



APPLICATION FILED: August 11, 2006
APPLICATION AMENDED: November 27, 2006
PLANNING COMMISSION: January 18, 2007
PLANNING COMMISSION DECISION ONLY: March 22, 2007
BOARD OF SUPERVISORS: Not Yet Scheduled

County of Fairfax, Virginia

March 14, 2007

STAFF REPORT ADDENDUM III

RZ/FDP 2006-PR-022

PROVIDENCE DISTRICT

APPLICANT: Van Metre Homes at Suncrest, L.L.C.

PRESENT ZONING: R-1 (0.81 acres), PDH-3 (12.35 acres)

REQUESTED ZONING: PDH-3

PARCEL(S): 39-1 ((49)) B, C, 6-11, 18-25
39-3 ((50)) A, E, F, 1-5, 12-17, 26-33
39-3 ((1)) 57

ACREAGE: 13.16 acres

FAR/DENSITY: 2.74 dwelling units per acre (du/ac)

OPEN SPACE: 34%

PLAN MAP: Residential, 2-3 du/ac

PROPOSAL: Rezone the subject site from R-1 and PDH-3 to PDH-3 for the development of 36 new single-family detached dwellings

WAIVERS: Waiver of the 600-foot maximum length for a private street

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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 RECOMMENDATIONS:

Staff recommends that RZ 2006-PR-022 and the Conceptual Development Plan be denied; however, if it is the intent of the Board of Supervisors to approve RZ 2006-PR-022, staff recommends that the approval be subject to the draft proffers contained in Attachment 1 of this staff report addendum.

Staff recommends denial of FDP 2006-PR-022.

It should be noted that it is not the intent of 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.

The approval of this rezoning does not interfere with, abrogate or annul any easement, covenants, or other agreements between parties, as they may apply to the property subject to this application.

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

The applicant, Van Metre Homes at Suncrest, L.L.C., requests to rezone the 13.16 acre subject site from the R-1 and PDH-3 Districts to the PDH-3 District for the development of 36 single-family detached dwellings. The overall proposed density would be 2.74 dwelling units per acre (du/ac) with 34% open space.

On January 4, 2007, the Staff Report for RZ/FDP 2006-PR-022 was published. Under the original concept, the applicant had proposed 37 single-family detached dwellings at a density of 2.81 du/ac with 34% open space. In this report, staff opined that the new lots proposed under RZ/FDP 2006-PR-022 failed to provide logical, functional and appropriate relationships among the various parts. Staff did not believe that these lots included usable yard areas within the individual lots nor did the lot configuration afford the residents of these units privacy. Furthermore, the layout did not preserve any of the existing trees, including the existing large white oak tree in the southeast corner of Parcel 57 and the existing vegetation along the southern property line (adjacent to Electric Avenue), as recommended by Urban Forest Management. Instead, staff believed that these new lots were laid out in a haphazard fashion for the sole purpose of maximizing lot yield.

That same day, the applicant submitted a revised CDP/FDP, as revised through December 27, 2006. Under this revised CDP/FDP, an insert was added to depict the existing dwelling which is to remain. In addition, the applicant has adjusted the limits of clearing and grading on Lots 32 through 34 to provide some additional undisturbed areas along the periphery of the site.

On January 11, 2007, the Staff Report Addendum for RZ/FDP 2006-PR-022 was published. In this addendum report, staff stated that the changes provided with the CDP/FDP, as revised through December 27, 2006, did not address any of the issues previously identified in the staff report. For that reason, staff continued to recommend denial of the application.

On January 18, 2007, a public hearing was held before the Planning Commission. At that hearing, the applicant verbally indicated a desire to eliminate a lot within the proposed development. A site sketch was displayed during the public hearing to illustrate the proposed site design. In order to provide the applicant the time to submit revised plans and to give staff time to analyze the proposed changes, the Planning Commission deferred its decision until February 22, 2007, with the caveat that this date could be moved in order to provide staff with enough time to publish an addendum on the proposed changes one week prior to the Planning Commission decision.

On January 24, 2007, the applicant submitted a revised CDP/FDP, as revised through January 22, 2007. Under this revised CDP/FDP, the proposed lots were reduced from 37 to 36 units.

As a result, the overall density of the site has been reduced from 2.81 du/ac to 2.74 du/ac, but it remains over the 2.67 du/ac which was approved with the original rezoning (RZ/FDP 2003-PR-043). The reduction of a lot has not affected the provided open space, which remains 34% of the site. However, the provided open space remains below the 37% which was provided under the original rezoning.

On February 14, 2007, Staff Report Addendum II for RZ/FDP 2006-PR-022 was published. In this second addendum report, staff noted that while the reduction in the number of units proposed under RZ/FDP 2006-PR-022 had improved the site layout, it has not addressed all of staff's concerns, including the relationship between the lots, the lack of privacy and usable yards for the future residents and the absence of a secondary access point to the development. For those reasons, staff continued to recommend denial of the proposed application.

