APPLICATION FILED: January 13, 2005
APPLICATION AMENDED: May 24, 2005
ORIGINAL PLANNING COMMISSION: July 13, 2005
PLANNING COMMISSION REHEARING: March 23, 2006
BOARD OF SUPERVISORS: April 3, 2006

County of Fairfax, Virginia

March 9, 2006

STAFF REPORT ADDENDUM II

APPLICATION RZ/FDP 2005-MV-001

MOUNT VERNON DISTRICT

APPLICANT:	Brookfield Ridge Road, LLC
PRESENT ZONING:	R-1
REQUESTED ZONING:	PDH-2
PARCEL(S):	89-4 ((1)) 56, 57A and 69
ACREAGE:	11.04 Acres
DENSITY:	1.82 du/ac
OPEN SPACE:	45%
PLAN MAP:	Residential, 2-3 du/ac
PROPOSAL:	Request to rezone to the PDH-2 District for the development of 20 single family detached dwelling units. (Two alternative plans are currently proposed, differing primarily in the means of providing SWM/BMPs).

STAFF RECOMMENDATIONS:

Staff recommends approval of RZ 2005-MV-001, subject to the execution of proffers consistent with those included in Attachment 1.

O:\kabrah\RZ-FDP 2005-MV-001 ADDENDUM II COVER.doc

Department of Planning and Zoning
Zoning Evaluation Division
12055 Government Center Parkway, Suite 801
Fairfax, Virginia 22035-5509
Phone 703 324-1290
FAX 703 324-3924
www.fairfaxcounty.gov/dpz/

Staff recommends approval of FDP 2005-MV-001, subject to the proposed development conditions included in Attachment 2, and the Board's approval of RZ 2005-MV-001 and the Conceptual Development Plan.

Staff recommends approval of the modification of the maximum percentage of pipestem lots, to permit 30% pipestem lots as shown on the CDP/FDP.

Staff recommends denial of the requested modification of the trail location for the southern half of the site.

It should be noted that it is not the intent of the staff to recommend that the Board, in adopting any conditions proffered by the owner, relieve the applicant/owner from compliance with the provisions of any applicable ordinances, regulations, or adopted standards.

It should be further noted that the content of this report reflects the analysis and recommendation of staff; it does not reflect the position of the Board of Supervisors.

For information, contact the Zoning Evaluation Division, Department of Planning and Zoning, 12055 Government Center Parkway, Suite 801, Fairfax, Virginia 22035-5505, (703) 324-1290.

Americans with Disabilities Act (ADA): Reasonable accommodation is available upon 7 days advance notice.
For additional information on ADA call (703) 324-1334 or TTY 711 (Virginia Relay Center).

BACKGROUND

RZ/FDP 2005-MV-001 is a request to rezone 11.04 acres located approximately 1000 feet east of Gambrill Road and south of Ridge Creek Way, from the R-1 District to the PDH-2 District. The Staff Report, which was published on June 29, 2005, recommended approval of the applicant's request to develop 22 single family detached houses at a density of 1.99 du/ac, with 41% open space. On July 13, 2005, the Planning Commission held a public hearing; during the hearing a number of concerns were raised by citizens, primarily issues associated with storm drainage. In order to give the applicant adequate time to address these concerns, the Planning Commission deferred decision until October 19, 2005. Subsequent to the public hearing, the applicant revised the CDP/FDP and proffers, and Staff published Addendum I on October 14, 2005, which recommended approval of the applicant's revised request for 20 single family detached lots at a density of 1.82 du/ac and 45% open space. On October 19, 2005, the Planning Commission voted to recommend that the application be approved, and a Board date of January 9, 2006, was scheduled. On January 9, 2006, the Board of Supervisors deferred the public hearing to allow the applicant additional time to work with the citizens on their remaining concerns. On January 25, 2006, the applicant submitted revised plans which include a new option for the provision of SWM/BMPs; this plan and the revised proffers which accompanied it are the subject of this addendum. After discussion with the Planning Commissioner and Supervisor of the Mount Vernon District, it was determined that the revised plans, including the new alternative stormwater management design, represented a substantive change from the previous plans which were the subject of the original public hearing; therefore it was determined that the revised plans should be sent back to the Planning Commission for a new public hearing; this hearing is currently scheduled for March 23, 2006.

A reduction of the applicant's revised CDP/FDP is attached to the front of this addendum; the revised draft proffers are contained in Attachment I.

DISCUSSION

Title of Combined CDP/FDP:	Renfro Property
Prepared by:	Land Design Consultants
Original and Revision Dates:	June 2004, as revised through January 23, 2006
Revised Draft Proffer Statement:	January 26, 2006

In an effort to address the concerns of the neighborhood, which continue to center around site drainage and stormwater management, the applicant submitted a revised CDP/FDP, which now includes two options for development. The first Option,

Option A, is depicted on Sheet 2 of the CDP/FDP; this option shows a traditional central stormwater management facility (dry pond) which remains essentially unchanged from the previous submission. The focus of this Addendum is Option B, which is depicted on Sheet 8 of the CDP/FDP. Although the two options both depict 20 single family detached dwelling units in an almost identical site layout, Option B employs innovative, low-impact development (LID) techniques to manage stormwater quantity and quality on the site. Specifically, Option B incorporates the following modifications:

- The proposed public street serving the development has been shifted approximately 15 feet to the north, resulting in a larger, continuous buffer strip along the southern and western boundaries of the site. This irregularly shaped strip (Parcel A) contains approximately 151,000 sf , and is a minimum of ten feet in width at its narrowest point along the southern boundary. As illustrated on the CDP/FDP, this area will contain areas of tree save and supplemental landscaping. The minimum separation between the existing homes in the Middle Valley subdivision and the proposed subdivision has been increased to 80 feet, which has permitted the deletion of the retaining walls proposed in Option A.

- The large extended detention stormwater management dry pond shown in Option A has been eliminated and replaced with a combination of LID techniques, designed to address concerns expressed by the neighborhood (including potential flooding resulting from a dam breach; surface flow and ponding of stormwater runoff; and the potential damage to neighboring properties resulting from the proposed upgrading of the existing stormwater drainage pipes to the south of the site). Specifically, Option B proposes the construction of three infiltration trenches along the southern property line (#1, the largest facility, is located just west of proposed Lot 7; #2 is located in the southwestern corner of the site, behind proposed Lots 4 and 5; and #3, the smallest facility, is located in the southeastern section of the site, to the south of proposed Lot 10). Two bioretention facilities (raingardens) are proposed side by side in the center of the site, in the location of the stormwater management pond proposed in Option A.

