

PROFFER STATEMENT

August 5, 2006
Revised September 27, 2006
Revised October 30, 2006
Revised November 13, 2006
Revised December 7, 2006
Revised December 15, 2006
Revised January 24, 2007
Revised September 6, 2007
Revised September 17, 2007

Pursuant to Section 15.2-2303-A of the Code of Virginia, 1950, as amended, and Section 18-204 of the Zoning Ordinance of the County of Fairfax, 1978, as amended as of the date hereof ("Ordinance"), subject to the Board of Supervisors' approval of the requested Rezoning Application ("Rezoning"), the applicant and owner, for itself and its successors and assigns ("Applicant" or "Owner") hereby proffers the following conditions ("Proffers"). The property that is the subject of these Proffers is identified on the Fairfax County Tax Maps as 46-3((1))-45, 46, 47, 48, 49 & 50 (the "Property") and the area depicted on the GDP (as defined below) as "Prescriptive Easement Area included in this Application to be Abandoned".

I. GENERAL DEVELOPMENT PLAN

A. Substantial Conformance. Development of the Property shall be in substantial conformance with the General Development Plan entitled "Generalized Development Plan Centerpointe Church at Fair Oaks" prepared by William H. Gordon Associates, Inc. dated August 7, 2006, last revised May 30, 2007 ("GDP"), except as otherwise provided

herein. Sheets 3, 4, 5 and 14 of the GDP present alternative principal uses and building programs for a (i) three (3) phased church development (Sheets 3, 4 and 5) (“Church Option”) and (ii) office (or office/church) development (Sheet 14) (“Office Option”). The Applicant may develop the Property consistent with the principal uses, building envelopes and parking layouts shown on Sheets 3, 4 and 5 or develop the Property with the principal uses, building envelopes and parking layouts shown on Sheet 14, or may develop the Property initially with one of the alternative uses and subsequently redevelop the Property with the other use, all without an amendment to the GDP, so long as the development is in substantial conformance with the GDP and the Proffers.

B. Minor Modifications. The Applicant reserves the right to alter building envelope sizes, modify plazas and courtyards and adjust pedestrian and vehicular circulation and parking areas, provided that the total gross floor area for such uses do not exceed the amounts set forth on the GDP; the building heights as shown on the GDP are not exceeded; the minimum open space, level of amenities, and peripheral dimensions to lot lines are not reduced, as such elements are shown on the GDP; and to make other modifications as may be permitted pursuant to Paragraph 5 of Section 18-204 of the Zoning Ordinance, provided any such modifications are otherwise in substantial conformance with the GDP.

C. Phasing. Build-out of the Property for the Church Option alternative may proceed in phases as shown on Sheets 3, 4 and 5 of the GDP.

II. PERMITTED USES

A. The principal use on the Property shall be either (i) Church Option as set forth on Sheets 3, 4 and 5 of the GDP or (ii) Office Option as defined herein and as shown on

Sheet 14 of GDP. If the Church Option as shown on Sheets 3, 4 and 5 is developed, the non-principal uses that shall be permitted are limited to:

- (i) nursery school with attendance limited to 99 students at any one time and hours of operation limited to 8:30 a.m. to 4:30 p.m., Monday through Friday to accommodate up to two sessions; and
- (ii) telecommunications facilities provided such facilities are integrated into the church steeple, and are otherwise in substantial conformance with the GDP and Proffers.

B. If the Office Option shown on Sheet 14 is developed the permitted uses shall be all of the uses permitted in the C-3 District, except as limited below:

- (i) a minimum of fifty percent (50%) of the gross floor area constructed shall be utilized for office purposes;
- (ii) the remaining 50% of the constructed gross floor area may be office uses, church uses with a maximum of 800 seats, or other C-3 uses (except as prohibited below). These other uses (including accessory uses and accessory service uses allowed by the Zoning Ordinance) shall not, in the aggregate exceed fifteen percent (15%) of the constructed gross floor area or twenty thousand (20,000) square feet of gross floor area, whichever is less. Additionally, (a) no more than one individual establishment of any particular non-church or non-office use, as defined by the Zoning Ordinance, shall be provided, (b) a health club use shall not exceed 8,000 square feet, (c) a private school of special education use shall not exceed 10,000 square feet with attendance limited to a maximum daily enrollment of 99 students, and (d) an eating establishment use shall not exceed 5,000 square

feet and such eating establishments shall only be located in the northern half of the building;

