

## PROFFERS

### **Vintage Crest L.C.** **Hilltop Road Property**

RZ 2004-PR-033

December 30, 2004 (Revised)  
February 4, 2005 (Revised)  
February 15, 2005 (Revised)  
February 24, 2005 (Revised)  
March 4, 2005 (Revised)  
March 8, 2005 (Revised)  
March 18, 2005 (Revised)  
April 22, 2005 (Revised)

Pursuant to Section 15.2-2303(A) of the 1950 Code of Virginia, as amended, the Applicant, for himself and his successors or assigns (herein collectively referred to as the "Applicant") in this rezoning application filed on property identified on the Fairfax County Tax Maps 49-1 ((1)) Parcels 21 and 22 and 49-1 ((24)) portion of Parcel A (hereinafter referred to as the "Application Property"), agrees to the following proffers, provided that the Fairfax County Board of Supervisors (hereinafter referred to as the "Board") approves the rezoning of the Application Property from the R-1 and R-5 zoning districts to the R-5 district.

#### **1. Development Plan**

- a) Subject to the provisions of Section 18-204 of the Fairfax County Zoning Ordinance ("the Ordinance"), development of the portion of the Application Property identified on the Fairfax County Tax Maps 49-1 ((1)) Parcels 21 and 22 and 49-1 ((24)) portion of Parcel A shall be in substantial conformance with the Generalized Development Plan ("GDP") entitled "Hilltop Road Property" containing four sheets and prepared by Land Design Consultants, Inc., dated May 2004 and last revised April 22, 2005
- b) Pursuant to Paragraph 2 of Section 18-204 of the Zoning Ordinance, minor modifications from the GDP may be permitted as determined by the Zoning Administrator. These modifications shall include only the locations of utilities, minor adjustment of property lines, and the general location of dwellings on the proposed lots provided that the total area of open space is not decreased from that shown hereon, the building setbacks outlined on the GDP are honored, and the limits of clearing and grading are adhered to.

#### **2. Homeowners Association**

In accordance with a signed agreement dated August 26, 2004, as attached, the application property will become part of the Cedar Crossing Community Association and be annexed into and be made subject to the declaration of covenants, conditions, and restrictions of Cedar Crossing. The application property will merge into the Cedar Crossing Community Association prior to 75% occupancy.

#### **3. Transportation**

- a) At the time of site plan approval or upon demand by Fairfax County or the Virginia Department of Transportation ("VDOT"), whichever occurs first, the Applicant shall dedicate and convey in fee simple to the Board of Supervisors, right-of-way up to 45 feet from the existing centerline and construct improvements along the property's Hilltop Road frontage 35' from centerline on the southwest frontage and 32' from centerline on the southeast frontage subject to the approval of VDOT and the Fairfax County Department of Public Works and Environmental Services ("DPWES"). These improvements shall include the five-foot wide sidewalk as shown on the GDP.

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- b) Density credit shall be reserved as may be permitted by the provisions of Paragraph 4 of Section 2-308 of the Ordinance for all eligible dedications described herein.
- c) Garages and Driveways. The Applicant shall place a covenant on each residential lot that prohibits the use of the garage for any purpose, which would preclude motor vehicle storage. This covenant shall be recorded among the land records of Fairfax County prior to the sale of lots and shall run to the benefit of the HOA and to the Board of Supervisors. Prior to recordation, the covenant shall be approved by the Fairfax County Attorney's office. The HOA documents shall expressly state this use restriction. The driveway provided for each unit shall be a minimum of eighteen (18) feet in length to permit the parking of two (2) vehicles without overhanging onto the sidewalk. Garages shall be designed to accommodate two (2) vehicles.
- d) The applicant shall provide five-foot wide sidewalks along the property's frontage on Hilltop Road, as well as along the frontage of lots 1-5 and extending to the northeast property line as depicted on the GDP.

#### 4. Open Space Dedication

Concurrently with recordation of the record plat for the applicable lot, the Applicant shall dedicate Parcel A, as shown on the GDP, to the Homeowners' Association.