- A stormwater drainage pipe in the southwestern corner of Parcel A, connecting to the existing storm drain located between Lots 27 and 40 on Vogels Way, has also been added with this Option.

In addition to the revised plans, the applicants have also submitted revised draft proffers, which have been amended primarily to reflect the provision of the two CDP/FDP options and to clarify conditions pertaining to Option B; a copy of the latest proffers is contained in Attachment 1. The applicant has also had a Subsurface

Exploration Report prepared for the property, to demonstrate the appropriateness of the proposed LID facilities for the site; this report is available for review in the offices of the Zoning Evaluation Division, Department of Planning and Zoning.

Both options depict 20 single family detached residences at a density of 1.82 du/ac, which is below the Comprehensive Plan's recommended density range of 2-3 du/ac. As the site design and amenities are also almost identical for the two options, the following discussion centers on stormwater management.

Option A:

The existing storm sewer outfall of the application property is inadequate according to current Public Facilities Manual (PFM) standards. This option proposes off-site improvements, including upgrading the existing 24" storm drainage pipe located in an easement on Tax Map Parcels 98-1 ((9)) 17, 18 and Z of the Middle Valley subdivision to the south, to provide an improved outfall. The access for the construction of these improvements is shown to be through the existing easement on Lots 17 and 18; the improvements for Parcel Z will require additional storm drainage easements to be obtained and recorded prior to construction plan approval by DPWES. The applicant has proffered to coordinate closely with the owners of the affected properties regarding the time and duration of the construction and restoration of the access.

There has been a concern raised by the owner of a downhill parcel (Tax Map 98-1 ((9)) 21) with respect to the adequacy of the necessary flow paths to meet the dam breach analysis requirements of the PFM. The applicant has indicated that the proposed development will adequately meet PFM requirements and sufficient analysis to demonstrate such will be provided on the subdivision plan. The applicant has proffered that he will submit a dam breach analysis as required by PFM 6-1603.4.

The applicant will be required, per PFM 6-0201.3, to convey with the subdivision Record Plat storm drainage easements over the existing natural drainage way to provide for the adequate conveyance of surface waters, from the existing storm sewer located between Tax Map Parcels 89-3 ((14)) 31 and 32, as well as to the natural water course on Tax Map 89-4 ((1)) 57, to the existing system located on Tax Map parcels 89-3 ((13)) 27 and 89-3 ((14)) 40. The applicant has shown proposed easements in these locations.

Option B:

The applicant, as an option, has proposed the use of bioretention filters and infiltration trenches on site to meet stormwater quality and quantity control requirements in lieu of the extended detention dry pond.

The applicant has stated that the infiltration trenches have been sized to provide control of storm water runoff in excess of the 100 year storm volume in response to the downstream drainage issues. Staff believes that the applicant should provide proffer commitments to the additional amount of control that is proposed.

The applicant has also stated that the proposed bioretention filters (raingardens) are designed to provide quantity control for up to the 10 year storm. Innovative facilities not included in the PFM at this time are approvable by the Director in accordance with PFM 6-0402.4.

The applicant has proffered that the infiltration trenches and bioretention filters will be privately maintained. A maintenance agreement will be required to be executed with the County prior to subdivision plan approval. The applicant has proffered that they will provide an escrow for the estimated maintenance costs of the facilities.

Proffers

In addition to the addition of Option B to the CDP/FDP, the applicant has revised the draft proffers, which are now dated March 8, 2006, to incorporate the following changes:

1. Editorial changes have been made throughout the proffers to reflect the provision of two plan alternatives (Option A and Option B); proffers now state that the selection of which Option will be developed will be made by the applicant at the time of subdivision plan submission.

2. The tree preservation proffers have been revised to provide the most recently recommended language concerning the calculation method for tree replacement value.

3. A new proffer has been added (5b) to address the provision of infiltration trenches, should Option B be selected.

4. Language has been added in proffer 5k, clarifying that the proposed improvements to the existing outfall located on Tax Map 98-1 ((9)) Z, which is owned by the Fairfax County Park Authority, will be subject to the receipt of the necessary permission.

5. A new proffer (5r) has been added, stating that, if Option B is selected, a maintenance fund will be established for the HOA in an amount equal to the twenty year maintenance cycle for both the raingardens and the infiltration trenches.

6. A new proffer (5s) has been added, stating that, if Option B is selected, an interceptor trench will be installed along the southern property line to intercept groundwater prior to its leaving the site.

7. Language has been added to Proffer 6b to clarify how the stormwater outfall will be handled with either option.

8. Language has been added to Proffer 11c, to specifically identify Ridge Creek Way and Vogels Way as the streets which will be cleaned daily during construction.

9. Language has been added to Proffer 13, stating that, if Option B is selected, a specific budget line item shall be established for the HOA, and escrowed with the County, for the maintenance of the bioretention facilities and infiltration trenches.

Soil Exploration/Geotechnical Review

In order to address concerns about the functioning of the proposed infiltration trenches on the application property, the applicant had a geotechnical review conducted. Staff's evaluation of the Subsurface Exploration Report concludes that the geotechnical engineers made very conservative assumptions that actually show an increase in flow of groundwater towards the houses downhill. (These assumptions included a fully saturated ground condition, a condition which is unlikely to occur in nature given the permeability of the soil types; and a shallow elevation for both the ground water table and the bedrock, both of which would favor more water flowing downhill.) Staff identified three deficiencies in the report which should be addressed to the satisfaction of DPWES, should Option B be selected as the preferred alternative:

1. The impact of infiltration trench #3 (located on Parcel A) on the adjoining properties; (The adjoining houses are much closer in this area than in the sections that were analyzed.)

2. The actual permeability of the soils or the infiltration rates should be determined;

3. The location, depth, size, outfall and details of the recommended interceptor drains should be specified. (These interceptor drains, if installed, would cut off any groundwater flows towards the downhill properties.)

Staff is continuing to work with the applicant to refine the draft proffer commitments to address these issues (see Attachment 4).

