

Proffers for Proposed PDH-2 Rezoning

Sharon Chapel, LLC

RZ 2005-LE-032

June 14, 2006

Pursuant to Section 15.2-2303(A), Code of Virginia, 1950 as amended, the undersigned Applicant and Owner, in this rezoning proffer that the development of the parcel under consideration and shown on the Fairfax County Tax Map as Tax Map Reference 82-4((1))34 (hereinafter referred to as the "Property") will be in accordance with the following conditions (the "Proffered Conditions"), if and only if, said rezoning request for the PDH-2 Zoning District is granted. In the event said rezoning request is denied, these Proffered Conditions shall be null and void. The Owner and Applicant, for themselves, their successors and assigns hereby agree that these Proffered Conditions shall be binding on the future development of the Property unless modified, waived or rescinded in the future by the Board of Supervisors of Fairfax County, Virginia, in accordance with applicable County and State statutory procedures. The Proffered Conditions are:

I. GENERAL

1. Substantial Conformance. Subject to the provisions of Article 16 of the Fairfax County Zoning Ordinance (hereinafter referred to as the "Zoning Ordinance"), development of the Property shall be in substantial conformance with the Conceptual Development Plan/Final Development Plan (CDP/FDP), prepared by christopher consultants, consisting of 6 sheets, dated October 12, 2005, revised through June 14, 2006.

2. Maximum Lot Yield. The development shall consist of a maximum of 12 single family detached units, including the existing dwelling. The existing dwelling may be modified, internally or externally. Except as may be further qualified by these proffered conditions, minor modifications to the building envelopes including house location and sizes may be permitted in accordance with Section 16-403 of the Zoning Ordinance.
3. Establishment of HOA. Prior to subdivision plan approval, the Applicant shall demonstrate that the Property will be governed by a Homeowners Association (HOA) and be subject to a Declaration of Covenants, Conditions and Restrictions consistent with the requirements of Article 2 of the Zoning Ordinance.
4. Dedication to HOA. In conjunction with the appropriate subdivision plan review process, open space, common areas, private street and amenities not otherwise conveyed or dedicated to the County shall be dedicated to the HOA and maintained by the same.
5. Disclosure. Prior to entering into a contract of sale, prospective purchasers shall be notified in writing by the Applicants of the maintenance responsibility for the private street, sidewalks, stormwater management facilities, retaining wall, cemetery fence, common area landscaping and any other open space amenities and shall acknowledge receipt of this information in writing. The prospective purchaser of the existing house on the Property shall be notified of the obligations as outlined in Proffer I.13 with respect to architectural elements and demolition of the dwelling and shall acknowledge receipt of

this information in writing. The deeds of conveyance shall expressly contain these disclosures.

6. Garages. A minimum of two parking spaces shall be provided within the garage of each new dwelling unit. Any conversion of garages that will preclude the parking of vehicles within the garage is prohibited. A covenant setting forth this restriction shall be recorded among the land records of Fairfax County in a form approved by the County Attorney prior to the sale of any lots and shall run to the benefit of the Board of Supervisors and the HOA and this restriction shall be included in the HOA documents.

7. Retaining Wall.
 - a. The retaining wall shall be constructed of stone. Anticipated height of the retaining wall is shown on the CDP/FDP. Retaining wall size and location may be subject to change upon final engineering; however, the retaining wall shall not exceed a height of 10 feet. Note that additional walls may be needed per proffer IV.1.
 - b. The Applicant shall have a geotechnical engineer present during the construction/installation of the retaining wall. The geotechnical engineer shall monitor the construction/installation for compliance with approved specifications and shall prepare a certification of compliance to be submitted to DPWES.
 - c. On or before bond release for the proposed development, and as a condition thereto, the Applicant shall deposit \$15,000 into an escrow account established

for the benefit of the HOA for future maintenance, repair and upkeep of the common area retaining wall within the development.