On February 16, 2007, the applicant submitted a revised CDP/FDP, as revised through February 15, 2007, which is contained in the front of this staff addendum report. Under this revised CDP/FDP, the site layout was reconfigured to provide a 12-foot wide emergency access from the site to Electric Avenue. In addition, the tree save that had been previously proposed in the rear yards of proposed Lots 33 and 34 has been placed within a designated HOA common space. In order to address concerns about unit orientation, the units on proposed Lots 35 and 36 depict the location of the front of the unit. Finally, on February 20, 2007, the applicant has provided a separate exhibit to depict the maximum extent to which decks could extend on the proposed new lots.

In order to provide staff with the opportunity to review the applicant's latest submittal, the Planning Commission deferred its decision only until March 22, 2007.

ANALYSIS

Emergency Access

In the staff report, staff noted that under the original rezoning (RZ/FDP 2003-PR-043), Falcone Pointe Way (the site's main street) was originally proposed to end in a temporary cul-de-sac south of proposed Lot 31. This same approved site layout anticipated that with the development of Parcel 57, the temporary cul-de-sac would be removed and Lot 32 developed. In the staff report of RZ/FDP 2003-PR-043, staff wrote that:

Waiting until development of Parcel 57 creates uncertainty that the road will ever be extended. It would be preferable to extend the road to Electric Avenue with this application, if possible, in order to provide the proposed development with two points of access. While the applicant has agreed to place a conspicuous sign at this location stating that this area will be the site of a future extension of the road by others to provide an interparcel connection, staff believes that the applicant should also provide funds for the removal of the cul-de-sac once the future road is extended.

Originally, under the proposed layout for RZ/FDP 2006-PR-022, the applicant had sought to eliminate the second point of access and to end Falcone Pointe Way in a permanent cul-de-sac. In the staff report, staff noted that it did not support this proposal because staff felt that it is important to provide this development with two points of access for the safety and convenience of the future residents. With only one access, all turning movements into and out of the site are at a single point on Woodford Road, but with two access points, the trip distribution is divided. The Fairfax County Department of Transportation (FCDOT) and the Virginia Department of Transportation (VDOT) also noted that the turn lanes from Woodford Road to Falcone Pointe Way were permitted to be constructed to substandard lengths because it was believed that there would be a second point of access to the development from Electric Avenue, permitted a distribution of trips. Without that distribution, FCDOT and VDOT believed that the turn lanes along Woodford Avenue should be reconstructed to VDOT standards. Finally, staff noted that if for any reason, one access is blocked, then an access point from Electric Avenue would provide another way in and out of the site – a vital option in cases of emergency.

The proposed 12-foot wide emergency access appears to be the applicant's attempt to address staff's safety concern about a single-ended development. However, the emergency access does not provide for a trip distribution between Electric Avenue and Woodford Road; all turning movements will continue to be limited to the single point on Woodford Road. For these reasons, the proposed emergency access does not resolve staff's concerns, as stated above.

Design

Staff noted that Development Criterion #1 states that developments should provide for a logical design with appropriate relationships among the various parcels of the development, including yards, streets, open space, and other dwelling units. In the second staff addendum, staff stated that while the elimination of one of the lots had helped to open up the site layout, staff was still concerned about the relationships between the proposed new lots. Specifically, staff was concerned that some of the proposed lots (proposed Lots 1 and 31) could not accommodate the future construction of decks, sunroom, porches and/or access structures, especially given that these lots appear to have two front yards. In addition, staff noted that Lot 31 was problematic because its rear yard appeared to be located in the front yard of Lot 36, resulting in a lack of privacy for Lot 31. Finally, the CDP/FDP did not reflect how the units on Lots 31, 35 and 36 will be oriented.

In order to address concerns about unit orientation, the units on proposed Lots 35 and 36 depict the location of the front of the unit. However, staff believes that this information should also be extended to the units on proposed Lots 1 and 31. Because these two lots are located on corners, the orientation of the proposed units is not clear. Finally, staff is concerned about proposed Lot 32, which appears to have two front yards – one on Falcone Pointe Way and one on Electric Avenue. The proposed distance between the house and the Electric Avenue property line is only 23 feet. As such, staff believes that proposed Lot 32 will not have a usable yard area.

The applicant also provided a separate exhibit to depict the maximum extent to which decks could extend on the proposed new lots. Staff believes that this exhibit is inaccurate. The applicant has proffered that decks could be permitted on all lots in accordance with Sect. 2-412 of the Zoning Ordinance. It should be noted that the proffers limit deck heights to a maximum height of four feet. Staff notes that the applicant's exhibit does not appear to have taken into account that proposed Lots 1, 31 and 32 have two front yards and the limitations that Sect. 4-12 would place on decks in those particular instances. Staff is concerned that the inaccuracy of this exhibit creates a false impression as to the size and extent of the decks that could truly occur on those particular lots.