(iii) a child care center shall be permitted with attendance limited to a maximum daily enrollment of 99 students and hours of operation limited to 7:00 a.m. to 7:00 p.m., Monday through Friday. In the event such child care center is not within space operated by a church, then such child care center shall not exceed 6,000 square feet and such square footage shall count against the cap of 15% of constructed gross floor area or 20,000 square feet, whichever is less, of non-church and non-office uses; and

(iv) the following uses shall be prohibited: private schools of general education, commercial swimming pools, tennis courts, funeral homes, and quasi public athletic fields and related facilities unless an amendment to these Proffers and GDP is obtained.

Under either the Church Option or Office Option, none of the permitted uses shall result in any free-standing buildings not shown on the GDP. Any Special Permit or Special Exception uses subsequently permitted shall be in substantial conformance with the GDP and Proffers, unless an amendment to these Proffers and GDP is obtained. All of the permitted uses shall also be permitted in any cellar space, provided any cellar space that is utilized for a non-church or non-office use shall count against the maximum permitted square footage for such use.

III. TRANSPORTATION

A. Road Dedication. Prior to the first site plan approval for any development on the Property, or upon demand of Fairfax County ("County"), whichever occurs first, the

Owner shall dedicate to the Board of Supervisors of the County ("Board"), at no cost and in fee simple, the right of way along the eastern frontage of Legato Road as shown on Sheet 3 of the GDP. Prior to such first site plan approval, the Owner shall also reserve the area shown on Sheet 3 of the GDP as lying between the eastern right of way of Legato Road and the western of the two lines marked "sight distance" for a sight distance easement which the Owner shall grant the County upon demand, at no cost to the County. The 48" and 52" chestnut oak trees located within this area will not be removed by the Owner unless the County makes that request in the course of a site plan review for the Property.

B. Prior to the first site plan approval, the Owner shall seek to have those portions of the prescriptive right-of-way easement on the eastern right of way of Legato Road as shown on Sheet 2 of the GDP abandoned and/or vacated by the County. Notwithstanding the submission for processing of any applications, plan or plats in furtherance of the development of the Property, the Applicant acknowledges that no such application, plan, or plat shall be approved by the County until or unless the vacation and/or abandonment of the prescriptive right-of-way proposed as part of the Property is approved by the Board and is final. In the event that such vacation and/or abandonment is not approved by the Board or in the event that the Board's approval is overturned by a court of competent jurisdiction, any development of the Property under the C-3 District shall require a Proffered Condition Amendment ("PCA"). The Applicant acknowledges that such PCA may result in loss of density. The Applicant hereby waives any right to claim or assert a taking or any other cause of action that otherwise may have arisen out of a Board decision to deny in whole or in part the right of way vacation and/or abandonment.

C. Fairfax Center Area Road Fund. In the event the Office Option shown on Sheet 14 of the GDP is developed on the Property, the Applicant shall contribute to the Fairfax Center Area Road Fund ("FCAR Fund"), in compliance with the procedural guidelines adopted by the Board on November 22, 1982, as amended, subject to credit for all creditable expenses as determined by Fairfax County Department of Transportation ("FCDOT"). The Owner shall not be required to make any FCAR Fund contribution for any floor area used for a church or its related facilities, including any space within the office building which is owned by the church as a condominium unit (or subject to a long term lease of thirty years or more in favor of the church) and used for services or institutional operations which are exempt from the contribution requirement, provided if such space, or portion thereof, is subsequently converted to non-church use, then the Owner shall be required to pay the applicable FCAR Fund contribution for such converted space as a condition of the issuance of the Non-Residential Use Permit ("Non-RUP") for such converted space.

