



APPLICATION FILED: August 11, 2006
APPLICATION AMENDED: November 27, 2006
PLANNING COMMISSION: January 18, 2007
PLANNING COMMISSION DECISION ONLY: March 29, 2007
BOARD OF SUPERVISORS: Not Yet Scheduled

County of Fairfax, Virginia

March 29, 2007

STAFF REPORT ADDENDUM IV

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.

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 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. 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 this latest submittal from the applicant, the Planning Commission deferred its decision only until March 22, 2007.

On March 14, 2007, Staff Report Addendum III for RZ/FDP 2006-PR-022 was published. In this third addendum report, staff noted that the proposed emergency access to Electric Avenue did not allow for trips to be distributed between Electric Avenue and Woodford Road. Without a second point of access, both 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 would have to be reconstructed to VDOT standards. (These turn lanes had been previously 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, which would allow for a distribution of trips.) Second, staff noted that three of the proposed lots appeared to have two front yards, which severely limited the ability to place decks and additions on these units (not to mention afforded the residence little privacy). Finally, though the applicant had amended the CDP/FDP to locate the proposed tree save within a designated HOA common space, staff was concerned that the tree save allow for the preservation of the existing large white oak tree, located in the southeast corner of Parcel 57. As such, staff recommended that the applicant provide a tree survey for the trees currently located on Parcel 57.

On March 21, 2007, the applicant submitted a revised CDP/FDP, as revised through March 21, 2007 and contained at the front of this staff report addendum. Under this revised CDP/FDP, the orientation of the proposed units on Lots 1 and 31 has been provided. Furthermore, the applicant has eliminated the existing six (6) foot wide asphalt trail which provided pedestrian access from the site to Electric Avenue. Instead, the proposed emergency access will double as a pedestrian path to Electric Avenue.

That same day, the applicant also submitted revised proffers, as revised through March 21, 2007. The changes to the proffers (which are contained as Attachment 1) are as follows:

- Proffer 2 (Conceptual/Final Development Plan) refers to the CDP/FDP as revised through March 21, 2007
- Proffer 6 (Energy Efficiency) contains a minor edit.
- Proffer 9 (Tree Preservation) has been completely amended.
- Proffer 15 (Landscaping) contains minor edits.
- Proffer 17 (School Contribution) increases the overall school contribution from \$7,500 to \$16,503.
- Proffer 24 (Trail) reflects the deletion of the six (6) foot wide trail connection to Electric Avenue (as described above).
- Proffer 30 (Landscaping) is new and commit to a staggered row of evergreen trees along the site's Electric Avenue frontage to provide a screen for the adjacent lots.

In order to give staff a chance to analyze the new material, the Planning Commission deferred its decision only until March 29, 2007.

ANALYSIS

The proposed changes to the CDP/FDP have not addressed staff's concern about the lack of a second vehicular access point along Electric Avenue. As noted in the original staff report, the site layout anticipated that once Parcel 57 was developed, the road would be connected to Electric Avenue. In the staff report of RZ/FDP 2003-PR-043 (the original rezoning of the site), 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.

Under the proposed application, the applicant seeks to eliminate the second point of access and to end Falcone Pointe Way in a permanent cul-de-sac. Staff does not support this proposal because staff still believes 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. With two access points, the trip distribution is divided. Furthermore, if for any reason, one access is blocked, there is another way in and out of the site – a vital option in cases of emergency. The applicant still has not addressed this issue.

Furthermore, the most recent changes to the proffers and CDP/FDP have not addressed staff's concern about the site layout, specifically, the lack of privacy and usable yards for the future residents. As noted in the original staff report, staff believes that with a second point of access into the site along Electric Avenue (as originally contemplated under RZ/FDP 2003-PR-043), the site layout would greatly improve because it would create a better lot orientation in the new section. For those reasons, staff continues to recommend denial of the proposed application.

CONCLUSIONS AND RECOMMENDATIONS

Conclusions

In staff's opinion, the subject application is not in conformance with the Residential Development Criteria of the Comprehensive Plan nor does it meet the requirements of the Zoning Ordinance.

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.

