PROFFERS

REZONING APPLICATION: RZ 1997-MV-008

October 17, 1997

Pursuant to Section 15.1-491(a) of the Code of Virginia, 1950, as amended, and Section 18-203 of the Zoning Ordinance of Fairfax County (1978 amended), the property owners and Applicant in this rezoning application proffer that the development of the parcel under consideration and shown on the Fairfax County Tax Maps as Tax Map Reference Nos. 101-4((1))16, 17, 17A; 101-4-((6))-13A, 14, 15B, 15A pt., 16; 101-4((1)) 18, 19 (hereinafter referred to as the "Property") will be in accordance with the following conditions if, and only if, said Rezoning request for the PDH-12 District is granted. In the event said application request is denied, these proffers shall be null and void. The Applicant, for itself, its successors and assigns, agrees that these proffers shall be binding on the future development of the Property unless modified, waived or rescinded in the future by the Board of Supervisors of Fairfax County, Virginia in accordance with applicable County and State statutory procedures. The Applicant further agrees that these proffers shall remain fully binding on the Applicant and its successors or assigns and any and all future owners of the Property. These proffered conditions, if accepted, supersede all proffers existing on the Property. The proffered conditions are:

GENERAL

1. Subject to the proffers and the provisions of Section 16-403 of the Zoning Ordinance, under which minor modifications to an approved development plan are permitted, the development will be in

substantial conformance with the Conceptual Development Plan ("CDP") and Final Development Plan ("FDP"), Sheets 1-10, prepared by Huntley Nyce and Associates, Land Design, Inc., and Architecture Incorporated and revised through August 22, 1997 (sheets 3, 4, 5, 7 and 8) and October 2, 1997 (sheets 1, 2, 6, 9 and 10). Sheet 1, 2 and 6 of the CDP/FDP package are for landscaping purposes only.

2. The development shall consist of a maximum of 179 residential units (38 single family detached and 141 single family attached) and a 90 unit medical care facility which is to provide services and care to the elderly. In the event the property is developed under the alternate CDP/FDP described on Sheet 8, the number of single family attached units may be increased to 157, such that 195 total units are provided. The size, width, and location of the building footprints shown on the CDP/FDP are conceptual and the Applicant reserves the right to modify the size and location of the building footprints, or develop a lesser number of lots, in accordance with the requirements of Section 16-403 of the Zoning Ordinance.

3. For the new units located in the single family detached portion of the development adjacent to Pettit's Landing (generally located south of the single family detached component of the project), the Applicant agrees to prepare and execute private covenants, which will bind future homeowners, and be consistent with those which govern the Pettit's Landing development at the time of site or subdivision plan approval for the approved units, whichever occurs first.

Proposed Lots 25 and 26 on the CDP/FDP, shall be exempt from the requirements of this and the other private covenants required by these proffers. The inclusion of Lots 25 and 26 within any future homeowners association(s) shall be at the discretion of their owner.

4. Deliveries and trash pick-up for the medical care facility shall only occur between the hours of 6:00 a.m. and 9:00 p.m. Along the street which provides access from Richmond Highway, to both the medical care facility and the approved residential units, the Applicant shall provide signage which directs delivery and service vehicles associated with the medical care facility to the loading dock and delivery area. The purpose of this signage is, to the extent possible, to direct delivery and service vehicles away from residential units generally located east of the medical care facility.

5. Prior to issuance of any permits for signage and exterior lighting of the medical care facility, the Applicant shall submit to the Director, Office of Comprehensive Planning (OCP), a signage and lighting plan which demonstrates that the signs and lighting for the entire medical care facility conform with the signage and glare standards contained in the Zoning Ordinance and offers a consistent use of style and materials.

6. Within the residential areas of the approved development, the Applicant shall establish homeowners association(s) for the purpose of maintaining common areas and private streets within the approved development. In conjunction with the appropriate

site/subdivision plan review processes, private streets and common areas shall be dedicated to the appropriate homeowners association(s).