8. Cemetery. The applicant shall install a wrought iron or aluminum fence which has the appearance of wrought iron, four (4) feet in height, along the two sides of the family cemetery (Lot 43) which abut the application property. The applicant shall continue the described fence along the lot line between Lot 43 and Section One of Governor's Hill provided consent for the installation is received from either the property owners of Lot 43 or the Governor's Hill HOA and along the right-of-way of Telegraph Road provided consent for the installation is received from the property owners of Lot 43. A gate shall be installed on the northwestern side of the fence. The Applicant shall diligently pursue this consent and if such is not obtained, shall demonstrate the failed attempt to DPWES. The Applicant shall also place a plaque at the cemetery at the time the fence is installed, the location and wording to be determined by the Applicant together with the cemetery owners.
9. Energy Conservation. All newly constructed dwellings on the Property shall meet the thermal guidelines of the CABO Model Energy Program for energy efficient homes, or its equivalent as determined by DPWES for either gas or electric energy systems, as may be applicable.
10. Signs. No temporary signs (including "popsicle" style paper or cardboard signs), which are prohibited by Article 12 of the Zoning Ordinance and Chapter 7 of Title 33.1, and

Chapter 8 of Title 46.2 of the Code of Virginia, shall be placed on or offsite by the Applicant or at the Applicant's direction. The Applicant shall direct its agents and employees involved with the Property to adhere to this proffer.

11. Construction Access. There shall be no construction access directly off of Telegraph Road. Construction access shall only be off of Sharon Chapel Road. There shall be no staging or parking of construction vehicles, construction equipment, or construction workers vehicles on Sharon Chapel Road associated with the construction of the proposed houses.
12. Construction Hours. Construction shall only occur between the hours of 7:00 a.m. until 7:00 p.m. Monday through Friday, 8:00 a.m. until 6:00 p.m. on Saturday and 9:00 a.m. until 6:00 p.m. on Sunday. Construction activities shall not occur on the holidays of Memorial Day, July 4th, Labor Day, Thanksgiving, Christmas, Easter, and New Years Day. The construction hours shall be posted on the property. The allowable hours of construction as specified in this proffer shall be listed within any contract with future sub-contractors associated with construction on the site.
13. Architecture. The new dwelling units will be designed with brick, stone and/or beaded siding or similar materials or a combination of these exclusive of windows, doors, shutters and trim. Exterior alterations of the existing house on the Property shall be subject to review and approval by the Fairfax County Architectural Review Board (ARB). Prior to the issuance of any building permits for changes to the existing

dwelling, written confirmation of review and approval by the ARB shall be provided to the County. Any window replacement of double-hung windows on the existing dwelling will match the existing in window style, type, muntin, mullion, and light configuration. Any replacement of metal casement windows with wood windows will match the existing window in muntin, mullion and light configuration. Any replacement windows will be: a) true divided light, b) of material comparable in quality to the existing windows, and c) within the existing window opening in the façade. At no time can the existing dwelling be demolished without prior review and approval of the ARB, unless the dwelling is deemed structurally unsound by an unbiased structural engineer.

14. Historical Assessment. A study, conducted in accordance with the Fairfax County History Commission's (FCHC) guidelines, shall be conducted on the existing house and the newly created lot for this house. The study shall be submitted to the FCHC for consideration of listing on the Fairfax County Inventory of Historic Sites within 6 months of the approved rezoning and prior to subdivision plan approval. If the FCHC determines that the house meets the criteria for listing and acts to list the house, then the listing would include the house and newly created lot for this house. The applicant shall provide or fund an interpretive marker(s) for the site, if the site is deemed to be of historical significance as determined by the FCHC.
15. Photographic Inventory. The existing conditions on the Property to include at a minimum, the house, landscape and cultural landscape features, topographic features, and all accessory structures proposed for demolition shall be photographed and documented

prior to any demolition of the accessory structures. The photographic recordation shall be shown on an aerial site map indicating the location, angle and number of each photograph, along with an existing conditions boundary and topographic survey map and shall be completed prior to subdivision plan approval. All photographs shall be captioned for identification. All photographs and maps shall be submitted to the Virginia Room of the Fairfax County Public Library and to the Fairfax County Department of Planning and Zoning (DPZ). The applicant shall provide written documentation to DPZ that the required documentation has been submitted to the Virginia Room.

16. Escalation. All monetary contributions required by these proffers shall be adjusted upward or downward based on the percentage change in the annual rate of inflation as calculated by referring to the Consumer Price Index for all urban customers (CPI-U), 1982-1984 = 100 (not seasonally adjusted) as reported by the United States Department of Labor, Bureau of Labor Statistics occurring subsequent to the date of rezoning approval and up to the date of payment. In no event shall an adjustment increase exceed the annual rate of inflation as calculated by the CPI-U.

17. Lot Typical. The minimum front, side and rear yards shall be consistent with that shown on the typical lot layout on the CDP/FDP. Decks, bays, windows, patios, chimneys, areaways, mechanical equipment and other similar appurtenances may encroach into minimum yards as established on the "lot typical" generally described on the CDP/FDP, as permitted by Section 2-412 and/or Article 10 of the Zoning Ordinance.