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ATTACHMENTS

1. Proffers (March 21, 2007)

PROFFERS

RZ 2006-PR-022
VAN METRE HOMES AT SUNCREST, L.L.C.

~~February 19,~~[March 21,](#) 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,~~[March 21,](#) 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 feet (5'). However, the minimum distance between two dwellings with contiguous side yards shall be no less than fourteen feet (14') (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 feet (22').
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~~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 feet (35') 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 feet (4') above finished ground level and no closer than twelve feet (12') 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 Management ("UFM"), DPWES. 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 ten inches (10") or greater in diameter located within twenty feet (20') to either side of the proposed limits of clearing and grading as shown on the 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 and 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 that will maximize the survivability of trees identified to be preserved, crown pruning, root pruning, soil treatments, mulching, fertilization and others as necessary, shall be included in the plan.

b. **Tree Value Determination.** 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 all trees ten inches (10") in diameter or greater and located within twenty feet (20') of the outer edge of the limits of clearing and grading (i.e., outside the limits of clearing and grading) as shown on the CDP/FDP which are identified to be preserved on the tree preservation plan. 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 take into consideration the age, size and condition of these trees and shall be determined by the "Trunk Formula Method" contained in the latest edition of the *Guide for Plant Appraisal* published by the International Society of Arboriculture, subject to the review and approval of UFM.

c. **Tree Bonds.** In order to provide a remedy for any unintended disruption to trees required to be preserved under these proffers, at the time of subdivision plan approval, the Applicant shall both post a cash bond and a letter of credit or similar corporate surety bond payable to the County of Fairfax to ensure preservation and/or replacement of the trees for which a tree value has been determined in accordance with the previous proffer (hereinafter the "bonded trees") that die or are dying due solely to unauthorized construction activities. The Applicant shall have no obligation for trees that die or are dying for reasons unrelated to unauthorized construction activities. The letter of credit or corporate surety bond shall be equal to fifty percent (50%) of the replacement value of the bonded trees. The cash bond shall consist of thirty-three percent (33%) of the amount of the letter of credit or corporate surety bond.

During the time period in which the tree bond is required to be held, should unauthorized construction activity cause any bonded trees to die, or be removed, the Applicant shall replace such trees at its expense. As stated above, the Applicant shall have no obligation to replace trees that die or are dying for causes unrelated to unauthorized construction activities. The replacement trees shall be of equivalent size, species, and/or canopy cover as approved by UFM and shall incorporate native plant species. In addition to this replacement obligation, the Applicant shall also make a payment equal to the value of any bonded tree that is dead or dying or improperly removed due to unauthorized activity. This payment shall be determined based on the "Trunk Formula Method" and paid to a fund established by the County for furtherance of tree preservation objectives. Upon release of the site performance bond, any amount remaining in the tree bonds required by this proffer shall be returned/released to the Applicant. At the time of approval of the final RUP, the Applicant may request a release of any monies remaining in the cash bond and a reduction in the letter of credit or corporate surety bond to an amount up to twenty percent (20%) of the total amounts originally committed provided they are in good standing with the tree proffer commitments.

d. **Protection of Existing Understory Vegetation and Soil Conditions in Tree Preservation Areas.** All tree preservation-related work occurring in or adjacent to tree preservation areas shall be accomplished in a manner that minimized damage to vegetation to be preserved in the lower canopy environment, and to the existing top soil and leaf litter layers that provide nourishment and protection to that vegetation. Any removal of any vegetation or soil disturbance in tree preservation areas including the removal of plant species that may be perceived as noxious or invasive, such as poison ivy, greenbrier, multi-floral rose, etc., shall be subject to the review and approval of UFM.

e. **Use of Equipment.** Except as qualified herein, the use of motorized equipment in tree preservation areas will be limited to hand-operated equipment such as chainsaws, wheel barrows, rakes and shovels. Any work that requires the use of motorized equipment, such as tree transplanting spades, skid loaders, tractors, trucks, stump grinders, etc., or any accessory or attachment connected to this type of equipment shall not occur unless pre-approved by UFM.