D. Density Credit. Density credit shall be reserved for the Property as provided by Section 2-308 of the Zoning Ordinance for all dedications described herein and/or as shown on the GDP or as may reasonably be required by the County, Virginia Department of Transportation ("VDOT") or others at the time of site/subdivision plan approvals.

E. Sight Distance. No improvements shall be constructed at the entrance from Legato Road or at the intersection of Legato Road and Legato Road (Relocated) within the areas depicted as having seating features as shown on Sheet 9 of the GDP, that are in excess of 18 inches in height and interfere with sight distance. Additionally, at time of site plan approval, the Owner shall, to the satisfaction of the Office of Transportation,

make minor modifications to the Sight Distance lines labeled "A" and "B" on Sheets 3, 4, 5, 9, and 14 of the GDP in the southeast corner of the Property and make minor modifications to the site contours and existing vegetation in order to provide adequate site lines, which modifications shall not require an amendment to the GDP.

IV. STORM WATER MANAGEMENT AND BEST MANAGEMENT PRACTICES

Storm water detention with Best Management Practices ("BMPs") and Low Impact Design ("LIDs") shall be provided in the facilities as shown on Sheet 9 of the GDP, including, in the case of the Church Option, the vegetative swale or infiltration trench, or other locations determined to be appropriate by the Department of Public Works and Environmental Services ("DPWES"), all of which shall be subject to modification and approval by DPWES, so long as any such LIDs or modifications thereof are in substantial conformance with the GDP and Proffers. In the Church Option, the storm water detention and BMP facilities installed in Phase 1 shall be sized to accommodate all storm water detention and provide BMP requirements for all three (3) phases of the church. Upon construction of the structured parking facility, the Applicant shall provide two (2) additional LID facilities consisting of filterstrips, rain gardens or similar facilities in locations approved by DPWES.

V. PARKING

A. Minimum Parking Spaces. The Property shall provide at a minimum the number of parking spaces as required by Article 11 of the Ordinance and shall be consistent with the uses developed. Applicant reserves the right to provide parking in excess of the minimum required per Ordinance as shown on the GDP, and may provide additional spaces beyond those shown on the GDP so long as (i) it does not decrease open space, (ii) is in substantial conformance with the GDP, (iii) is within the footprint shown for

parking, and (iv) if provided in a parking structure, does not exceed the height for such structure, as shown on the GDP. A parking tabulation will be provided with each application for a Non-RUP to demonstrate that the required parking is provided.

B. Non-Required Parking Spaces. The parking spaces shown as proposed on the GDP that are in excess of the number of spaces required by the Ordinance may be provided at the option of Applicant, but shall not be required, provided that in no event, if the Church Option is developed or any church use is provided in the Office Option, shall the number of parking spaces provided for a church use be less than one space per three (3) seats in the sanctuary.

VI. DESIGN

A. Design Concepts. The architectural guidelines for the Property with respect to building facades, building scale and massing, are set forth in Sheet 10 of the GDP for the Church Option (the "Design Concepts"). These Design Concepts are intended to be illustrative of the general quality and character of the development. Modifications to these elements as shown on the GDP shall not require an amendment to the Proffers or GDP and are permitted, provided the changes are in substantial conformance with these Design Concepts. If the Church Option is developed, consistent colors and materials will be utilized throughout all three (3) phases of development. The same or similar architectural treatments, materials and colors will be used on all sides of the church buildings; (ii) if the Office Option is developed, the Applicant shall demonstrate to DPWES at building permit approval that such building will be a Class A office building, and the building elevations and materials shall be submitted to the Planning Commission

for administrative review and approval prior to approval of any building permit by the County.