CONCLUSIONS AND RECOMMENDATIONS

Conclusions

The applicant is proposing two CDP/FDP alternatives; both depict a subdivision consisting of 20 single family detached lots at a density of 1.82 du/ac, which in under the recommended Comprehensive Plan range for the property (which is 2-3 du/ac). Both alternatives have almost identical site designs and amenities; the primary difference between the options lies in how the stormwater management and Best Management Practices are to be provided. Option A proposes a traditional extended detention dry pond; Option B proposes the use of bioretention facilities and LIDs. Staff believes that both options are in harmony with the Comprehensive Plan and are in conformance with the applicable Zoning Ordinance requirements.

Recommendations

Staff recommends that RZ 2005-MV-001 be approved, subject to the execution of proffers consistent with those found in Attachment 1.

Staff recommends that the Planning Commission approve FDP 2005-MV-001, subject to the proposed development conditions found in Attachment 2, and subject to the Board's approval of RZ 2005-MV-001 and the Conceptual Development Plan.

Staff recommends approval of a modification of the maximum percentage of pipestem lots, to permit 30% pipestems.

Staff recommends denial of the requested modification of the trail requirement located in the southern half of the site.

It should be noted that it is not the intent of the staff to recommend that the Board, in adopting any conditions proffered by the owner, relieve the applicant/owner from compliance with the provisions of any applicable ordinances, regulations, or adopted standards.

It should be noted that the content of this report reflects the analysis and recommendation of staff; it does not reflect the position of the Board of Supervisors.

ATTACHMENTS

1. Revised Draft Proffers
2. Proposed Development Conditions
3. Revised Affidavit
4. DPWES memorandum, stormwater
5. Department of Transportation Addendum

PROFFERS

BROOKFIELD RIDGE ROAD, LLC

RZ 2005-MV-001

March 8, 2006

Pursuant to Section 15.2-2303(A) Code of Virginia, 1950, as amended, the owners and Brookfield Ridge Road, LLC (hereinafter referred to as the "Applicant"), for themselves, their successors and assigns in RZ 2005-MV-001, filed on property identified as Fairfax County tax map reference 89-4 ((1)) 56, 57A and 69 (hereinafter referred to as the "Application Property") hereby proffers to the following, provided that the Board of Supervisors approves the rezoning of the Application Property to the PDH-2 District in conjunction with a Conceptual/Final Development Plan for residential development. If accepted, these proffers shall replace and supersede any previous proffers approved on the Application Property.

1. CONCEPTUAL/FINAL DEVELOPMENT PLAN ("CDP/FDP")

a. Subject to the provisions of Section 16-401 and 16-402 of the Fairfax County Zoning Ordinance (hereinafter referred to as the "Zoning Ordinance"), development of the Application Property shall be in substantial conformance with either option A or option B of the CDP/FDP entitled "Renfro Property," containing eleven (11) sheets prepared by Land Design Consultants, dated January 26, 2005, as revised through January 23, 2006. Selection of option A or option B shall be made by the Applicant at the time of subdivision plan submission. Unless specifically identified herein, these proffers shall apply to both options.

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. 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 building footprints, utility locations and final engineering design, provided that such do not decrease the amount and location of open space, tree save areas (including Parcel B), distances to peripheral lot lines, or change the access points.

c. Notwithstanding that the CDP/FDP is presented on eleven (11) sheets and said CDP/FDP is the subject of Proffer 1.a. above, it shall be understood that the CDP shall be limited to the points of access, location and amount of open space, limits of clearing and grading, the total number and general location of residential units and type of units. The Applicant has the option to request Final Development Plan Amendments ("FDPAs") for elements other than CDP elements from the Planning Commission for all of, or a portion of, the CDP/FDP in accordance with the provisions set forth in Section 16-402 of the Zoning Ordinance. The President of the

Middle Valley Civic Association, as on file with the Mount Vernon District Supervisor's office, shall be notified by certified mail of the submission of an application for an FDPA and/or a proffered condition amendment. Said notification shall be provided within ten (10) days of application submission and shall include the location where the application is available for review.

2. TRANSPORTATION

a. The Applicant shall construct a public street with curb and gutter within the residential community as shown on the CDP/FDP.

b. The private driveway constructed to serve proposed Lots 13-17, as shown on the CDP/FDP, shall be constructed to pavement thickness standards set forth in subdivision street regulations published in the Public Facilities Manual (PFM) standards as approved by the Department of Public Works and Environmental Services (DPWES). Nothing contained in this proffer shall be construed to require the developed property to meet other geometrical standards (e.g. width of pavement, horizontal geometry) published by VDOT.

c. The Applicant shall construct a five (5) foot wide sidewalk along both sides of the street within the residential development, as shown on the CDP/FDP.

d. The 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 as may be reasonably required by Fairfax County or VDOT, whether such dedications occur prior to or at time of subdivision record plat approval.

e. That portion of the outlet road adjacent to properties identified as tax map 98-2 ((19)) 73A1, 74A, 75A, 76A, 77, 78, 79A, 80A, and 81, and recorded in Deed Book Y-8 at page 567 among the Fairfax County land records, that serves property identified as tax map 89-4 ((1)) 55, and located on the Application Property within Parcel B and west of the right of way of the proposed public street as shown on the CDP/FDP, shall be vacated and abandoned prior to subdivision plan approval for the Application Property.

f. The Applicant shall provide written notice to initial prospective contract purchasers of the possible future development of the property identified as tax map 89-4 ((1)) 55 with more than one house, and its access to the cul-de-sac as shown on the CDP/FDP. The homeowners' association documents shall also include said notification.

g. The Applicant shall convey Outlot A as shown on the CDP/FDP, to the owner of the adjacent property identified as tax map 89-4 ((1)) 55 (Lot 55) so that the cul-de-sac may be used for access. If the owner of Lot 55 does not accept title to Outlot A, title to Outlot A shall be held by the homeowners' association established for the proposed development until such time as a conveyance is requested by the owner of Lot 55.