Tree Save

In the second staff report addendum, staff noted that the limits of clearing and grading have been pulled into the site along proposed Lots 33 and 34, ostensibly to protect the existing mature trees in this portion of the site (currently known as Parcel 57). Staff had recommended that if any tree save was proposed in this portion of the site, then the applicant should locate it within HOA common space (not on an individual's lot) in order to ensure the trees' preservation. The CDP/FDP, as revised through February 15, 2007, now depicts this area as a designated HOA common space.

In its review of this latest CDP/FDP, Urban Forest Management (UFM) notes that it still is not clear if the proposed HOA common open space will preserve the existing large white oak tree, located in the southeast corner of Parcel 57. As such, UFM recommends that the applicant provide a tree survey for the trees currently located on Parcel 57. This tree survey should show the location, species, size, the actual dripline and condition rating of all trees 12-inches or greater in diameter this parcel. Finally, UFM continues to recommend that the applicant preserve the existing vegetation along the southern property line (adjacent to Electric Avenue). This existing vegetation, which consists of white oak, eastern white pine and a variety of saplings, combined with supplemental landscaping could provide a buffer for the proposed lots which are located along Electric Avenue.

CONCLUSIONS AND RECOMMENDATIONS

Conclusions

Staff remains concerned about the lack of a second access point along Electric Avenue, particularly given that the applicant was previously permitted to construct substandard turn lanes into the site with the belief that a secondary point of access would be provided. Furthermore, staff remains concerned about the site layout, specifically, the lack of privacy and usable yards for the future residents. For those reasons, staff continues to recommend denial of the proposed application.

Recommendations

Staff recommends that RZ 2006-PR-022 and the Conceptual Development Plan be denied; however, if it is the intent of the Board of Supervisors to approve RZ 2006-PR-022, staff recommends that the approval be subject to the draft proffers contained in Attachment 1 of this staff report addendum.

Staff recommends denial of FDP 2006-PR-022.

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.

The approval of this rezoning does not interfere with, abrogate or annul any easement, covenants, or other agreements between parties, as they may apply to the property subject to this application.

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. Proffers (February 19, 2007)
2. Affidavit
3. Deck exhibit

PROFFERS

RZ 2006-PR-022

VAN METRE HOMES AT SUNCREST, L.L.C.

February 19, 2007

Pursuant to Sect. 15.2-2303A of the 1950 Code of Virginia, as amended, the undersigned applicant and owners, for themselves and their successors or assigns (hereinafter collectively referred to as "Applicant"), hereby proffer the following conditions provided the Subject Property is rezoned as proffered herein.

1. **Prior Rezoning (RZ 2003-PR-043) Superseded.** A major portion of the subject property was rezoned to the PDH-3 District in RZ 2003-PR-043 on July 26, 2004. Subsequent thereto, a subdivision plat was created and reviewed and approved by the County. The approved Subdivision Plat was recorded in Deed Book 18714 at Page 177 among the land records of Fairfax County. The proffers provided herein supersede the proffers in RZ 2003-PR-043. However, to the extent that the proffers in RZ 2003-PR-043 have been performed by the Applicant, or its predecessor in title, credit shall be applied to the performance requirements of the proffers set forth herein, as determined by DPWES.
2. **Conceptual/Final Development Plan.** Development of the property shall be in substantial conformance with the plan entitled "Vienna Estates at Suncrest Conceptual Development Plan/Final Development Plan" ("CDP/FDP"), consisting of eight (8) sheets prepared by Land Design Consultants, Inc., revised as of February 15, 2007. The CDP portion of the CDP/FDP shall constitute the entire plan relative to the points of access, the total number of units, type of units and general location of common open space areas and general location and orientation of streets. However, the unit constructed on Lot 5 shall be constructed as a Unit A building instead of a Unit B building (see Typical Lot diagram on Sheet 2 of 8 of the CDP/FDP). The Applicant shall have the option to request Final Development Plan Amendments ("FDPAs") from the Planning Commission for portions of the plan in accordance with the provisions set forth in Sect. 16-402 of the Zoning Ordinance.
3. **Minor Modifications.** Pursuant to Paragraph 4 of Sect. 16-403 of the Zoning Ordinance, minor modifications to the FDP may be permitted where it is determined by the Zoning Administrator that such are in substantial conformance with the approved FDP. The Applicant shall have the right to make minor adjustments to the building footprints, lot sizes and driveways, and parking configurations, provided such changes are in substantial conformance with the FDP and do not increase the number of units or decrease the amount of open space, peripheral setbacks, access or parking spaces, without requiring approval of an amended FDP.

