

PROFFER STATEMENT

August 1, 2008

PHILLIP PON AND MELINDA R. PON
RZ 2007-HM-008

Pursuant to Section 15.2-2303(A), Code of Virginia, 1950 as amended, the undersigned Applicants and Owners, for themselves and their successors and assigns (hereinafter referred to as the "Applicants"), filed for a rezoning for property identified on Fairfax County Tax Map as 28-4((1))5, (hereinafter referred to as "Application Property"), hereby agree to the following Proffers, provided that the Fairfax County Board of Supervisors (hereinafter referred to as the "Board") approves a rezoning of the Application Property to the conventional R-2 Zoning District, as proffered herein.

I. GENERALIZED DEVELOPMENT PLAN (GDP)

- a. Subject to the provisions of Section 18-204 of the Fairfax County Zoning Ordinance (hereinafter referred to as the "Zoning Ordinance"), development of the Application Property shall be in substantial conformance with the Generalized Development Plan (GDP), prepared by Land Design Consultants, dated January 2007 and revised through July 30, 2008 containing four (4) sheets.
- b. Pursuant to Section 18-204 of the Zoning Ordinance, minor modifications from the approved GDP may be permitted as determined by the Zoning Administrator. The layout shown on the GDP may be modified provided such changes are in substantial conformance with the GDP and proffers. These modifications may include the location of utilities, minor adjustment of property lines, and the general location and size of dwellings on the proposed lots provided that the total area of open space is not decreased from that shown hereon, the building setbacks outlined on the GDP are honored, and the limits of clearing and grading are adhered to.

II. Easement Agreement

The Applicants shall enter into an Easement Agreement for the proposed development for the purpose of managing and maintaining the shared driveway. The maintenance responsibilities for the jointly shared driveway shall be shared by the owners of both lots and shall be disclosed to all prospective homeowners in writing prior to entering into a contract of sale. An ingress/egress/maintenance easement, in a form approved by the County Attorney, shall be placed and recorded in the land records over a portion of Lot 2 for the benefit of Lot 1.

III. TRANSPORTATION

- a. Density credit shall be reserved as may be permitted by the provisions of Paragraph 4 of Section 2-308 of the Ordinance for all eligible dedications described herein.
- b. Dedication: Subject to Virginia Department of Transportation (VDOT) and Department of Public Works & Environmental Services (DPWES) approval, the Applicant shall dedicate and convey in fee simple to the Board of Supervisors right-of-way up to a width of forty-five feet from the centerline along the Application Property's Old Courthouse Road frontage as shown on the GDP. Dedication shall be made at time of subdivision or upon demand of either Fairfax County or VDOT, whichever should first occur.
- c. Sight Distance. Adequate sight distance shall be provided for the entrance to the property as determined by the Department of Public Works and Environmental Services (DPWES) and the Virginia Department of Transportation (VDOT).
- d. Garages and Driveways. The Applicants shall place a covenant on each residential lot that prohibits the use of the garage for any purpose, which would preclude motor vehicle storage. This covenant shall be recorded among the land records of Fairfax County prior to the sale of the lots and shall run to the benefit of the Board of Supervisors. Prior to recordation, the covenant shall be approved by the Fairfax County Attorney's office. The driveway provided for each unit shall be a minimum of eighteen (18) feet in length to permit the parking of two (2) vehicles. Garages shall be designed to accommodate two (2) vehicles.

IV. LANDSCAPING / LIMITS OF CLEARING AND GRADING

Landscaping and on-site amenities shall be generally consistent in terms of character and materials with the GDP. Specific features such as the exact locations of plantings, driveways, walks, etc., are subject to minor modification with final engineering and architectural design, as approved by Urban Forest Management, Department of Public Works and Environmental Services (DPWES). A landscape plan will be submitted with the first and all subsequent submissions of the subdivision plan, which details the quantity and types of trees to be planted on site in order to meet tree coverage requirements and shall be in substantial conformance with the GDP.

As part of the development of the subject property, and as determined feasible by Urban Forest Management (UFM) during subdivision plan review, the Applicants shall attempt to save the existing 30 inch oak tree adjacent to Old Courthouse Road and located within the proposed right-of-way of Old

Courthouse Road, Route 677, and as shown on Sheet 2 of the GDP. The ability to save this tree will be subject to final engineering and grading and in consultation with UFM and the Virginia Departments of Transportation. The proposed tree preservation techniques will be subject to consultation with, and review and approval by UFM, DPWES.