The homeowners' association documents shall reflect the obligation to convey Outlot A to the owner of Lot 55. No density or open space associated with Outlot A shall be applied to the density and open space calculations shown on the CDP/FDP.

h. The Applicant shall construct a six (6) foot wide asphalt trail on the Application Property as shown on the CDP/FDP. Said trail shall connect to an existing trail located on properties identified as tax map 98-2 ((19)) 75A and 76A, which shall be resurfaced as part of construction. The Applicant shall diligently pursue acquisition of a trail easement, at a reasonable cost based upon the appraised value of the easement, across those properties identified as tax map 98-2 ((11)) (11) 4 and 5 to provide a complete connection from Ridge Creek Way to Roundabout Way. Should the Applicant acquire a trail easement, in a form reviewed and approved by the Fairfax County Attorney's Office and recorded among the Fairfax County land records, the Applicant shall construct a six (6) foot wide asphalt trail in accordance with Fairfax County standards, and request that the trail be accepted by Fairfax County into the trail system. The trail shall be located and constructed to maximize the preservation of the existing trees as coordinated with Urban Forest Management. If the Applicant is unable to acquire the necessary easement, at a reasonable cost as described herein, there shall be no further obligation to construct that portion of the trail not located on the Application Property and the Applicant shall escrow an amount, as determined by DPWES, equivalent to the cost of constructing that portion of the trail with DPWES at time of subdivision plat recordation. Evidence of attempts to acquire said easement shall be provided to DPWES at time of subdivision plan submission for the Application Property.

i. The final location of the turnaround shown on the CDP/FDP in front of proposed Lot 14 shall be determined at time of subdivision plan submission in coordination with the Office of the Fire Marshal.

j. At time of subdivision plat recordation, the Applicant shall grant a trail easement, in a form reviewed and approved by the County Attorney, on Parcel C south of the proposed public street in the location shown on the CDP/FDP to facilitate an off- site connection to Vogels Way. The final location of the trail for construction on the Application Property shall be determined in consultation with DPWES, and in a location that shall not require the approval of an amendment to the CDP/FDP and/or these proffers. If it is determined by DPWES that a safe trail connection cannot be constructed to PFM standards in this general location, the area shall be open space as shown on Option #2 on the CDP/FDP, and the Applicant shall escrow funds equivalent to the cost of construction as determined by DPWES. The escrowed funds may be applied to the construction of other trail connections in the Mount Vernon area.

k. If a safe trail location is determined as described in proffer 2.j., the Applicant shall attempt to obtain an off-site easement from the Fairfax County Park Authority and permission from other utilities to locate and construct an off-site trail on property

identified as tax map 98-2 ((11)) W to connect the trail described in proffer 2.j. to Vogels Way. The Applicant shall attempt to obtain the necessary easement and permission with the submission of a written request by certified mail. The letter shall include a request to receive a response within thirty (30) days. If no response is received within forty-five (45) days, a second written request shall be submitted by certified mail. If no response is received within thirty (30) days of the date of the second certified mailing, this shall be deemed to be a negative response. If the Applicant is unable to acquire the necessary easement and permission at no cost, there shall be no further obligation under this proffer. Evidence of attempts to acquire said easement and permission shall be provided to DPWES at time of subdivision plan submission for the Application Property.

3. LANDSCAPING AND OPEN SPACE

a. The Applicant shall conform to the limits of clearing and grading as shown on the CDP/FDP subject to the installation of utilities and/or trails as determined necessary by the Director of DPWES. If it is determined necessary to install utilities and/or trails within the limits of clearing and grading, as shown on the CDP/FDP, they shall be located in the least disruptive manner possible as determined by Urban Forest Management. A replanting plan shall be developed and implemented, subject to approval by Urban Forest Management, for any areas within the limits of clearing and grading that must be disturbed. The replanting plan shall be outside of the utility easements as approved by DPWES.

b. 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 or landscape architect and reviewed and approved by Urban Forest Management.

c. The tree preservation plan shall consist of a tree survey that includes the location, species, size, crown spread and condition rating percentage of trees that are ten (10) inches or greater in diameter, and within twenty (20) feet to either side of the limits of clearing and grading shown on the CDP/FDP 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 CDP/FDP, and those additional 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.

d. All trees shown to be preserved on the tree preservation plan shall be protected by a tree protection fence, and super silt fence as approved by Urban Forest Management. The tree protection fence shall be 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, and shall include orange (or similar bright color) plastic fence for visibility. Tree protection fencing shall be erected at the limits of clearing and grading as shown on the demolition, Phase I and Phase II erosion and sedimentation control sheets.

e. 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 adjustments to the clearing limits can be made to increase the area of tree preservation and/or to increase the survivability of trees only at the edge of the limits of clearing and grading, and such adjustments shall be implemented, as long as said adjustments do not interfere with the improvements shown on the CDP/FDP. Trees that are identified specifically by Urban Forest Management, in writing, as dead or dying may be removed as part of the clearing operation. Any tree that is so designated shall be removed using a chain saw and such removal shall be accomplished in a manner that avoids damage to surrounding trees and associated understory vegetation. If a stump is removed, this shall be done using a stump grinding machine in a manner causing as little disturbance as possible to the adjacent trees and associated understory vegetation and soil conditions.

f. 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 fence types shall be performed under the supervision of a certified arborist, and accomplished in a manner that minimizes harm to the existing vegetation that is to be preserved. 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. If it is determined that the fencing has not been installed correctly, no grading or construction activities shall occur until the fencing is installed correctly, as determined by Urban Forest Management.

g. The Applicant shall submit a detailed landscaping plan as part of the first and all subsequent plan submissions that is consistent with the location, quality and quantity of landscaping shown on the CDP/FDP and these proffers. The landscaping plan shall utilize a variety of tree species of various sizes planted throughout the site. The native species, measuring at least two to two and one-half inches (2" – 2 1/2") in caliper, 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 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.