4. **Side Yard Setbacks.** All dwellings shall have minimum side yards of five (5) feet. However, the minimum distance between two dwellings with contiguous side yards shall be no less than fourteen (14) feet (less and except bump-outs where bay windows or fireplaces are installed), provided further, however, that the minimum distance between the dwellings on Lots 6 and 7 and the minimum distance between the dwellings on Lots 8 and 7 shall be twenty-two (22) feet.
5. **Lots 35 and 36.** The dwelling currently existing on proposed Lots 35 and 36 may be expanded, modified or reconstructed without a Proffered Condition Amendment within the building envelope depicted on the insert shown on Sheet 2 of 8 of the CDP/FDP. Said existing dwelling shall continue as Lot 35 with access to Electric Avenue via a private driveway until Lots 35 and 36 are created by recordation of a record plat. Thereafter, access to these lots shall be oriented to and limited to the subdivision public street (Falcone Pointe Way, extended), as depicted on the CDP/FDP.
6. **Energy Efficiency.** All homes constructed on the property shall meet the thermal standards of the Cabo Model Energy Program for energy efficient homes, or its equivalent, as determined by the Department of Public Works and Environmental Services ("DPWES") for either electric or gas energy homes, as applicable.
7. **Architectural Design.** The design and architecture of the approved units shall be in substantial conformance with the illustrative elevations attached as Sheet 4 of the CDP/FDP, 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. Each front facade shall have a minimum of sixty percent (60%) brick or stone veneer covering. In addition, the side and rear exterior facades of the units on Lots 32, 33 and 36 shall consist of the same building materials and shall have a consistent pattern of architectural detailing and percentage of building materials as the front facade on these units. The roof slopes of the units from front to rear shall not exceed an 8:12 pitch. All units shall be limited to thirty-five (35) feet in height. No walk-out basements will be provided. However, areaways to meet building and fire code requirements are permitted. Notwithstanding the note on Sheet 2 of the CDP/FDP referencing Sect. 2-412(2) of the Zoning Ordinance, any deck constructed within a required rear yard shall be limited to a maximum height of four (4) feet above finished ground level and no closer than twelve (12) feet from the rear property line. Notice of this restriction shall be enclosed in the Homeowners' Association documents. The Applicant will also provide prospective purchasers with written information as to the size and height of decks that are permitted on each lot. Units installed on Lots 5 through 8 shall be limited to the size of the building footprints shown on the CDP/FDP.

8. **Private Street.** The on-site private street shall be constructed in conformance with the Public Facilities Manual ("PFM") and shall be constructed of materials and depth of pavement consistent with Sect. 7-0502 of the PFM, subject to any design modifications approved by the Director of DPWES. The Homeowners' Association shall be responsible for the maintenance of the on-site private street. All prospective purchasers shall be advised of this maintenance obligation prior to entering into a contract of sale and said obligation will be disclosed in the Homeowners' Association documents.

9. **Tree Preservation.**
 - a. **Tree Preservation.** 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 the Urban Forestry Division. 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 twelve (12) inches or greater in diameter, ten (10) feet to either side of the proposed limits of clearing and grading as shown on the approved CDP/FDP. The tree survey shall also include areas of clearing and grading not shown on the CDP/FDP resulting from engineering requirements, such as off-site clearing and grading for utilities or stormwater outfall. The condition analysis shall be prepared using methods outlined in the latest edition of the *Guide for Plant Appraisal*. Specific tree preservation activities designed to maximize the survivability of trees designated for preservation shall be provided. Activities may include, but are not limited to, crown pruning, root pruning, mulching and fertilization.

 - b. **Tree Transplantation.** The Applicant shall provide a transplantation plan as part of the first and all subsequent submissions of the subdivision plan. The plan shall be prepared by a professional with experience in the preparation of tree transplanting plans, such as a certified arborist or landscape architect. Depending upon site constraints, the plan shall address one or all of the following items: (i) the species and sizes to be transplanted; (ii) the existing locations of the trees; (iii) the proposed final locations of the trees; (iv) the proposed time of year when the trees will be moved; (v) the transplant methods to be used, including tree spade size, if applicable; and (vi) details regarding after-transplant care, including mulching and watering, and, if necessary, support measures such as cabling, guying or staking.

