal public road, the Applicant shall construct a right turn lane within existing right-of-way from northbound Rolling Road (in its existing two (2) lane configuration) into the Application Property as approved by VDOT and DPWES. Subject to VDOT and DPWES approval, such turn lane shall be constructed as a curb-and-gutter section, and the Applicant shall install super-silt fencing along the downstream edge of the limits of clearing for the right turn lane.
- d. Applicant reserves density credit as may be permitted by the provisions of Paragraph 4 of Section 2-308 of the Zoning Ordinance for all dedications described herein or as may be reasonably required by Fairfax County or VDOT whether such dedications occur prior to or at time of subdivision plat approval.
- e. Subject to VDOT and DPWES approval the Applicant shall grant an easement, at no cost, of approximately 15 feet in width to Fairfax County and/or VDOT for temporary construction and grading purposes as necessary to provide for the widening of Rolling Road along the Application Property's Rolling Road frontage as shown on the CDP/FDP.
- f. At the time of subdivision plan approval the Applicant shall contribute funds to Fairfax County and/or VDOT to fund the widening of Rolling Road and construction of a sidewalk along the Application Property's side of Rolling Road along the Application Property's frontage as anticipated in VDOT project # 0638-029-352, C502 for Rolling Road widening. The amount of such funds shall be determined according to the Fairfax County Bond Schedule for such improvements.
- g. 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/or home sales for the Property to adhere to this proffer.

3. LANDSCAPING AND OPEN SPACE -

- a. Applicant shall provide landscaping on the Application Property as shown on the CDP/FDP and as approved by the Urban Forestry Division of DPWES. Landscaping shall be provided on each lot as shown on the typical single family detached lot landscaping detail on the CDP/FDP. In coordination with the Urban Forestry Division, the Applicant shall supplement the landscaping shown on the CDP/FDP in the area of the stormwater management pond to include a minimum of three (3) large deciduous trees on the west side of the stormwater management pond between the pond and Lot 11 and also to include supplemental planting on the north side of the stormwater management pond between the pond and Lot 10 if possible given the location and extent of the dam of the pond. Additional supplemental planting shall also be provided in the area east of the stormwater management pond adjacent to Lot 233 of the Terra Grande subdivision. The size, species and location of the supplemental plantings within the open space area behind proposed Lots 5-10 and the east of the stormwater management pond as shown on the final landscape plan shall be coordinated with the owners of lots abutting such area in the Terra Grande subdivision.
- b. Subject to the Applicant's receipt of necessary permission (such permission to be provided at no cost to the Applicant) and, if necessary, subject to approval by Fairfax County, the Applicant shall construct a six-foot high, architecturally solid, wooden fence, flush with the ground, with no gaps or openings other than to allow for drainage, on the Springfield Oaks property (TM 98-4 ((12)) L) in a location as generally shown on the CDP/FDP adjacent to the area to be cleared to provide for construction of the right turn lane as described in Proffer 2.b. above. Such fence shall be designed with sufficient drainage openings to prevent the concentration of water which could lead to erosive flows. Maintenance of such fence shall be the responsibility of the Springfield Oaks Homeowners Association. The Applicant shall use good faith efforts to obtain such permission of the Springfield Oaks Homeowners Association, which efforts shall include two requests by certified mail. In no event shall the Applicant be required to obtain an affirmative "no" response to satisfy this proffer.
- c. Applicant shall install landscaping on the Application Property between the rear of lots 11, 12 and 13 and extending along the south side of the proposed stormwater management pond and the adjacent Springfield Oaks subdivision as shown on the CDP/FDP. Said landscaping shall consist of evergreen trees, having a height of 6 to 8 feet at time of planting, located to provide screening to the Springfield Oaks subdivision from headlight glare from vehicles on the new public street on the Application Property. The homeowners association established for the proposed development shall be responsible for the maintenance of the landscaping which shall include the replacement of any dead

or dying trees, and such requirement shall be set forth in the homeowners association documents.