h. In order to protect co-owned trees from construction damage, the Applicant shall remove any dead, dying, or hazardous, on-site, and co-owned trees adjacent to the limits of clearing and grading that are damaged as a result of construction activities permitted on the approved plan and replace the lost tree canopy in accordance with the guidelines of the PFM. Off-site mitigation associated with co-owned trees shall only be conducted with permission of the appropriate off-site owner, which shall be diligently pursued and acknowledgment of receipt of notice to any co-owner shall be provided to DPWES. Prior to subdivision plat approval, a replacement value shall be assigned by Urban Forest Management to all healthy on-site or co-owned trees measuring ten (10) inches or larger in diameter, which are located within twenty (20) feet of the limits of clearing and grading as shown on the CDP/FDP. Trees recommended for removal on the tree preservation plan shall not be assigned a value. At the time of subdivision 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 on-site or co-owned trees that are left dead, dying, or hazardous as a result of damage by normal construction activities permitted on the approved 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. The replacement value shall take into consideration the age, size and condition of these trees and shall be determined by the so-called "Trunk Value Method" contained in the latest edition of the Guide for Plant Appraisal published by the International Society of Arboriculture, subject to review and approval of UFM. The total amount of the cash bond, escrow or letter of credit shall not exceed the replacement value as determined above, in addition to any conservation escrow that is required at the time of subdivision 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. Any funds remaining in the letter of credit or cash bond will be released one year from the date of the issuance of the final residential use permit for the Application Property, or sooner, if approved by Urban Forest Management.

i. Concurrent with development of the Application Property, the Applicant shall remove the existing turnaround located east of the site entrance as shown on the CDP/FDP. Subject to any restrictions of record, the area shall be landscaped with a minimum of three (3) native tree species measuring a minimum of two and one-half inches (2½") in caliper at time of planting, such as white oak, red maple, red oak, American holly, American beech, Willow oak and dogwood. The selection of species and number of plantings shall be coordinated with Urban Forest Management.

j. The retaining walls shown on the CDP/FDP to be located along the southern property line of the Application Property shall not exceed a height of four (4) feet from surface ground elevation and shall be maintained by the homeowners' association established

for the proposed development. The landscaping to be provided in this area shall be installed between the retaining wall and the property line so as to buffer the adjacent residential community. Landscaping in this area shall consist of evergreens (Leland cypress or species with similar growth habits and shape) a minimum of six (6) to eight (8) feet in height at time of planting.

k. Subsequent to the vacation of the outlet road as described in Proffer 2.e. and installation of the trail as described in Proffer 2.h., Parcel B (if option A is selected) or Parcel A (if Option B is selected), as shown on the CDP/FDP, shall remain as tree save area and open space. Said parcel shall not be utilized for construction nor improved with recreation or other facilities.

4. PARKS AND RECREATION

a. 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 expend, at a minimum, the sum of Nine Hundred and Fifty-five Dollars ($955.00) per approved lot on recreation facilities, including escrows. Any funds not expended on site shall be contributed to the Fairfax County Park Authority for the provision of recreational facilities located in proximity to the Application Property at the time of subdivision plan approval.

b. In addition to the recreation and/or contribution provided in proffer 4.a., at the time of subdivision plan approval, the Applicant shall contribute Eight Hundred and Fifty Dollars ($850.00) per approved lot to the Fairfax County Park Authority for recreational facilities located in the vicinity of the Application Property. The Applicant shall receive credit for the acquisition and construction costs associated with the off-site portion of the trails as described in proffers 2.h. and 2.k.

5. STORMWATER MANAGEMENT

a. If option A is selected, in accordance with a determination of DPWES regarding drainage divides, the Applicant shall provide one stormwater management (SWM) extended dry pond and Best Management Practices (BMPs) on the Application Property in the general location shown on the CDP/FDP, and in accordance with the requirements of the PFM and the Chesapeake Bay Preservation Ordinance, unless modified by DPWES. At the Applicant's option, additional innovative SWM techniques may be installed, subject to the approval of DPWES. As shown on the CDP/FDP, the Applicant shall install a storm drainage pipe to collect runoff from the rear of Lots 1 through 3 to direct stormwater to the proposed extended dry pond located on Parcel D. Any area not utilized as a SWM pond pursuant to any granted modifications shall remain as open space owned by the homeowners' association established for the community. Any increases to the peripheral size of the SWM pond shown on the CDP/FDP may necessitate the need for approval of a proffered condition amendment.

b. If option B is selected, the Applicant shall provide a series of infiltration trenches and BMPs on the Application Property in the general locations shown on the CDP/FDP, and in accordance with the requirements of the PFM, the Chesapeake Bay Preservation Ordinance, and the Virginia Stormwater Management Handbook. All facilities shall be subject to the approval of DPWES. As shown on the CDP/FDP, the Applicant shall install a storm drainage pipe to collect runoff from the rear of Lots 1 through 3 to direct stormwater to the infiltration facilities.

c. In accordance with State and local provisions, the Applicant shall not discharge surface drainage onto lower lying property (i.e., Middle Valley Subdivision) at a rate or volume greater than the pre-development rate or volume.

d. In addition to the requirements of the PFM, the Applicant shall install a combination of swales and/or earthen berms to convey the overland drainage from the rear of proposed Lots 5 through 10 (if option A is selected) or within Parcel A (if option B is selected) to the internal storm sewer system generally within the limits of the proposed storm sewer easement, as depicted on the CDP/FDP. Any earthen berms shall be located either within a storm drainage easement to the benefit of the homeowners' association established for the proposed development, or, if required by DPWES, located within a storm drainage easement to the benefit of Fairfax County. In either circumstance, a covenant shall be recorded among the Fairfax County land records on those lots improved with a berm. Said covenant in a form as review and approved by the Fairfax County attorney shall preclude removal and/or regrading of the berm. These restrictions shall be disclosed in the homeowners' association documents.

e. If option A is selected, in addition to the requirements of the PFM, the Applicant shall connect a series of roof drains/downspouts/underground pipes and tie these facilities into the proposed storm sewer system for proposed Lots 5 through 11 to minimize any drainage from the rear of the proposed roofs entering onto the downstream properties overland.

f. If option A is selected, 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 subdivision plan. The plan shall show the restrictive planting easement for the pond, and landscaping in all areas outside of that restrictive planting easement, to the maximum extent feasible in accordance with the planting policies of Fairfax County.

g. If option A is selected, at time of subdivision plan submission, the Applicant shall submit a dam breach analysis as required by Section 6-1603.4 of the PFM for all proposed SWM ponds as approved by DPWES. The President of the Middle Valley Civic Association, as on file with the Mount Vernon District Supervisor's office, shall be notified by certified mail of the submission of the dam breach analysis to DPWES.