 - c. **Tree Preservation Walk-Through.** The Applicant shall have the limits of clearing and grading marked with a continuous line of flagging prior to the pre-construction meeting. Before or during the pre-construction

meeting, the Applicant shall walk the limits of clearing and grading with an Urban Forestry Division representative and the developer's certified arborist 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. Trees that are not likely to survive construction due to their species and/or their proximity to disturbance will also be identified at this time and the Applicant shall be given the option of removing them as part of the clearing operation. Any tree that is designated for removal, at the edge of the limits of clearing and grading or within a tree preservation area, shall be removed using a chain saw to avoid damage to surrounding trees. 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. **Tree Preservation Fencing.** All areas of tree save depicted on the CDP/FDP shall be protected by tree protection fencing in the form of four (4) foot high, 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. This fence type shall be shown on the Phase I and II erosion and sediment control sheets. The tree protection fencing shall be made clearly visible to all construction personnel, and shall be installed immediately after root pruning has taken place and prior to any clearing and grading activities on the site, including the demolition of any existing structures. The installation of the tree protection fencing shall be performed under the supervision of a certified arborist. Prior to the commencement of any clearing, grading or demolition activities, the Applicant's certified arborist shall verify in writing that the tree protection fencing has been properly installed.
- e. **Root Pruning.** Prior to the commencement of any clearing, grading or other demolition activities, the limits of clearing and grading adjacent to all tree save areas depicted on the CDP/FDP shall be root-pruned to a depth of eighteen (18) inches with a trencher or vibratory plow. The Applicant's certified arborist shall verify in writing that the root pruning has taken place.
- f. **Mulching.** Immediately after the Phase I erosion and sediment controls have been installed, all areas of tree save shall be mulched ten (10) feet inside the limits of clearing and grading with four (4) inches of shredded hardwood bark mulch or equivalent.
- g. **Site Monitoring.** 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 this Proffer No. 9. The monitoring schedule shall be described in detail in the tree

preservation plan, and reviewed and approved by the Urban Forestry Division.

- h. **Replacement Value.** The Applicant shall retain a professional with experience in plant appraisal, such as a certified arborist or landscape architect, to determine the replacement value of abutting off-site trees as shown on the CDP/FDP ("designated trees"). These trees and their value shall be identified on the tree preservation plan at the time of the first submission of the subdivision plan. The replacement value shall be determined according to the methods contained in the latest edition of the *Guide for Plant Appraisal* published by the International Society of Arboriculture, subject to review and approval by the Urban Forestry Division.

At the time of subdivision plan approval, the Applicant will post a cash bond or letter of credit payable to the County of Fairfax to ensure preservation and/or replacement of the designated trees that die or are dying due to construction activities. The terms of the letter of credit shall be subject to approval by the County Attorney. The total amount of the cash bond or letter of credit shall be in the amount of the sum of the assigned replacement values of the designated trees, but in any event shall not exceed \$20,000.

At the time of bond release, if any designated trees are determined to be dead or dying due to construction activities, funds from the cash bond, or letter of credit, shall be used to plant similar species, or species appropriate to the site, in consultation with the Urban Forestry Division and the Applicant's certified arborist. The cash bond or letter of credit shall not be used for the removal of the dead/dying trees normally required by the PFM and the Conservation Agreement. If the Applicant's certified arborist or landscape architect, in consultation with the Urban Forestry Division representative, determines that only a certain number of trees can be planted due to space constraints, which amounts to less than the full extent of the security, the remainder of the moneys shall be returned to the Applicant.

The letter of credit or cash bond will be released two (2) years from the date of release of the project's conservation escrow, or sooner, if approved by the Urban Forestry Division.

10. **Stream Restoration.**

- a. **Design Requirements.** The Applicant shall remove the existing rip-rapped ditch traversing the site in a manner subject to the approval of DPWES. In its stead, the Applicant shall relocate and restore the stream in the general location shown on the CDP/FDP. Subject to review and

approval of DPWES, the streambed shall be constructed and restored in substantial conformance with the specifications set forth on Sheets 8a and 8b and 8c of the CDP/FDP (the "Stream Restoration Plan"). The final stream design shall utilize flow rates developed using either HEC-1, HEC-HMS, TR-20 or TR-55. HEC-RAS shall be used to determine velocities and shear stresses from the design flow rates in the channel bed and overbank flow area (i.e., floodplain). Substrate materials for the stream shall be specified based upon these results. Non-erosive velocities of the substrate material in the stream channel during the two (2) year storm (or top of the bank, whichever is greater) event shall be demonstrated by the design, and velocities in the overbank portion of the stream valley (outside of the "ordinary" stream channel flow area) shall be less than or equal to the allowable velocity for the proposed vegetative cover conditions in the 100-year event. Allowable velocities shall be based upon requirements of the PFM or by other accepted engineering methods as determined by DPWES. The design shall also provide incipient motion, scour, limiting slope criteria and bed armoring calculations to demonstrate the adequacy of the specified cobble size in the streambed. Calculations shall also be provided to check for toe and bank stability. Final design characteristics shall be subject to review and modification by DPWES.