- d. The Applicant shall contract with a certified arborist or certified landscape architect (the "Project Arborist") to prepare a tree preservation plan to be submitted as part of the first subdivision plan submission. The tree preservation plan shall be reviewed and approved by the Urban Forestry Division and shall not reduce the number or alter the size of proposed dwelling units. The tree preservation plan shall consist of a tree inventory which includes the location, species, size, crown spread and condition rating percentage of all trees ten (10) inches or greater in diameter, measured 4 ½ feet from the ground, and located within ten (10) feet of the limits of clearing and grading for the entire Application Property and the clearing limits for the right turn lane as described in Proffer 2.c. above. The condition analysis shall be prepared using methods outlined in the latest edition of *The Guide for Plant Appraisal*. Specific tree preservation activities designed to maximize the survivability of trees designated for preservation within the tree preservation areas and open space shall be incorporated into the tree preservation plan. Activities should include, but are not limited to, crown pruning, root pruning, mulching, and fertilization.

All trees shown to be preserved on the tree preservation plan shall be protected by tree protection fencing. Tree protection fencing, consisting of four foot high, 14 gauge welded wire or equivalent attached to six (6) foot long steel posts driven eighteen (18) inches into the ground and placed no farther than ten (10) feet apart, shall be placed at the limits of clearing and grading as shown on the Phase I and Phase II erosion and sediment control sheets in all areas. The tree protection fencing shall be made clearly visible to all construction personnel. The tree protection fencing shall be installed prior to the performance of any clearing and grading activities on the Application Property, including the demolition of any existing structures. All tree preservation activities, including the installation of tree protection fencing, shall be performed under the guidance of the Project Arborist. Prior to the commencement of any clearing, grading or demolition activities on the Application Property, the Project Arborist shall verify in writing the tree protection fencing has been properly installed.

- e. Notwithstanding Note # 13 on Sheet 2 of the CDP/FDP, clearing, grading and construction shall conform to the limits of necessary clearing and grading as shown on the CDP/FDP, subject to the installation of utility lines, all of which shall be installed in the least disruptive manner possible, considering cost and engineering, as determined in consultation with DPWES. Notwithstanding the forgoing, the Applicant shall not install utilities or stormwater management facilities within the area identified on the CDP/FDP for "Proposed Conservation Easement" (see Proffer 3.f. below). 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 a representative of the Urban Forestry Division and the Project Arborist to determine where

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 proximity to disturbance shall also be identified at this time and the Applicant shall remove such trees as part of the clearing operation. Any tree designated for removal at the edge of the limits of clearing and grading and within the tree preservation area shall be removed using chain saws. The stump shall be cut as close to the ground level as possible. 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 tree preservation area.

- f. The area shown on the CDP/FDP as "Proposed Conservation Easement" shall remain as undisturbed open space. At the time of subdivision plat approval the Applicant shall grant a conservation easement (in a form acceptable to the Fairfax County Attorney) to allow the Applicant to take stormwater quality best management practices credit over the area identified as "Proposed Conservation Easement" on the CDP/FDP.

4. PARKS AND RECREATION -

- a. Concurrent with development of the Application Property, the Applicant shall provide a tot-lot as shown on the CDP/FDP.
- b. Pursuant to Paragraph 2 of Section 6-110 and Paragraph 2 of Section 16-404 of the Zoning Ordinance regarding developed recreational facilities, the Applicant shall at a minimum expend the sum of nine hundred fifty-five dollars (\$955.00) per approved lot for on-site recreation facilities including, without limitation, the tot-lot. The balance of any funds not expended on-site shall be contributed to the Fairfax County Park Authority at time of subdivision plan approval for recreation facilities in the vicinity of the Application Property.
- c. In addition, at the time of subdivision plat approval, the Applicant shall contribute \$7,585.00 to the Fairfax County Park Authority for recreational facilities in the immediate vicinity of the Application Property.

5. STORMWATER MANAGEMENT - BEST MANAGEMENT PRACTICE

Unless waived or modified by DPWES, the Applicant shall provide stormwater management (SWM) and, to the extent required, Best Management Practices (BMP), on-site in the area shown on the CDP/FDP as "SWM Pond". The project design shall not increase the concentration or amount of stormwater runoff to the Springfield Oaks property from the Application Property and the area of the adjacent right of way used to provide the right turn lane as referenced in Proffer 2.c. above, beyond existing conditions.