Said notification shall be provided within ten (10) days of the analysis submission and shall include the location where the analysis is available for review.

h. If option A is selected, subject to the approval of DPWES, the Applicant shall install fencing, landscaping, or a combination thereof, around the perimeter of the SWM pond as shown on the CDP/FDP to deter pedestrian access. Any fencing around the perimeter of the SWM pond shall be located outside of the Fairfax County maintenance easement, and shall not be constructed of chain link materials.

i. If option A is selected, the wall(s) shown in proximity to the pond located on Parcel D and shown on the CDP/FDP shall not exceed a height of six (6) feet as measured from surface ground elevation to top of wall.

j. If option A is selected, relative to the outfall for the pond located on Parcel D as shown on the CDP/FDP, and as approved by DPWES, the Applicant shall improve the existing drainage swale/channel located on properties identified as tax map 98-1 ((9)) Z and 18 in accordance with the detail shown on the CDP/FDP. Improvements shall be in compliance with PFM standards and may include weirs, stone, rip-rap and/or similar materials relative to outfall improvements, subject to DPWES approval. Access to construct these improvements shall be provided within existing recorded easements located on those properties identified as tax map 98-1 ((9)) 17 and 18 or as otherwise negotiated with those property owners. The Applicant shall coordinate with the property owners regarding the time and duration of construction and restoration of any disturbed areas, including the replacement of shrubs and fencing, and reseeding of any disturbed lawn areas, and shall implement those measures agreed to, subject to the approval of DPWES.

k. If required by DPWES, the Applicant shall improve the outfall located on property identified as tax map 98-1 ((9)) Z, which is owned by the Fairfax County Park Authority, subject to the receipt of any necessary letter of permission. Improvements shall be consistent with the requirements of the PFM. Construction of improvements shall be subject to receipt of any necessary letter of permission from the Fairfax County Park Authority. The Applicant shall restore any disturbed areas, including the replacement of shrubs, and reseeding any disturbed lawn areas. Access to construct these improvements shall be provided from Vogels Way.

l. Applicant shall remove debris from existing storm sewer inlets located within easements on properties identified as tax map 89-3 ((13)) 27 (Lot 27) and 89-3 ((14)) 40 (Lot 40) to restore their function consistent with that shown on the approved subdivision plan for the Middle Valley Subdivision. Applicant shall reconstruct storm sewer inlets and end walls, as approved by DPWES, on Lot 27 and Lot 40 only to the extent possible within existing recorded easements, and consistent with that shown on the approved subdivision plan for the Middle Valley Subdivision. The Applicant shall coordinate with the owners of Lot 27 and Lot 40 regarding the time and duration of construction and the reseeding of any disturbed lawn areas, and shall implement those

measures agreed to, subject to approval of DPWES. Restoration shall not include the replacement or installation of landscaping within easement areas.

m. Subject to the receipt of any necessary letter of permission or temporary grading and construction easement from the owners of properties identified as tax map 89-3 ((13)) 27 (Lot 27) and/or 89-3 ((14)) 40 (Lot 40), at no cost, the Applicant shall grade Lot 27 and/or Lot 40 to improve overland relief, subject to the approval of DPWES. Applicant shall submit a written request by certified mail to the owners of Lot 27 and Lot 40 asking for permission to enter and grade the property. The letter shall include a requirement to receive a written affirmative or negative response within thirty (30) days. If no response is received within forty-five (45) days of the date of the certified mailing, this shall be deemed to be a negative response. Evidence shall be provided to DPWES at time of subdivision plan review of Applicant's attempts to receive permission from the owners of Lot 27 and Lot 40.

n. If option A is selected, and in coordination with DPWES at time of subdivision plan approval, the Applicant shall design the proposed extended dry SWM facility located on Parcel D on the CDP/FDP, beyond the minimum requirements of the PFM to control the one-year, twenty-four hour storm, as approved by DPWES in order to reduce storm drainage velocity which may contribute to downstream erosion.

o. If option A is selected, and subject to the receipt of the necessary permission from the property owner, the Applicant shall construct an areaway at the rear of the existing dwelling located on property identified among the Fairfax County tax assessment records as 98-2 ((11)) 21 (Lot 21). The areaway shall be located and constructed in accordance with the applicable code requirements. The backyard of Lot 21 shall be graded to divert surface water away from the existing house, and the existing yard inlet on Lot 21 shall be converted to a manhole, if approved by DPWES. If necessary, the existing deck and heat pump shall be removed for grading then restored on the property. After grading is completed, an areaway shall be constructed with the top of the areaway a minimum of three (3) feet above the one hundred year water surface elevation as a safety factor as determined by the Applicant's engineer. The actual size, location and extent of the improvements shall be negotiated with the owner of Lot 21 and in accordance with building code requirements. Improvements, as negotiated with the owner of Lot 21, may include replacement of improvements, but shall not include a cash payment directly to the property owner. The Applicant shall submit a written proposal by certified mail to the owner of Lot 21, including detailed engineering drawings, at time of subdivision plan submission for the Application Property. The letter shall include a requirement for a written affirmative or negative response within thirty (30) days. A written response indicating a willingness to enter into a negotiation process shall be deemed an affirmative response. The Applicant and the owner of Lot 21 shall complete negotiation of actual improvements within ninety (90) days of the receipt of an affirmative response, unless additional time is mutually agreed to by the parties. Construction shall be completed prior to the commencement of any land disturbing activities on the Application Property. If an

agreement cannot be reached, as evidenced to DPWES, the Applicant shall escrow the sum of Five Thousand Dollars ($5,000.00) with Fairfax County for future construction by others. The escrow shall be released only upon the submission of a written request by the owner of Lot 21 and shall be used solely for the construction of drainage improvements and replacement of any trees lost due to grading on Lot 21. If a negative response is received to the certified mailing, or if no response is received within forty-five (45) days of the certified mailing, the Applicant shall submit the escrow described herein and evidence of mailings to DPWES.

p. If option A is selected, and subject to the approval of DPWES, the Applicant shall replace the existing storm sewer pipe between off-site structures 16 and 17 as identified on the CDP/FDP with a minimum thirty (30) inch concrete pipe utilizing the existing easement. The Applicant shall coordinate with the individual property owners to relocate the easement if desired to preserve existing vegetation, as determined appropriate by Urban Forest Management, subject to the approval of DPWES. The Applicant shall submit a written request by certified mail to the owner of each lot encumbered by the storm drainage easement requesting input on relocation of the easement at no cost. The letter shall include a requirement to receive a response within thirty (30) days. If no response is received within forty-five (45) days of the date of the certified mailing, this shall be deemed to be a negative response. There must be general consensus among the property owners to allow for the logical realignment of the easement to meet the requirements of DPWES. The Applicant shall prepare necessary plats and documents for recordation among the Fairfax County land records. Exclusive of engineering, legal and recordation fees, said easement relocation shall be at no cost to the Applicant.