f. **Fencing, Root Pruning and Mulching.** The Applicant shall 1) root prune, 2) mulch, and 3) provide tree protection fencing in the form of four (4) foot high, fourteen (14) gauge welded wire attached to six (6) foot steel posts driven eighteen inches (18") into the ground and placed no further than ten feet (10') apart, or other forms of tree protection fencing approved by UFM, DPWES for all tree preservation relevant areas. All treatments shall be clearly identified, labeled and detailed on the erosion and sediment control sheets and demolition plan sheets of the subdivision plan submission. The details for these treatments shall be reviewed and approved by UFM, accomplished in a manner that protects affected and adjacent vegetation to be preserved, and may include, but not be limited to the following:

- Root pruning shall be done with a trencher, vibratory plow to a depth of eighteen inches (18").
- Root pruning shall take place prior to any clearing and grading, or demolition of structures.
- Root pruning shall be conducted with the supervision of a certified arborist.
- Tree protection fencing shall be installed immediately after root pruning, and shall be positioned directly in the root pruning trench and backfilled for stability, or just outside the trench within the disturbed area.
- Immediately after the Phase II Erosion and Sedimentation activities are complete, mulch shall be applied at a depth of four inches (4") extending ten feet (10') inside the undisturbed area without the use of motorized equipment.
- A UFM representative shall be informed when all root pruning and tree protection fence installation is complete.

g. **Tree Preservation Walk-Through.** 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

a UFM representative and a representative from the Providence District Supervisor's office to determine where adjustments to the clearing limits can be made to increase the area of tree preservation; increase the survivability of trees at the edge of the limits of clearing and grading; facilitate the removal of trees adjacent to the limits of clearing and grading; facilitate tree preservation activities such as root pruning or fencing; or facilitate the installation of erosion and sediment control devices. Such adjustment shall be implemented. Trees that are identified specifically by UFM in writing as dead or dying may be removed as part of the clearing operation but it is noted that unless a dead or dying tree presents a safety hazard, attempts will be made to retain the tree. The dead or dying tree may be topped in order to be retained if that eliminates the problem of a safety hazard. Any tree that is so designated and such removal shall be accomplished in a manner that avoids damage to surrounding trees and associated understory vegetation. 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 and associated understory vegetation and soil conditions.

All trees shown to be preserved on the tree preservation plan shall be protected by tree protection fencing as proffered above. Tree protection fencing shall be installed prior to any clearing and grading activities including the demolition of any existing structures at the limits of clearing and grading as shown on the demolition, and Phase I and II erosion and sediment control sheets, as may be modified during the tree preservation walk-through with a UFM representative. All tree protection fencing shall be installed after the tree preservation walk-through meeting but 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 does not harm existing vegetation that is to be preserved. Five (5) working days prior to the commencement of any clearing, grading or demolition activities, but subsequent to the installation of the tree protection devices including fencing, UFM and Providence District Supervisor staff 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 UFM.

h. **Site Monitoring.** During any clearing or tree/vegetation structure removal or transplantation of vegetation on the subject site, a representative of the Applicant be present to monitor the process and ensure that the activities are conducted as proffered and as approved by UFM. The Applicant shall retain the services of a certified arborist or landscape architect to monitor all construction work and tree preservation efforts in order to ensure conformance

with all tree preservation proffers/conditions, and UFM approvals. The inspection/monitoring schedule shall be described and detailed in the landscaping and tree preservation plan, and reviewed and approved by UFM, DPWES. The Providence District Supervisor shall be notified of the name and contact information of the Applicant's representative responsible for site monitoring at the tree preservation walk-through meeting.

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 feet [2'] 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~~ UFM review and approval. This landscape plan may be subject to minor adjustments approved by ~~the Urban Forestry Division~~ UFM 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 (less and except Lot 36), the Applicant shall contribute ~~\$5,000~~ 11,002 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~~ 5,501 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 feet (10') 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. **Landscaping.** Subject to review and approval by UFM, the Applicant shall plant a staggered row of evergreen trees ten feet (10') on center along the Electric Avenue frontage of the site to provide a screen for the adjacent lots.
31. **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))
PARCEL 10**

NORMA JEAN MURCHISON

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))
PARCEL 20**

SAMIR S. PATEL and SHIRLEY K. PATEL

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))
PARCEL 23**

JAMES E. HYLAND and ELIZABETH S. HYLAND

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