7. For all new units on the site, the Applicant shall include language in its Declaration of Covenants, Conditions and Restrictions which: (a) prohibits the conversion of garages into any use other than the parking of vehicles; and (b) discloses the existence of private streets throughout the community. The private streets on the Application Property shall be constructed with a pavement section, thickness and material which conforms with Public Facilities Manual (PFM) standards as determined by the Department of Environmental Management (DEM). Purchasers shall be advised prior to entering into a contract of sale that the homeowners association(s) shall be responsible for the maintenance of all the private streets in the development. The appropriate homeowners association(s) documents shall specify that the homeowners association(s) is responsible for the maintenance of the private streets. The phrasing of these restrictions shall be submitted to the County Attorney prior to record plat approval. At the discretion of the County Attorney, these restrictions shall be reviewed to ensure consistency with this proffer.

INTERIM IMPROVEMENTS

8. Construction of the approved development may occur under individual site or subdivision plans, as applicable. In the event the approved medical care facility is constructed in advance of the approved residential units, the medical care facility shall be

obligated to provide only those improvements necessary to serve this use as determined by the Directors of OCP, the Virginia Department of Transportation (VDOT) and DEM. Subject to review and approval by the Director, DEM, the developer reserves the right to construct interim transportation and/or stormwater management improvements in support of the medical care facility as the initial use established on the property. As determined by the Director, DEM, construction of the medical care facility independently of the approved residential uses shall not automatically trigger fulfillment of all proffer obligations herein, including installation of the proffered traffic signal or other entrance and roadway improvements unrelated to the medical care facility use. Any use of interim improvements shall not relieve the developer of the obligations contained in these proffers.

RIGHT OF WAY DEDICATION

9. The Applicant shall dedicate in fee simple to the Board of Supervisors, at the time of subdivision plat recordation, or upon demand by VDOT, whichever comes first, the right-of-way generally shown on the CDP/FDP along Central Avenue and Richmond Highway. The Applicant shall also provide for the dedication, but not construction of a transition from the existing right of way along the east side of Central Avenue as needed up to a maximum of twenty-five (25') feet from centerline in the area of proposed lots 25 and 26. The Applicant shall provide along the property frontage on Central Avenue and Richmond Highway any ancillary, temporary grading and construction easements as determined necessary by VDOT

or DEM at the time of subdivision plan review, or at the time of construction of improvements to Central Avenue or Richmond Highway, which ever comes first.

TRAVEL AISLE

10. If required by the County or VDOT, at the time of subdivision or site plan approval, the developer shall convey an easement to the Board of Supervisors of Fairfax County to permit future construction, by others, of a travel aisle between the site entrance from Richmond Highway and abutting parcel 101-4-((1))-16A. The easement shall stipulate that all construction and access enjoyed under the easement, are subject to a further stipulation that any landscaping, including berms and screening, located in the area of the easement, or impacted by construction shall be relocated to the area of the site generally east of the easement area. Adequacy of this relocation of landscaping shall be determined by the Office of Comprehensive Planning. This conveyance of an easement shall not obligate the Applicant to construct improvements or escrow funds for construction within the easement area. Comparable landscaping to that shown on Sheet 6 of the FDP shall be provided between the Medical Care Facility/Single Family Attached Homes and the travel aisle adjacent to Richmond Highway in the event that a travel aisle is constructed in the fifty (50) foot wide buffer area. Adequacy of comparable landscaping shall be determined by the Urban Forester, DEM. Any changes in landscaping which may result from a future installation of a Travel Aisle shall not require approval of a proffer condition

amendment or a final development plan amendment.

11. The future possibility of the installation of a travel aisle adjacent to Richmond Highway, shall be set forth in the chain of title for each lot. The Homeowners Association documents shall expressly contain this disclosure and prospective purchasers shall be advised of this restriction prior to entering into any contracts of sale. The phrasing of these restrictions shall be submitted to the County Attorney prior to record plat approval. At the discretion of the County Attorney, these restrictions shall be reviewed to ensure consistency with this proffer.

ENTRANCE IMPROVEMENTS

12. As may be required by VDOT, the Applicant shall construct the appropriate right/left turn lanes and related entrance improvements into the site entrances as generally shown on sheets 3 and 7 of the CDP/FDP. The design and configuration of these proffered improvements shall be reviewed and approved by VDOT and DEM.

BUS SHELTER

13. If determined necessary by the Office of Transportation, the Applicant shall provide a bus shelter on the Richmond Highway frontage of the development. The design and location of the shelter shall be determined by the Applicant, subject to final approval by the Office of Transportation. Subject to review by the Urban Forester, DEM, approved landscaping on the Richmond Highway frontage may be modified to accommodate the bus shelter, if required.