B. Garage Design. The height of all horizontal panels on the structured parking shall be sufficient to reasonably ensure that the potential glare from headlights of automobiles parked inside the parking garage is screened as shown on Sheet 7 of the GDP. Such panels shall include a decorative scoring panel and shall be a color and material compatible with the other buildings on the Property. The garage shall include green wall panels with a design and in a number and location substantially as shown on Sheet 7 of the GDP. Lighting internal to the parking garages shall be located to prevent glare. Lighting on the upper levels of the parking garages shall not include pole lights and shall consist of bollard and/or parapet wall mounted light fixtures. Where fixtures are mounted along the edge of the topmost deck of a parking garage, such fixtures shall not extend above the parapet wall of the garage.

C. Alternative Garage Structures. If the Property is developed under the Church Option (including the parking garage shown as part of Phase 3 on Sheet 5 of the GDP) and the Property is later developed under the Office Option, the parking garage for the Office Option may utilize the setbacks as shown for Phase 3 of the Church Option (i.e., the parking garage may remain as constructed with Phase 3). This shall not apply if the then existing garage is demolished and a new garage structure is constructed (in which case the larger setbacks shown for the garage in the Office Option on Sheet 14 shall be required).

D. Lighting. All outdoor lighting fixtures shall be in accordance with the Performance Standards contained in Part 9 (Outdoor Lighting Standards) of Article 14 of

the Zoning Ordinance. Fixtures used to illuminate streets, parking areas and walkways shall be of low intensity design and shall utilize full cut-off fixtures, which shall focus directly on the Property. The maximum height of any light fixtures shall be 14', measured from the ground to the highest point of the fixture.

VII. LANDSCAPING AND STREETScape/TREE SAVE

A. Landscaping and Streetscape. Site plans submitted for the respective phases of development shall include a landscape and streetscape plan for that phase of development which, at a minimum, is consistent with that shown on Sheets 3, 4, 5 and 9 as to the Church Option and 14 and 16 as to the Office Option of the GDP. The landscaping shown on Sheet 3 of the GDP shall be installed at the same time as the Phase 1 Church Option and the landscaping that is shown as to be preserved for Phases 2 and 3 on Sheet 3 of the GDP shall not be disturbed with any later development. The Owner shall maintain such landscaping. The species and initial planting size of such landscaping is set forth on Sheets 3, 4 and 5 of the GDP as to the Church Option and Sheet 14 of the GDP as to the Office Option, subject to revision of species as may be required by Urban Forest Management ("UFM").

B. Parking Deck Landscaping. The Applicant shall provide planting areas and landscaping on the top level of any parking garage shown on the GDP in accordance with requirements of the Public Facilities Manual ("PFM").

C. Tree Save Areas. The Owner shall submit a tree preservation plan and narrative consistent with the trees indicated on the GDP, to be preserved to the extent practical as determined by UFM, as part of the first and all subsequent site plan submissions for the Property. The preservation plan and narrative shall be prepared by a professional with

experience in the preparation of tree preservation plans and narratives, such as a certified arborist or certified landscape architect and reviewed and approved by UFM. The tree preservation plan and narrative shall include a condition analysis rating for the trees shown on the GDP to be preserved, which analysis shall be prepared using methods outlined in the latest edition of the *Guide for Plant Appraisal* published by the International Society of Arboriculture. Specific tree preservation activities that will maximize the survival of trees to be preserved, such as: crown pruning, root pruning, mulching, fertilization, and others as necessary, shall be included in the preservation plan and narrative. All trees shown to be preserved on the GDP shall be protected by a tree protection fence. Tree protection fencing shall be four (4) foot high, fourteen (14) gauge welded wire attached to six (6) foot steel posts driven eighteen (18) inches into the ground and placed no further than ten (10) feet apart, and shall be erected around trees to be preserved. All tree protection fencing shall be installed prior to any clearing and grading activities. The installation of all tree protection fencing shall be performed under the supervision of a certified arborist or certified landscape architect. Prior to the commencement of any clearing, grading or demolition activities, the UFM shall verify in writing that the tree protection fence has been properly installed. The Owner shall not disturb the areas protected by the limits of clearing and grading, except for utility crossing(s) permitted by DPWES as part of site plan approval. The Applicant shall have no obligation to replace the twin 24" oak trees in the southwest corner of the Property that have been marked for preservation if the same are impacted by development of the adjacent parcels, provided the Owner shall not impact such trees by its development of the Property, as determined by UFM.