#### 5. Landscaping

- a) Landscaping and on-site amenities shall be generally consistent in terms of character, materials and quantity with the GDP. Specific features such as the exact locations of plantings, driveways, sidewalk connections, etc., are subject to minor modification with final engineering and architectural design, as approved by Urban Forest Management, Department of Public Works and Environmental Services (DPWES).
- b) The Applicant shall install a 6-foot tall, board-on-board fence made of pressure treated wood, along the northern property line of the Application property, adjacent to the Dunn Loring Community.
- c) The Applicant shall install a 6-foot tall, board-on-board fence made of pressure treated wood, along the eastern property line of the Application property, adjacent to the Morada Ridge Community. The Morada Ridge HOA has the option of asking for the cash equivalent of the construction of the aforementioned fence (approximately \$3345.00), in lieu of construction. The request for the cash equivalence, in lieu of construction, must be made in writing to the attention of Vintage Crest, L.C. no later than thirty days after approval of the site plan for the Application property.

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### 6. Tree Preservation

- a) 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 Urban Forest Management. 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 that are twelve (12) inches or greater in diameter, and ten (10) feet to either side of the limits of clearing and grading shown on the GDP for the entire site. The tree preservation plan shall provide for the preservation of those areas shown for tree preservation, those areas outside of the limits of clearing and grading shown on the GDP, and other areas in which trees can be preserved as a result of final engineering. 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 to be preserved, such as: crown pruning, root pruning, mulching, fertilization, and others as necessary, shall be included in the plan.
- b) All trees shown to be preserved on the tree preservation plan or identified in the field shall be protected by a tree protection fence. Tree protection fencing four (4) foot high, fourteen (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, phase I & phase II erosion and sedimentation control sheets for the entire site.

Methods to preserve existing trees may include, but not be limited to, the following: use of super silt fence, welded protection fence, root pruning and mulching. 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, including 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, but subsequent to the installation of the tree protection devices, Urban Forest Management and the District Supervisor shall be notified and given the opportunity to inspect the site to assure that all tree protection devices have been correctly installed and the project's certified arborist or landscape architect shall verify in writing that the tree protection fence has been properly installed. The demolition of existing features and structures shall be conducted in a manner that does not impact individual trees and groups of trees that are to be preserved as reviewed and approved by Urban Forest Management.

- c) During any clearing or tree/vegetation/structure removal on the Application Property, a representative of the Applicant shall be present to monitor the process and ensure that the tree protection fencing remains in place and the trees protected by said fencing are preserved. The Applicant shall retain the services of a certified arborist or landscape architect to monitor all construction work and tree preservation efforts in order to ensure conformance with all tree preservation proffers/conditions. The monitoring schedule shall be

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described and detailed in the tree preservation plan, and reviewed and approved by Urban Forest Management.

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 Forest Management 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, and may result in an expansion of the limits of clearing and grading, and the limits shall be adjusted accordingly. 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.

- d) The Applicant shall submit a detailed landscaping plan as part of the first and all subsequent site plan submissions that is consistent with the location, quality and quantity of landscaping shown on the GDP and these proffers. The landscaping plan shall utilize a variety of tree species of various sizes planted throughout the site. The native species may include, but are not limited to, white oak, red maple, red oak, American holly, American beech, willow oak, dogwood and others. Pursuant to the Public Facilities Manual ("PFM"), the Applicant shall receive additional tree cover credit if native and desirable trees comprise a minimum of 90% of all trees listed on site. The Applicant shall also receive additional tree cover credit for utilizing tree species and planting locations that are effective for energy conservation as determined by DPWES.
- e) The Applicant shall remove any dead, dying, or hazardous, on-site, co-owned and off-site trees adjacent to the limits of clearing and grading, and replace the lost tree canopy, as determined by the UFM. Off-site mitigation shall only be conducted with permission of the appropriate off-site owner, which permission shall be diligently pursued as determined by DPWES. Prior to site plan approval, a replacement value shall be assigned by Urban Forest Management to all healthy on-site, co-owned or off-site trees measuring twelve (12) inches or larger in diameter, which are located within ten (10) feet of the limits of clearing and grading as shown on the GDP. Trees recommended for removal on the tree preservation plan shall not be assigned a value. At the time of subdivision plan/site plan approval, the Applicant shall post cash or a letter of credit payable to the County of Fairfax to ensure removal and replacement of any such on-site, co-owned or off-site trees that are left dead, dying, or hazardous as a result of damage by normal construction activities, but not those harmed by construction activities that are not permitted by the approved Tree Preservation Plan. The calculated replacement values shall be reviewed and approved by Urban Forest Management prior to posting the cash bond or letter of credit. The terms of the letter of credit shall be subject to approval by the County Attorney. The replacement value of each designated tree shall be determined by a certified arborist according to the methods contained in the latest edition of the Valuation of Landscape Trees, Shrubs and Other Plants published by the International Society of Arboriculture, subject to review and approval by Urban Forest Management in addition to any conservation escrow that is required at the time