ENTRANCES ON MT. VERNON AVENUE

14. There shall be no direct access for individual lots onto Old Mt. Vernon Road, or Mt. Vernon Highway. Rather, all lots shall have access to Old Mt. Vernon Road, or Mt. Vernon Highway through the street connections shown on the CDP/FDP.

CENTRAL AVENUE EXIT

15. Subject to any necessary approval by VDOT or DEM, the Applicant shall post a no left turn sign at the site exit from Central Avenue.

TRAFFIC SIGNAL

16. The Applicant shall provide a traffic signal at the intersection of Route 1 and Central Avenue if warranted by VDOT within two (2) years of the issuance of the final Residential Use Permit and at such time as applicable VDOT warrants are met and appropriate permits from VDOT are obtained.

RECREATION

17. To provide recreation facilities for the residents of this development, the Applicant shall complete the following at the Vernon Heights Park site:

a. Construction of one (1) Tot Lot.

b. Construction of one (1) Picnic Area with three (3) picnic tables and one(1) grill.

c. Construction of one (1) Playground.

d. Construction of one (1) Volleyball Court.

e. Construction of a meandering pedestrian trail of stone dust or asphalt construction. This trail shall provide

access to Vernon Heights Park from Central Avenue and shall generally have an alignment which is perpendicular to Central Avenue.

f. Conveyance of an easement to the Fairfax County Park Authority (FCPA) which grants a right of vehicular access through the private streets serving the development to the Vernon Heights Park site. This easement shall be conveyed concurrent with the approval of the site plan for the single family attached units generally located on the south side of the private street which provides access to Central Aveune. An eight foot wide asphalt access route shall be provided from the private streets serving the development to any facilities constructed in Vernon Heights Park. This access shall be for purposes of facilitating the initial construction and providing for ongoing maintenance or emergency access to the park facilities.

In addition to the facilities proposed for Vernon Heights Park, a multi-use court shall be constructed on the residential site as generally shown on the CDP/FDP.

All facilities described above that are to be installed in Vernon Heights Park shall be designed and constructed to the FCPA and/or PFM standards, as determined by the Director of DEM, and shall meet the Americans With Disabilities Act (ADA) guidelines.

As an alternative, and as may be required by the public participation component associated with the master planning of the

Vernon Heights Park, at the request of the FCPA, any of the facilities identified in this proffer for the Vernon Heights Park site may be relocated on application property in the locations generally identified for active or passive recreation on the CDP/FDP. Any such relocation of facilities requested by the Park Authority shall not require provision of facilities beyond those described above (one tot lot, one picnic area, one volleyball court, one playground, one multi-purpose court and trail) and shall not require a final development plan amendment or proffer condition amendment. If, within six (6) months of the approval date of the rezoning, the FCPA has not made final location decisions regarding the proffered recreational facilities, or has not granted the developer permission to construct on the FCPA property, the facilities may be constructed on-site in the locations generally shown on the CDP/FDP.

The provision of the facilities described in this proffer (one tot lot, one playground, one volleyball court, one picnic area, one multi-purpose court and trail) shall be deemed to fulfill of the requirements of Section 6-110 of the Zoning Ordinance.

The Applicant shall notify the FCPA within five (5) days of the filing of its initial site plan. Within two days timeframe thereafter, Applicant shall forward a complete copy of the site plan to the FCPA.

18. At the time of first site plan approval or within ninety (90) days of Board of Supervisors rezoning approval, whichever occurs first, the Applicant and the FCPA shall complete the

following land exchange and conveyance: (1) an exchange between the Applicant and the Park Authority of approximately 4,144 square feet or .0951 acre areas, as shown on the CDP/FDP; and (2) a conveyance to the FCPA by the Applicant of approximately 12,036 square feet of area adjacent to Vernon Heights Park, as generally shown on the CDP/FDP.

ENVIRONMENTAL

19. Prior to site/subdivision plan approval, documentation shall be provided to DEM demonstrating that all proposed site work conforms to the applicable wetlands permitting requirements established by the Army Corps of Engineers.

20. Stormwater management shall be provided for the property in accordance with Best Management Practice ("BMP") standards in accordance with Fairfax County requirements or as otherwise may be approved by DEM.