- b. **Bonding.** Contemporaneously with either the release of the performance bond, or the reduction of that portion of the performance bond, whichever is applicable, attributable to completion and final approval of the Stream Restoration Plan (the "Completion Date"), the Applicant shall post a performance bond with Fairfax County in the amount of \$200,000 (the "Maintenance Bond"), to guarantee maintenance of the restored stream and associated riparian plantings for a five (5) year period. The amount of the Maintenance Bond shall be adjusted annually based on changes to the Construction Cost Index, published by the *Engineering News Record*, from the date of approval of the rezoning to the actual date of payment. The Maintenance Bond shall be subject to annual reductions as provided in paragraph 9.c(3).
- c. **Monitoring Requirements.** Within forty-five (45) days of the Completion Date, representatives of the Applicant, OSDS and the Northern Virginia Soil and Water Conservation District ("NVSWCD") shall meet on site and select eight (8) locations for survey cross-sections of the channel and eight (8) locations for installation of photographic monuments. Within forty-five (45) days of the date of this meeting, the Developer shall prepare and submit to OSDS and NVSWCD for review and approval, the initial baseline stream monitoring report (the "Monitoring Report"). The Monitoring Report shall be sealed by a licensed, professional engineer (the "Engineer") retained by the Applicant.

- (1) The Monitoring Report shall include:
 - (a) The location of the cross-sections;
 - (b) Cross-section survey data, consisting of a graphical section drawing, coordinates of surveyed points (with an average spacing of two [2] feet or less) and the area of the channel below the plan formed by the section monuments;
 - (c) Photographs of the stream from each photo monument;
 - (d) Analysis of the riparian buffer condition relative to the survival rate and plant density specified on the construction plans approved by DPWES; and
 - (e) A narrative statement describing the status of the stream channel.
- (2) On the date that is one year after the Completion Date, and on each anniversary date thereafter for the next four (4) years, the Applicant shall prepare and submit to DPWES and NVSWCD for review and approval, an annual Monitoring Report sealed by the Engineer. All survey data shall be compared graphically and numerically to the initial Monitoring Report. The narrative statement shall address whether corrective action is required under the Criteria, as hereinafter defined. The Applicant shall complete corrective actions recommended in the annual Monitoring Report.
- (3) The Maintenance Bond amount shall be subject to a \$40,000 reduction each year, as follows: upon the date of the earlier to occur (i) approval of the annual Monitoring Report by DPWES and NVSWCD for a given year with no corrective action required; or (ii) completion and approval by DPWES and NVSWCD of any require corrective action, Fairfax County shall reduce the Maintenance Bond by \$40,000. Upon submission of the final annual Monitoring Report on the fifth anniversary date, the Applicant shall complete required corrective actions, if any. If no corrective action is required, or upon approval of required corrective actions by DPWES and NVSWCD, Fairfax County shall release the balance of the Maintenance Bond.

11. **Recreational Facilities.** Pursuant to Sect. 6-110 of the Zoning Ordinance, at the time of subdivision plat approval for each additional lot created in excess of the thirty-three (33) lots approved by the subdivision plat recorded in Deed Book 18714 at Page 177 of the land records of Fairfax County (the "Additional Units"), the Applicant shall contribute the sum of \$955 for each additional dwelling unit to

the Fairfax County Park Authority ("Park Authority") for use on recreational facilities in the general vicinity of the Subject Property, subject, however, to a credit pursuant to Sect. 6-160 and Sect. 16-404 of the Zoning Ordinance for expenditures for on-site recreational facilities.

12. **Density Credit.** All density and intensity of use attributable to land areas dedicated and conveyed to the Board pursuant to these proffers shall be subject to the provisions of Paragraph 4 of Sect. 2-308 of the Zoning Ordinance and density is hereby reserved to be applied to the residue of the Subject Property.
13. **Homeowners' Association.** As evidenced by its execution hereof, a Homeowners' Association ("HOA") for the proposed development has been established by the Applicant to own, manage and maintain the open space areas, including trees planted in these open space areas and the buffer areas on lots referenced in Proffer No. 23 hereinafter and all other community-owned land and improvements, including the private road. The HOA shall also maintain the perimeter fencing shown on the CDP/FDP. In cases where this fencing is installed on a lot, the conveyance of that lot shall be subject to an easement to the benefit of the HOA permitting the HOA access to maintain the perimeter fence on that lot. This easement shall be a covenant running with the land. The HOA documents shall disclose these maintenance responsibilities. The HOA shall establish an architectural review committee to ensure that all additions/renovations or outbuildings are architecturally compatible.
14. **Stormwater Management.** Stormwater management and Best Management Practices ("BMPs") shall be accomplished through the provision of a dry pond in the area generally shown on the CDP/FDP. Said pond shall be constructed in accordance with the PFM unless otherwise waived or modified by DPWES but in no event shall the pond extend beyond the limits of clearing and grading. 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 showing extensive landscaping in all possible planting areas of the pond, in keeping with the planting policy of the County.
15. **Landscaping.** As part of the first submission of the subdivision plan, the Applicant shall submit to DPWES a landscape plan in substantial conformance with the landscaping shown on the CDP/FDP. This plan shall be subject to Urban Forestry Division review and approval. This landscape plan may be subject to minor adjustments approved by the Urban Forestry Division due to final engineering and utility layout. In order to curtail the spread of disease or insect infestation, this landscape plan shall include a variety of native tree species (including white oak, red maple, red oak, American holly, American beech, willow oak and dogwood) planted throughout the site where plantings are specified on the CDP/FDP. The Applicant shall also work with the Urban Forester to select plant species that in addition to meeting other landscaping

requirements such as durability, availability and aesthetics, also aid in the maintenance of air quality.