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of subdivision plan/site plan approval. From time to time, funds, or a portion thereof, may be drawn on the cash bond or letter of credit and expended for the purposes of this proffer. The remaining balance of the cash bond or letter of credit shall be refunded by Fairfax County at the time of final bond release. The replacement of trees by the County shall be in accordance with the guidelines of the Fairfax County Public Facilities Manual.

### 7. Storm Water Management

- a) If approved by DPWES, stormwater management and Best Management Practices (BMP's) shall be accomplished through the expansion of the existing storm water detention and best management practices (BMP's) pond located in the Cedar Crossing community in accordance with the requirements of the Fairfax County Public Facilities Manual (PFM) unless waived or modified by DPWES in order to meet stormwater management and BMP requirements. In order to restore a natural appearance to the existing stormwater management facility in the Cedar Crossing community which is located at Tax Map 49-1 ((24)) Parcel A, a landscape plan shall be submitted as part of the first submission of the site plan. This landscaping plan shall show landscaping in all possible planting areas of the pond, in keeping with the planting policy of Fairfax County. This landscape plan will also show a variety of tree species, of various sizes, to be planted throughout. No RUP's shall be issued until the facility is planted.
- b) The Applicant will install downspout drains on proposed lots 4 and 5, as shown on sheet 2 of the plan. The proposed downspout drains will convey all runoff from the roof of lots 4 and 5 to the proposed storm sewer system on the southeastern portion of the Application property. The Applicant will not tie into the existing storm sewer within the adjacent Morada Ridge subdivision. The downspout drains will be maintained by the Cedar Crossing Association.
- c) The Applicant shall improve the existing drainage channel located within an existing storm drainage easement (DB 1014, PG 335) and generally located on two parcels identified by the Fairfax County Cadastral Maps as #49-1 ((5)) 9A and 12. This improvement shall generally include the reconstruction of approximately one hundred linear feet of a storm drainage channel within the limits of the aforementioned easement in accordance with the Public Facilities Manual and subject to the review and approval by DPWES. Letters of permission will be required from property owners on Tax Map Parcels #49-1 ((5)) 9A, 12 and 13 as part of the proposed drainage channel improvements, in order to bring the necessary equipment and personnel on the property to reach the easement and channel. The Applicant shall request permission to make these improvements from the property owners of Parcels #49-1 ((5)) 9A, 12 and 13 by letter, sent by certified mail, return receipt requested. The property owners will be given thirty (30) days from the receipt of the letter to grant said permission in writing. If the Applicant is unable to secure permission from the affected adjacent property owners after three attempts, as demonstrated to the satisfaction of DPWES, then the Applicant shall perform \$15,000 worth of drainage improvements in the vicinity of the application property, at the discretion of DPWES.