21. The following highway noise mitigation measures shall be implemented at the time of subdivision plan review:

For any units within a Highway Noise Impact Zone of 65 dBA Ldn (generally 375 feet from the centerline of Richmond Highway), a maximum interior noise level of 45 dBA Ldn shall be achieved. Such standard may be met by employing some or all of the following:

(a) Exterior walls shall have a laboratory sound transmission class ("STC") rating of at least 39.

(b) Doors and windows shall have a laboratory STC rating of at least 28. If windows constitute more

than 20% of any facade, they should have the same laboratory STC rating as walls.

(c) Measures to seal and caulk between surfaces shall follow measures approved by the American Society for Testing and Materials to minimize sound transmission.

For units within a Highway Noise Impact Zone of 65 dBA Ldn (generally 375 feet from the centerline of Richmond Highway), an exterior noise level of 65 dBA Ldn shall be achieved by employing some or all of the following noise attenuation methods:

(a) Structures such as acoustical fencing, walls, earthen berms or combinations thereof, shall be provided for those outdoor recreation areas, including rear yards, that are unshielded by topography or built structures.

(b) Acoustical fencing or walls shall be used and shall be architecturally solid from ground up with no gaps or openings. The structure employed must be of sufficient height to adequately shield the impacted area from the source of the noise.

In order to achieve a maximum interior noise level of 45 dBA Ldn, all units located between 65-70 dBA Ldn highway noise impact contours (generally between 175 and 375 feet from the centerline of Richmond Highway) shall have the following acoustical attributes:

(a) Exterior walls shall have a laboratory sound transmission class (STC) rating of at least 39.

(b) Doors and windows shall have a laboratory STC rating of at least 28. If windows constitute more than 20% of any facade, they shall have the same laboratory STC rating as walls.

(c) Measures to seal and caulk between surfaces shall follow methods approved by the American Society for Testing and Materials to minimize sound transmission.

In order to achieve a maximum interior noise level of 45 dBA Ldn, all units located between the 70-75 dBA Ldn highway noise impact contours (generally between 80 and 175 feet from the centerline of Richmond Highway) shall have the following acoustical attributes:

(a) Exterior walls shall have a laboratory sound transmission class (STC) rating of at least 45.

(b) Doors and windows shall have a laboratory STC rating of at least 37. If windows constitute more than 20% of any facade, they shall have the same laboratory STC rating as walls.

(c) Measures to seal and caulk between surfaces shall follow methods approved by the American Society for Testing and Materials to minimize sound transmission.

In order to achieve a maximum exterior noise level of 65 dBA

Ldn noise attenuation structures such as acoustical fencing, walls, earthen berms or combinations thereof, shall be provided for those outdoor recreation areas, including rear yards, that are unshielded by topography or built structures. If acoustical fencing or walls are used, they shall be architecturally solid from ground up with no gaps or openings. The structure employed must be of sufficient height to adequately shield the impacted area from the source of the noise.

The Applicant may pursue other methods of mitigating highway noise if it can be demonstrated, through an independent noise study for review and approval by DEM, that these methods will be effective in reducing exterior noise levels to 65 dBA Ldn or less and interior noise levels to 45 dBA Ldn or less, or that noise impacts are less than forecasted by County Staff.

LANDSCAPING

22. Landscaping comparable to Transitional Screening 2 type vegetation shall be provided between the proposed medical care facility and single family attached dwellings as determined appropriate by the Urban Forester, DEM, at the time of site plan review. Plantings shall be in the type and amount generally required by Transitional Screening 2. Subject to the approval of the Urban Forester, DEM, the width of the planted area may be modified to conform to the areas available for landscaping on the CDP/FDP.

23. Landscaping shall be provided in substantial conformance with depth, quality and quantity of plantings identified in the landscaping concepts shown on the CDP/FDP (Sheet 1, 2 and 6). The specific type, number and placement of plantings and landscaping shall be determined at the time of site/subdivision review, subject to review and approval of a landscape plan by the Urban Forester, DEM. If, during the process of subdivision or site plan review, any landscaping shown on the CDP/FDP is removed in order to locate utility lines, trails, etc., as determined necessary by the Director, DEM, then an area of additional landscaping of equivalent value, as determined by Urban Forester, DEM, may be substituted at an alternate location on the site. All proposed landscaping located adjacent to the Vernon Heights Park site shall be reviewed and approved by the FCPA prior to final site/subdivision plan approval. In the event the FCPA requests changes, in writing, to the location and species of plantings adjacent to the park site, such changes shall not require a proffer condition amendment.