6. AFFORDABLE HOUSING -

At the time of final subdivision plat approval, the Applicant shall contribute to the Fairfax County Housing Trust Fund the sum equal to one-half percent (½ %) of the estimated sales price of each house to be built on an approved lot to assist Fairfax County's low and moderate income housing goals. The estimated sales price shall be determined by the Applicant in consultation with the staff of the Fairfax County Department of Housing and Community Development (HCD). The timing and amount of this contribution may be modified at the Applicant's sole option in compliance with the adoption of a future amendment to the formula and/or timing as adopted by the Board of Supervisors.

7. NOISE ATTENUATION -

- a. The Applicant shall conduct a refined acoustical analysis to determine the area of the Application Property having noise impacts from Rolling Road traffic exceeding 65 dBA Ldn, measured from the centerline of Rolling Road as it is proposed to be widened to four lanes (the "Noise Impact Area"). Such analysis shall be based on traffic projections for the year 2020 and shall consider the topographic changes that would result from the widening of Rolling Road from two to four lanes as described in Proffer # 2 above. Such analysis shall be reviewed and approved by DPWES and DPZ prior to subdivision plan approval.
- b. Applicant shall achieve an interior noise level of approximately 45 dBA Ldn in all units located within the Noise Impact Area
- c. If necessary to reduce exterior noise levels in rear/side yard recreational areas to 65 dBA Ldn or less within the Noise Impact Area, a wooden fence and/or berm in accordance with Zoning Ordinance regulations shall be provided. Any such fencing shall be architecturally solid, flush with the ground, with no gaps or openings. Any such walls may be constructed to a maximum height of 8 feet.
- d. Nothing herein shall be construed to restrict or otherwise limit the use of balconies, patios or decks on residential units.

8. DESIGN -

- a. As initially constructed, the proposed houses will include architectural elements consistent with those elements depicted on the conceptual elevations attached hereto as Exhibit A. The Applicant agrees that the front façade of each of the houses will be primarily brick, with the exception of roof gables, trim, architectural details, windows and other such features. The Applicant agrees that rear facades and side facades on end units shall utilize a combination of building materials and/or architectural elements or ornamentation such as shutters to provide architectural variety. Rear facades of houses on Lots 1-4 shall contain a minimum of 20% brick. Furthermore, the Applicant agrees that windows on side facades shall not be located directly opposite to windows on the side facade of an

adjacent house. The Applicant shall present the final architecture of the houses to the Department of Planning and Zoning for a determination of conformance with this proffer before issuance of building permits for the houses.

- b. Residential dwellings constructed on the Application Property shall meet thermal guidelines of the CABO Model Energy Program for energy-efficient homes or its equivalent, as determined by the DPWES, for either electric or gas energy systems as applicable.
- c. Retaining walls shall be covered with a brick, stone and/or decorative masonry veneer of comparable or better quality to that shown on the CDP/FDP. The retaining walls may be terraced and if so the area between each terrace shall be landscaped. Handrails and/or guardrails at the top of the retaining walls shall be provided as required by DPWES. Anticipated heights of the retaining walls are as shown on the CDP/FDP. Retaining wall sizes and locations may be subject to change upon final engineering. Individual retaining walls, shall not exceed a height of 13 feet.
- d. Each residential dwelling shall have a minimum rear yard of twenty (20) feet and a minimum front yard of eighteen (18) feet. A minimum distance of ten (10) feet shall be provided between residential dwellings, exclusive of Zoning Ordinance extensions permitted in Article 2 for bay windows, chimneys, and similar features.
- e. If street lights are required, the Applicant shall include full cut-off fixtures and shall be directed downward to minimize off-site glare to adjacent existing residential uses, subject to approval by VDOT, Dominion Power, and/or DPWES. If such fixtures are not so approved, the Applicant shall provide street lighting as required by the Public Facilities Manual.
- f. A minimum of 1 of the 16 approved dwelling units shall be designed with a first floor configuration offering exterior access, either directly outside or through a garage, without steps, to a full bathroom and at least one room suitable for occupancy as a bedroom. In that dwelling, doors and hallways provided in such areas shall be constructed pursuant to the width requirements of the Americans with Disabilities Act and such ground floor bathroom shall be constructed with wall supports to allow for the future installation of grab bars.
- g. The Applicant shall submit a geotechnical engineering study for review and approval by DPWES prior to final subdivision plan approval, and the recommendations of the study shall be implemented as required by DPWES.