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### 8. Contributions

- a) At the time of site plan approval, the Applicant shall contribute \$7,685 to the Fairfax County Park Authority for its use in establishing and maintaining parks and recreational facilities in the Providence District of Fairfax County. The contribution amount shall be adjusted by increases to the Construction Cost Index from the *Engineering News Record* from the date of the Board of Supervisor's approval of this rezoning application to the date of site plan approval.
- b) At the time of issuance of the first building permit, Applicant shall contribute to Fairfax County \$22,500 for capital improvements to nearby public schools. Said contribution shall be deposited by DPWES into the County Schools Proffer Account for distribution by the Board of Supervisors to the Fairfax County Public Schools for application to public school construction projects in the vicinity of the Application property.
- c) Prior to the issuance of the first Building Permit, the Applicant shall contribute to the Fairfax County Housing Trust Fund a sum equal to one-half of one percent (0.5%) of the projected sales price of each of the new residential townhouses to be built on-site, as determined by the Department of Housing and Community Development (HCD) and DPWES in consultation with the Applicant to assist the County in its goal to provide affordable dwellings elsewhere in the County.
- d) At the time of site plan approval, the Applicant shall contribute \$3,500 to the Dunn Loring Village HOA.

### 9. Architecture

The design and architecture of the approved units shall be in substantial conformance with the illustrative elevations contained in the GDP, or of comparable quality as determined by DPWES. The exterior facades of the new homes constructed on the site shall be covered with brick, stone or cementitious siding (e.g., HardiPlank by James Hardie Building Products), or a combination thereof. In addition, the side exterior façade of the units facing Hilltop Road shall consist of the same building materials and shall have a consistent pattern of architectural detailing and percentage of building materials as the front façade on these units. All units shall be limited to thirty-five (35) feet in height as measured in the Fairfax County Zoning Ordinance.

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### 10. Energy Saver Program

All homes constructed on the property shall meet the 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.

### 11. Lighting and Signs

- a) All exterior lighting shall be in conformance with Part 9 of Article 14 of the Zoning Ordinance.
- b) 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.

### 12. Noise

The Applicant shall provide the following noise attenuation measures:

- a) In order to reduce the maximum interior noise to a level of approximately 45 dBA Ldn or less, the Applicant proffers that the side and rear walls of all residential units facing the direction of Interstate 66(north) and Hilltop Road shall have the following acoustical attributes:
  - i) Exterior walls shall have a laboratory sound transmission class (STC) rating of at least 45;
  - ii) Windows shall have a STC of 35, exterior doors shall have a STC of 34 and sliding doors shall have a STC of 36. If glazing constitutes more than 20% of an façade it shall have the same laboratory STC ratings as walls; and
  - iii) Measures to seal and caulk between surfaces shall follow methods approved by the American Society for testing and Materials to minimize sound transmission.

### 13. Private Streets

All private streets will be constructed with materials and depth of pavement consistent with public street standards in accordance with the Fairfax County Public Facilities Manual (PFM), as determined by DPWES. The Homeowner's Association (HOA) shall be responsible for the maintenance of all private streets and the HOA documents shall expressly so state. The Applicant shall be responsible for the maintenance of the private streets until the control of the private street is assumed by the HOA. The Applicant, or its representatives, shall disclose to prospective purchasers prior to, or at the time of contract, that the HOA is responsible for the maintenance of private streets within the development.

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### 14. Telecommuting

All dwellings shall be pre-wired with broadband, high capacity data/network connections in multiple rooms, in addition to standard phone lines.

### 15. Other

- a) During development of the subject site, the telephone number of the site superintendent that will be present on-site during construction shall be provided to representatives of the Willowmere Farms community, the Presidents of the Morada Ridge, Cedar Crossing, and Dunn Loring Village Homeowner's Associations and to the Providence District Supervisor's Office.
- b) Outdoor construction activity will be limited to between the hours of 7:00 a.m. and 7:00 p.m., Monday through Friday and 8:00 a.m. and 5:00 p.m. on Saturdays. No outdoor construction activities will be permitted on Sundays or on federal holidays. The site superintendent shall notify all employees and subcontractors of these hours of operation and shall ensure that the hours of operation are respected by all employees and subcontractors. Construction hours shall be posted on-site in both English and Spanish. This proffer applies to the original construction only and not to future additions and renovations by homeowners.
- c) Prior to the start of clearing and grading or construction, the Applicant shall coordinate a meeting with the Providence District Supervisor's Office and the Morada Ridge, Cedar Crossing, and Dunn Loring Village Homeowner's Associations to discuss the construction schedule and plans.