q. Any swales created by the Applicant on the property identified as tax map 98-2 ((11))W shall not be improved with stone and/or rip-rap. The Applicant shall coordinate with DPWES to determine if the swale should be located within a Fairfax County storm drainage easement, and record said easement, as necessary. If a storm drainage easement is not required, the Applicant shall request permission from the Fairfax County Park Authority for the homeowners' association established for the development to cut the grass and maintain the swale.

r. If option B is selected, the Applicant shall establish a maintenance fund for the homeowners' association established for the residential development equal to the twenty (20) year maintenance cycle per Letter to Industry 01-11. Said maintenance fund shall be escrowed with DPWES at time of subdivision plan approval and shall include maintenance for both the bioretention facilities and the infiltration trenches. The amount of the escrow shall be reviewed and approved by DPWES.

s. If option B is selected, the Applicant shall install an interceptor trench along the southern property line. Said trench shall be designed to intercept groundwater prior to the flowing off-site. Said trench shall be subject to the review and approval of DPWES.

6. CONSTRUCTION SEQUENCE/EROSION AND SEDIMENTATION CONTROL

The Applicant shall phase construction of improvements on the Application Property in the following order:

a. Construction of a triple-tiered super silt fence adjacent to the Middle Valley Subdivision, specifically along the southern boundary of the Application Property (at the rear of proposed Parcel C, and lots 5-9) and along the limits of that property identified as tax map 98-2 ((11)) W. (Parcel W) The distance between the fences shall be generally four (4) feet, except as determined by DPWES where necessary to permit utility installation.

b. If option A is selected, construction of a permanent storm sewer outfall within Parcel W to the proposed public street. The facility shall be constructed and stabilized to act as a temporary sediment basin. If option B is selected, a temporary sediment basin shall be installed on the north side of the public street and shall connect to the storm sewer outfall. Clearing and grading shall be the minimum necessary for construction.

c. Upon completion of the improvements identified in (a) and (b) above, a diversion dike shall be constructed and stabilized, which shall be generally located along the northern portion of the proposed public street, and a temporary sediment basin shall be generally located along the southern portion of the proposed public street. This shall allow the construction of the proposed public street, associated subsurface utilities, and the grading for proposed lots 7-11.

d. Once grade has been established for the areas identified above, and stabilization has occurred, the remainder of the Application Property, specifically, proposed lots 5-9, may be cleared and graded subject to the following:

    i. The contractor and Fairfax County inspector verify that the triple-tiered super silt fence along the southern property boundary is in good condition and functioning properly. In the event that it requires repair, all repairs shall be completed prior to any grading in this area.

    ii. If option A is selected, the retaining walls, if required based upon final engineering, shall be constructed and backfilled appropriately, and the clearing and grading in these areas shall be minimized to allow the construction of the retaining walls and adjacent storm sewer only. The retaining wall located behind proposed Lot 6 shall not exceed four (4) feet in height from surface ground elevation. Upon completion of the retaining wall or concurrent with its installation, the Applicant shall commence installation of the storm sewer located at the rear of proposed lots 5 and 6

and the construction of the berm. The residue of the lots shall be cleared and the final grade established.

7. HERITAGE RESOURCES

The Applicant shall retain a professional archaeologist to monitor the initial clearing and removal of topsoil from the Application Property. The archaeologist shall ensure that the Virginia Antiquities Act concerning the treatment of human burials is followed, adequate information is gathered and recorded if a potential domestic site associated with the cemetery is encountered, and that all artifact data which may be uncovered during initial site clearing is recovered. If potentially significant archaeological resources are discovered, the Applicant shall conduct Phase II testing, and, if necessary, Phase III data recovery, and forward these studies to the cultural resources protection section of the Fairfax County Park Authority for review.

8. AFFORDABLE HOUSING

At the time of first building permit approval, a contribution shall be made to the Fairfax County Housing Trust Fund for one-half percent (0.5%) of the sales price of each new single-family dwelling actually constructed on the Application Property to assist Fairfax County's low and moderate income housing goals.

9. SCHOOLS

Applicant shall contribute the sum of Thirty-seven Thousand Five Hundred Dollars ($37,500.00) to the Fairfax County Board of Supervisors for capital improvements to West Springfield High School, which is located in the vicinity of the Application Property. Said contribution shall be payable prior to subdivision plat approval for the Application Property.

10. CEMETERY

The Applicant, by covenants and restrictions within the homeowners' association documents, shall provide the following:

i. A fenced memorial plot around the located grave sites;

ii. A memorial marker identifying the burial area; and

iii. Perpetual maintenance of the cemetery area.

iv. A public access easement to the cemetery.

In addition, landscaping, that is consistent with the location, quality and quantity of landscaping shown on the CDP/FDP, shall be installed by the Applicant around the perimeter of the cemetery. Potential purchasers shall be notified of the existence of the cemetery and maintenance obligations prior to entering into a purchase contract. This information shall

also be disclosed in the homeowners' association documents prepared in conjunction with development of the Application Property.

11. SITE MANAGEMENT

a. The President of the Middle Valley Civic Association, as on file with the Mount Vernon District Supervisor's office, shall be notified by certified mail of the submission of a subdivision plan. Said notification shall be provided within ten (10) days of subdivision plan submission and shall include the location where the plan is available for review.

b. Construction activity shall be limited to the hours between 7:00 a.m. and 7:00 p.m., Monday through Friday; the hours between 8:00 a.m. and 7:00 p.m. on Saturday; and on Sunday, for interior work only, from 9:00 a.m. to 6:00 p.m. This proffer applies to the original construction only and not to future additions and renovations by homeowners.

c. Following the completion of clearing and grading activities, all construction vehicles shall be parked within the Application Property. The area within the Application Property to be dedicated for public street purposes pursuant to these proffers may be used for such parking and for the construction entrance. For on-site construction, there shall be no construction vehicle parking on any off-site street.

d. The Applicant shall inspect Ridge Creek Way and Vogels Way that are adjacent to the Application Property on a daily basis, as required by DPWES and VDOT, and shall remove all mud, rocks, nails and other construction debris created by the Applicant and shall wash those roads as required by VDOT and DPWES to remove dirt and debris.

e. The Applicant shall install a construction vehicle wash rack at the construction access to the Application Property to clean construction vehicles of dirt and debris.

f. The Applicant shall provide the name and telephone number of the construction site superintendent to the presidents of the Middle Valley Civic Association and Springfield Glen Homeowners' Association, as on file with the Mount Vernon District Supervisor's office, and the Mount Vernon District Supervisor for matters of concern which may arise during construction.