9. HOMEOWNERS ASSOCIATION

- a. The Applicant shall establish a homeowners association ("HOA") for the proposed development to own, manage and maintain the open space identified on the CDP/FDP and all other community owned land and improvements including,

but not limited to, the retaining walls and the tot lot as shown on the CDP/FDP. The outlot identified on the CDP/FDP as "Remainder of Lot 11" shall remain as dedicated open space. The Applicant shall convey title to the outlot to the HOA concurrent with dedication of the common areas of the subdivision to the HOA.

- b. The Applicant agrees to notify initial home purchasers in writing of the obligations of the HOA for maintenance of the open space and community improvements as set forth in these proffers, as well as the covenant pertaining to the use of garages as set forth in Proffer 10.b. below. Such notification shall also include a reference to the potential future widening of Rolling Road.

10. OFF-STREET PARKING/USE OF GARAGE SPACE

- a. The Applicant agrees to construct driveways for each lot at a minimum length of 18 feet.
- b. At the time of subdivision plat approval the Applicant shall record a covenant in the land records (in a form acceptable to the Fairfax County Attorney) that provides that garages shall only be used for purposes that will not interfere with the primary use of the garage for parking vehicle(s). Such covenant shall be for the benefit of the HOA and the Fairfax County Board of Supervisors and shall be included in the HOA documents.

11. RETAINING WALLS

- a. On or before bond release for the proposed development, and as a condition thereto, the Applicant shall deposit \$17,500.00 into an escrow account established for the benefit of the HOA. Such funds shall be established for use by the HOA for future maintenance, repair, and upkeep of the common area retaining walls within the development.
- b. The Applicant agrees that a geotechnical engineer shall be present during the construction/installation of the retaining walls and shall monitor such construction/installation for compliance with approved specifications and shall prepare a certification of compliance to be submitted to DPWES.

12. SCHOOLS

Applicant shall contribute the sum of \$37,500.00 to the Fairfax County Board of Supervisors for the design/construction of the proposed South County Secondary School as stated in the 2001 Capital Improvement Program. Said contribution shall be made payable to the Fairfax County Board of Supervisors at time of subdivision plat approval for the Application Property.

13. HOME WARRANTY

Upon conveyance of a dwelling unit, the Applicant shall use good faith efforts to provide to each initial purchaser a ten (10) year warranty (if one is then offered in the market place) from HBW (Home Buyer's Warranty), RWC (Residential Warranty Corporation), QBW (Quality Builders Warranty) or another equivalently rated licensed insurer, licensed by the Commonwealth of Virginia, insuring the structural stability for the respective dwelling unit.

14. MISCELLANEOUS –

- a. These proffers shall bind and inure to the benefit of the Applicant and his or her successors and assigns.
- b. These proffers may be executed in one or more counterparts, each of which when so executed and delivered shall be deemed an original document and all of which taken together shall constitute but one and the same instrument.
- c. All of the improvements described herein shall be constructed concurrent with development of the Application Property.

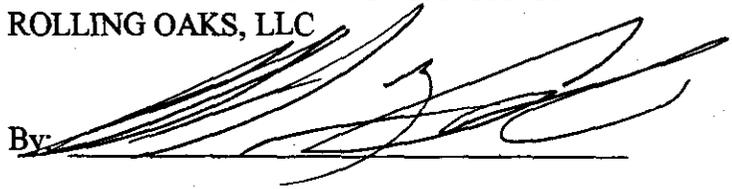
[SIGNATURES BEGIN ON THE FOLLOWING PAGE]

APPLICANT/CONTRACT PURCHASER
ROLLING OAKS, LLC

By: _____

Name: _____

Title: _____



William F Collins

Manager