LIMITS OF CLEARING AND GRADING

24. The Applicant shall conform substantially to the limits of clearing and grading shown on the CDP/FDP, subject to minor modification for sound engineering and construction practices and installation of utilities lines, if necessary, as determined by DEM. Limits of clearing and grading shall clearly marked with stakes on the site prior to the commencement of land disturbing activity. Within areas protected by the limits of clearing as they are shown on the CDP/FDP, or as they may be amended by DEM pursuant

to this proffer, the existing vegetation shall remain undisturbed except for the removal of diseased or dying trees as determined by the Urban Forester, DEM.

TREE PRESERVATION

25. A tree preservation plan, which is reflective of the delineated tree save areas on the CDP/FDP, shall be submitted for the review and approval of the Urban Forester, DEM at the time of subdivision/site plan review. This plan shall provide for the preservation of specific quality trees and/or stands of trees, outside the established limits of clearing and grading, within designated open space areas and within lots, to the maximum extent feasible without impeding the development of a typical unit on each of the lots. The Plan shall include a requirement to fence off the entire area around individual tree save areas and trees to be saved to protect roots and drip lines. If during the process of subdivision/site plan review, it is determined by the Urban Forester, DEM to be necessary to remove any trees previously designated to be preserved in order to locate utility lines, trails, ponds, and properly grade the lot for the proposed dwelling, then an area of additional tree save of equivalent value, as determined by the Urban Forester, DEM, may be submitted at an alternative location to be approved by the Urban Forester, DEM or the Applicant may elect first to transplant or replace with existing/native vegetation if it is determined that there are no alternative existing trees to be saved according to the directions of the Urban Forester, DEM, pursuant to Section 12-0403.7d of the

PFM. Supplemental plantings, if determined necessary by the Urban Forester, DEM, shall be provided and shall consist of a combination of shade and evergreen trees in accordance with the PFM.

26. Replacement trees, of a species, size, and location to be determined by the Urban Forester, DEM, shall be installed by the Applicant in the event that any tree shown to be saved on the approved Final Development Plan dies, or is dying, within five (5) years of construction activity as determined by the Urban Forester, DEM.

AFFORDABLE HOUSING

27. The Applicant shall provide Affordable Dwelling Units (ADUs) in accordance with the requirements of Article 2 of the Zoning Ordinance. Any ADUs that are required shall be reasonably distributed throughout the single family attached portion of the development. In the event that, prior to issuance of a building permit for approval of units in any section of the approved development, the Board of Supervisors amends the current Zoning Ordinance requirements for fulfilling affordable housing objectives, the Applicant reserves the right to comply with the Ordinance requirements in effect at that time.

In the event the requirements of the ADU Ordinance change in a way that requires fewer ADU units, units currently allocated to the ADU program may be converted to market rate units. Such conversion shall not require a CDP/FDP amendment application.

These proffers may be executed in counterparts and the counterparts shall constitute one and the same proffer statement.

CONTRACT PURCHASER:

CURRY DEVELOPMENT INCORPORATED

By: _____
Andrew J. Sommerville III
President

OWNER, TAX MAP NUMBER 101-4-((6))-15A

FAIRFAX COUNTY PARK AUTHORITY

Name: V.A. Heberlein
Title: DIRECTOR

OWNER, TAX MAP NUMBERS
#101-4-((6))14,16; 101-4-((1))-16,18,19

Tappey B. Squires

Tappey B Squires

OWNER, TAX MAP NUMBERS 101-4-((1))-17, 17A; 101-4-((6))-15B

Mudholland Corp.

Rosemary Squires

Rosemary Squires
President

CONTRACT PURCHASER
TAX MAP 101-4-((6))-16 PT.

SUMMERVILLE HEALTHCARE GROUP, INC.

Beth DeLucenay
Vice President

CO-OWNERS, TAX MAP NUMBER 101-4-((6)-13A

Thomas Vincent Hanley

Thomas Vincent Hanley

Patricia L. Hanley

Patricia L. Hanley

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