12. DESIGN

a. The Applicant shall design the residential dwellings on the Application Property in general conformance with the architectural elevations as shown on Sheet 5 of the CDP/FDP. Final design shall be selected by the Applicant upon the submission of architectural drawings for building permits. Front façade materials may include brick, cementitious or wood siding (not vinyl or aluminum) or stone. A minimum two-car

garage shall be provided for each residential dwelling. Garages may be front or side load.

b. A minimum eighteen (18) foot long driveway, measured from the garage door to the nearest sidewalk base, shall be provided for each unit.

c. There shall be a minimum side yard setback for each dwelling unit of seven (7) feet. Chimneys, stoops, bay windows, and similar features may encroach within the side yard setback, provided that no encroachments (other than fencing) shall be permitted within five (5) feet of any side yard lot line. Said restriction shall be included in the homeowners' association documents prepared in conjunction with the proposed development.

d. There shall be a minimum rear yard setback of twenty-five (25) feet for all proposed lots. Features such as decks and patios shall be permitted in any rear yard, but no closer than five (5) feet to the rear yard lot line. Said restriction shall be included in the homeowners' association documents prepared in conjunction with the proposed development.

e. All new homes constructed on the Application Property shall meet the thermal standards of the Council of American Building Officials ("CABO") Model Energy Program for energy efficient homes or its equivalent for electric or gas energy systems, as determined by DPWES.

f. A covenant shall be recorded which provides a garage shall only be used for a purpose that will not interfere with the intended purpose of the garages, e.g., parking of vehicles. This covenant 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 homeowners' association in Fairfax County. Initial purchasers shall be advised of the use restriction prior to entering into contract of sale. Said use restriction shall be included in the homeowners' association documents prepared in conjunction with the proposed development.

g. All lighting shall comply with Zoning Ordinance Article 14, Part 900, Outdoor Lighting Standards.

13. HOMEOWNERS' ASSOCIATION

The Applicant shall establish a homeowners' association for the proposed development, to own, manage, and maintain the open space areas, including the tree save areas, cemetery, retaining walls, and all other community owned land and improvements. If option A is selected, a specific budget line item shall be established for the maintenance of the retaining wall located on proposed Lot 6, and shown on the CDP/FDP. If option B is selected, a specific budget line item shall be established for the maintenance of the bioretention facilities and infiltration trenches as shown on the CDP/FDP, which shall be escrowed with DPWES as described herein. Restrictions placed on the use of the open space/buffer areas, minimum

setbacks, and the maintenance responsibilities of the homeowners' association, shall be disclosed to all prospective homeowners in a disclosure memorandum prior to entering into a contract of sale and included in the homeowners' association documents. The homeowners' association documents shall allow for the future inclusion of that property identified as tax map 89-4 ((1)) 55 and disclose that this property may redevelop with more than one house.

14. SIGNAGE

a. 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 to assist the initial sale of homes on the Application Property. Furthermore, the agents and employees involved in the marketing and sale of the residential units on the Application Property shall be directed to adhere to this proffer.

b. All entry features installed on the Application Property shall be in accordance with the requirements of Article 12 of the Zoning Ordinance.

15. SUCCESSORS AND ASSIGNS

These proffers will bind and inure to the benefit of the Applicant and his/her successors and assigns.

16. COUNTERPARTS

These proffers may be executed in one or more counterparts, each of one when so executed and delivered shall be deemed an original document and all of which when taken together shall constitute one and the same instrument.

17. MISCELLANEOUS

The Applicant shall be permitted to process separate public improvement plans with DPWES for any of the improvements described herein that require cooperation from off-site property owners. The submission of said plans, and their evaluation by DPWES, shall not delay the processing and approval of the Applicant's subdivision plan.

[SIGNATURES BEGIN ON THE FOLLOWING PAGE]

APPLICANT/CONTRACT PURCHASER
Tax Map 89-4 ((1)) 56, 57A and 69

BROOKFIELD RIDGE ROAD, LLC

By Brookfield Washington, LLC, Its Sole Managing Member

_____

By: Richard J. Dengler
Its: Vice President & COO, Land Development

[SIGNATURES CONTINUED ON NEXT PAGE]

TITLE OWNER
Tax Map 89-4 ((1)) 69

BROOKFIELD WASHINGTON, LLC.

_____
By: Richard J. Dengler
Its: Vice President

[SIGNATURES CONTINUED ON NEXT PAGE]

TITLE OWNERS:
TAX MAP 89-4 ((1)) 56 and 57A

_____
JAMES G. RENFRO, TRUSTEE

_____
RACHEL E.C. RENFRO, TRUSTEE

[SIGNATURES END]

J:\BROOKFIELD HOMES\294.65 - Renfro\PROFFERS\3-08-06 blk.doc

PROPOSED FINAL DEVELOPMENT PLAN CONDITIONS

FDP 2005-MV-001

March 9, 2006

If it is the intent of the Planning Commission to approve FDP 2005-MV-001 for a single family detached development at Tax Map 89-4 ((1)) 56, 57A and 69, staff recommends that the Planning Commission condition the approval by requiring conformance with the following development conditions.

1. Development of the property shall be in substantial conformance, as defined by Section 16-403 of the Zoning Ordinance, with the Final Development Plan entitled “Renfro Property”, prepared by Land Design Consultants, dated June, 2004, as revised through January 26, 2006.

2. The proposed infiltration trenches shall be sized to provide control of stormwater in excess of the 100 year storm in response to the downstream drainage issues, as determined by DPWES.

The proposed conditions are staff recommendations and do not reflect the position of the Planning Commission unless and until adopted by that Commission.