VIII. SITE AMENITIES

The Applicant shall provide the site amenities and active and passive recreation areas and plaza areas generally as depicted on Sheets 3, 4 and 5 of the GDP as to the Church Option and Sheet 14 of the GDP as to the Office Option. The general quality and character of such areas are set forth on Sheet 8 of the GDP as to the Church Option and Sheet 16 as to the Office Option. The exact elements that comprise such amenities shall be determined at time of site plan for the applicable phase/use. Additional site amenities may be provided at time of site plan, provided they are of the quality of those set forth on Sheet 8, 14 or 16 of the GDP, as applicable. In the Office Option, the area designated on Sheet 14 of the GDP as "Activity/Recreation Area" shall have facilities appropriate for a child care center, if applicable, and, if there is no such child care center, shall have outdoor fitness facilities appropriate for office uses.

IX. TRANSPORTATION DEMAND MANAGEMENT

If the Office Option is developed, the Applicant shall implement and operate a Transportation Demand Management ("TDM") program for the development within the Property consisting of three (3) major components as follows:

- A. The designation of an employee Transportation Coordinator ("TC"). The Applicant shall appoint a TC from its management staff, or from the property owner's association for the Property prior to the issuance of the first Non-RUP.
- B. The TC will be available to the FCDOT staff to work cooperatively to promote opportunities to enhance participation in TDM programs.
- C. Commencing with the appointment of the TC, implementation of specific programs should be as follows:

(i) The Applicant, through the TC, shall promote ride sharing on an ongoing basis by displaying information on ride sharing in areas utilized by tenants and their employees, such as common areas and building lobbies. The TC shall: (a) maintain a tenant database that can be used by the TC and/or FCDOT to distribute transit/rideshare information and promote transit use and (b) coordinate with FCDOT to ensure appropriate, up-to-date materials are distributed for promotion of transit and ridesharing;

(ii) **Guaranteed Ride Home.** The Applicant shall encourage tenants of offices and other permitted uses and their employees to participate in the Washington Council of Government's "Guaranteed Ride Home" program and to provide financial incentives to their employees to travel other than by single occupancy vehicles.

(iii) The Applicant shall, as part of the execution of each lease, advise each tenant that both a private and a public TDM program exists and encourage them to participate and contact the TC or FCDOT for applicable participation opportunities.

(iv) **Preferential Parking for Car and Vanpools.** The Applicant shall reserve parking spaces convenient to parking garage entrance and exit points for car and vanpools based on the estimated number of car and vanpools being utilized, and such spaces will be clearly identified as so reserved.

(v) The parking garage, under both the Church Option and Office Option, shall provide enclosed bicycle storage for at least 6 bikes in the location shown on Sheets 5 and 14, respectively of the GDP and the Office Option shall include

shower facilities, which shall include at least one shower each for male and female employees, for use by all tenants of the office building. Bicycle racks for the Church Option and Office Option shall provide bike rack space for 18 bikes in the location as shown on Sheets 5 and 14, respectively of the GDP.

(vi) Tenants/Employer occupants in the Office Option shall be encouraged to offer employee benefit options including pre-tax/payroll subsidies for transit and van pool fares, flex time and alternative work schedule programs, live-near work incentives and telework programs.

X. HEIGHTS OF STRUCTURES

Notwithstanding Section 2-506 of the Zoning Ordinance, (i) in no event shall the height of the church steeple exceed one hundred thirty (130) feet above the grade plane, and (ii) in no event shall any penthouse associated with (a) the church building exceed fifteen (15) feet in height and (b) the office building exceed twenty-five (25) feet in height above the roof deck respectively.

CENTERPOINTE CHURCH AT FAIR OAKS

By: 
Gary R. Hanson

Its: President & Director