16. **Affordable Housing Contribution.** The Applicant has already made the affordable housing contribution for the thirty-three (33) lots created with the approval of subdivision plan 8352-SD-002-2. Prior to the issuance of the first building permit for the Additional Units, the Applicant shall contribute to the Fairfax County Housing Trust Fund a sum equal to one half of one percent (.5%) of the projected sales price of each Additional Unit created by the record plat. In the event that Lot 36 is not created until the recordation of a subsequent record plat, the Applicant shall, prior to the issuance of the building permit for Lot 36, also contribute a sum equal to one half of one percent (.5%) of the projected sales prices for the new unit on Lot 36. In each instance, the projected sales price for the additional units shall be determined by the Department of Housing and Community Development and DPWES in consultation with the Applicant to assist the County in its goal to provide affordable dwelling elsewhere in the County.
17. **School Contribution.** The Applicant has already made the proffered school contribution for the thirty-three (33) lots created with the approval of subdivision plan 8352-SD-002-2. Prior to the issuance of the first building permit for the Additional Units, the Applicant shall contribute \$5,000 to the Board of Supervisors to be utilized for the provision of capital facilities within the Fairfax County School Board's pyramid of schools serving this development. Prior to the recordation of a record plat creating Lot 36, the Applicant shall contribute an additional \$2,500 to be utilized for the provision of capital facilities within the Fairfax County School Board's pyramid of schools serving this development.
18. **Archeology.** Prior to clearing and grading activity, the Applicant shall perform a Phase I survey in accordance with the Virginia Department of Historic Resources Guidelines, in the forested and undisturbed portions of the site. If based on the Phase I survey, the County Archeologist concludes that a Phase II and/or Phase III archeological study is warranted, the Applicant shall conduct such study or studies. Artifacts found during the survey process that are deemed significant by the County Archaeologist may be removed by the County.
19. **Geotechnical Analysis.** The Applicant shall submit a geotechnical analysis of the soils and surface and sub-surface drainage conditions in accordance with the PFM and subject to the review and approval by DPWES. The Applicant shall implement the recommendations of the study to the satisfaction of DPWES. All foundations shall have sump pumps with interior and exterior drain tile. All exterior walls that are to be backfilled shall be treated with the "Epro" or an equivalent water proofing system.
20. **Driveways.** Driveways shall be a minimum of eighteen (18) feet in length so that vehicles may park within the driveway without overhanging into the sidewalk. In

addition, said driveways shall also be of a width that can accommodate two vehicles. The Association Disclosure Package shall include a statement that discloses the maintenance obligations of the owners of Lots 35 and 36 of the common driveway that serves those lots as provided in the Supplementary Declaration for Tysons Chase.

21. **Telecommuting.** All new dwellings shall be pre-wired with broadband, high capacity data/network connections in multiple rooms, in addition to standard phone lines.
22. **Construction Hours.** Construction activity will be limited on weekdays from 7:00 a.m. to 9:00 p.m. Monday through Friday. Construction activity after 7:00 p.m. will be limited to indoor work and light equipment operations. Construction activity will be limited to 8:00 a.m. to 5:00 p.m. on Saturdays. No construction activities will be permitted on Sundays, or on Federal holidays. This proffer applies to the original construction only and not to future additions and renovations by homeowners.
23. **Buffer Area.** Prior to entering into a contract of sale, prospective purchasers of houses on Lots 5, 17, 18, 19 and 20 shall be notified in writing by the Applicant that the vegetation provided on the fifteen (15) foot wide buffer planting area shown along their property lines shall not be disturbed or removed and said purchasers shall be required to acknowledge receipt of this information in writing. Prior to entering a contract of sale of Lot 33, prospective purchasers shall be notified in writing by the Applicant that the vegetation existing in the tree save buffer shall not be disturbed or removed and said purchasers shall be required to acknowledge receipt of this information in writing. The HOA shall maintain the landscaping in the buffer areas on these lots, as well as the common open space areas. In cases where the buffer area is located on a lot, the conveyance of that lot shall be subject to an easement to the benefit of the HOA, permitting the HOA access to maintain the perimeter landscaped buffer. This easement shall be a covenant running with the land. The HOA documents shall disclose these maintenance responsibilities. This covenant shall also contain a provision limiting the use of these buffer areas to passive open space and shall prohibit play equipment, above ground structures of any type and/or storage of materials within the buffer planting area. This covenant shall also run to the benefit of the Homeowners' Association and the form of these covenants shall be reviewed and approved by the County Attorney, prior to recordation. Each deed of conveyance for said lots shall expressly contain these disclosures and these disclosures shall be contained in the Homeowners' Association documents.
24. **Trail.** The Applicant shall construct a six (6) foot wide asphalt trail extending from the on-site public street to Electric Avenue through Lots 32 and 35 as generally shown on the CDP/FDP. The Applicant shall also construct a four (4) foot wide trail in the stream relocation area within the trail easement shown on the

CDP/FDP. The Association Disclosure Package shall include a disclosure regarding the existence of the trail on Lot 32 and Lot 35.

25. **Signs.** No temporary signs (including "popsicle" style paper or cardboard signs) which are prohibited by Article 12 of the Zoning Ordinance, and no signs which are prohibited by Chapter 7 of Title 33.1 or Chapter 8 of Title 46.2 of the Code of Virginia shall be placed on- or off-site by the Applicant or at the Applicant's direction to assist in the initial sale of homes on the Property. Furthermore, the Applicant shall direct its agents and employees involved in marketing and sale of residential units on the Property to adhere to this proffer.
26. **Resource Protection Area ("RPA").** Unless determined appropriate by DPWES, no construction activity or clearing shall occur within the on-site RPA depicted on the CDP/FDP.
27. **Parking.** On-street parking spaces shall be located a minimum of ten (10) feet from driveway entrances or street intersections.
28. **Fencing.** In addition to the fencing depicted on the CDP/FDP, the Applicant shall construct a seven (7) foot high wooden fence along the common boundary with Tax Map 39-3 ((1)) Parcel 63 and along the common boundary with Tax Map 39-3 ((1)) Parcel 52 (less and except that portion of the common boundary line that is located within a front yard).
29. **Plan Submission.** With each submission of plans to the County, a set of said plans shall be forwarded by the Applicant to the office of the Supervisor for Providence District for review and comment by the Providence District Planning Commissioner and the Providence District Supervisor.
30. **Counterparts.** These proffers may be executed in one or more counterparts, each of which when so executed and delivered shall be deemed an original, and all of which taken together shall constitute but one and the same instrument.

[SIGNATURES ON THE FOLLOWING PAGES]

**APPLICANT, OWNER OF TAX MAP 39-1 ((49))
PARCELS 6-11, AND 18-25, TAX MAP 39-3 ((50))
PARCELS 1-5, 12-17, 26-32 AND F**

VAN METRE HOMES AT SUNCREST, L.L.C.

By: Van Metre Financial Associates, Inc.
Its: Manager

By: _____
Name: _____
Title: _____

**CONTRACT PURCHASER OF TAX MAP 39-1 ((49))
PARCEL 26**

HEE-SUN KIM

VAN METRE HOMES AT SUNCREST, L.L.C., Principal by
Special Power of Attorney

By: Van Metre Financial Associates, Inc.
Its: Manager

By: _____
Name: _____
Title: _____

**CONTRACT PURCHASER OF TAX MAP 39-3 ((50))
PARCEL 24**

DEREK E. BOGGS and LYNDA D. BOGGS

VAN METRE HOMES AT SUNCREST, L.L.C., Principal by
Special Power of Attorney

By: Van Metre Financial Associates, Inc.
Its Manager

By: _____
Name: _____
Title: _____

**CONTRACT PURCHASER OF TAX MAP 39-3 ((50))
PARCEL 28**

RICHARD M. HORN and JOSEPH P. HARVEY

VAN METRE HOMES AT SUNCREST, L.L.C., Principal by
Special Power of Attorney

By: Van Metre Financial Associates, Inc.
Its: Manager

By: _____
Name: _____
Title: _____

**CONTRACT PURCHASER OF TAX MAP 39-1 ((49))
PARCELS 6-11, 18-25 AND TAX MAP 39-3 ((50))
PARCELS 1-5, 12-17, 26-32**

MARQUIS CUSTOM HOMES, L.L.C., a Virginia limited
liability company

By: Marquis Custom Homes, Inc.
Its: Non-Member Manager

By: _____
Name: _____
Title: _____

**OWNER OF TAX MAP 39-1 ((49)) PARCELS B AND
C AND TAX MAP 39-3 ((50)) PARCELS A AND E**

TYSONS CHASE AT SUNCREST
HOMEOWNERS ASSOCIATION, INC.

By: _____
Name: _____
Title: _____

OWNER OF TAX MAP 39-3 ((50)) PARCEL 33

CHRISTIAN RELIEF SERVICES OF VIRGINIA, INC.

By: _____
Bryan L. Krizek, Secretary-Treasurer and Chief Executive
Officer