- a. Tree Preservation Plan: The Applicants 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 shall be subject to the review and approval of the UFM, DPWES.

The tree preservation plan shall consist of tree survey that includes the location, species, size, crown spread, and condition rating percentage of all trees 10 inches in diameter and greater, and 25 feet to either side of the limits of clearing and grading shown on the GDP for the entire site. The tree preservation plan shall provide for the preservation of those areas shown for tree preservation, those areas outside of the limits of clearing and grading shown on the GDP and those additional areas in which trees can be preserved as a result of final engineering. The condition analysis ratings shall be prepared using methods outlined in the latest edition of the "Guide for Plant Appraisal" published by the International Society of Arboriculture. Specific tree preservation activities that will maximize the survivability of any tree identified to be preserved, such as: crown pruning, root pruning, mulching, fertilization, and others as necessary, shall be included in the plan.

- b. Root Pruning. The Applicants shall root prune, as needed to comply with the tree preservation requirements of these proffers. All treatments shall be clearly identified, labeled, and detailed on the erosion and sediment control sheets of the subdivision plan submission. The details for these treatments shall be reviewed and approved by the UFM, DPWES, accomplished in a manner that protects affected and adjacent vegetation to be preserved, and may include, but not be limited to the following:
1. Root pruning shall be done with a trencher or vibratory plow to a depth of 18 inches;
 2. Root pruning shall take place prior to any clearing and grading, or demolition of structures;
 3. Root pruning shall be conducted with the supervision of a certified arborist; and
 4. An UFM, DPWES, representative shall be informed when all root pruning and tree protection fence installation is complete.
- c. Preservation Walk-Through. The Applicants 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 walk-through meeting. During the tree-preservation walk-through meeting, the Applicants'

certified arborist or landscape architect shall walk the limits of clearing and grading with an UFM, DPWES, representative to determine where adjustments to the clearing limits can be made to increase the area of tree preservation and/or to increase the survivability of trees at the edge of the limits of clearing and grading, and such adjustment shall be implemented. Trees that are identified as dead or dying may be removed as part of the clearing operation. Any tree that is so designated shall be removed using a chain saw and such removal shall be accomplished in a manner that avoids damage to surrounding trees and associated under story 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 adjacent trees and associated under story vegetation and soil conditions.

- d. Limits of Clearing and Grading. The Applicants shall conform strictly to the limits of clearing and grading as shown on the GDP, subject to allowances specified in these proffered conditions and for the installation of utilities and/or trails as determined necessary by the Director of DPWES, as described herein. If it is determined necessary to install utilities and/or trails in areas protected by the limits of clearing and grading as shown on the GDP, they shall be located in the least disruptive manner necessary as determined by the UFM, DPWES. A replanting plan shall be developed and implemented, subject to approval by the UFM, DPWES, for any areas protected by the limits of clearing and the Applicants shall conform strictly to the limits of clearing and grading as shown on the GDP.
- e. Tree Protection Fencing. All trees, to be preserved, are shown on the tree preservation plan and shall be protected by tree protection fence. Tree protection fencing (4-foot high, 14-gauge welded wire attached to 6-foot steel posts driven 18 inches into the ground and placed no further than 10-feet apart or super silt fence), as determined by UFM, shall be provided to the extent that required trenching for super silt fence does not sever or wound compression roots which can lead to structural failure and/or uprooting of trees. This fencing shall be erected at the limits of clearing and grading adjacent to the tree preservation areas as shown on the erosion and sediment control sheets, as may be modified by these Proffers.

The tree protection fencing shall be installed after the tree preservation walk-through meeting and prior to any clearing and grading activities, including the demolition of any existing structures. The installation of tree protection fence shall be performed under the supervision of a certified arborist and UFM and accomplished in a manner that does not harm existing vegetation that is to be preserved. At least ten (10) days prior to the commencement of any clearing, grading, or demolition activities adjacent to the tree preservation areas, but subsequent to the installation of the tree protection devices, UFM, DPWES, and the Hunter Mill District Supervisor shall be notified and given the opportunity to inspect the site to assure that all tree protection devices have been correctly

installed and no grading or construction activities shall occur until the fencing is installed correctly, as determined by UFM, DPWES.

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, as determined by UFM.

- f. Demolition of Existing Structures. The demolition of all existing features and structures within areas protected by the limits of clearing and grading areas shown on the GDP shall be done by hand without heavy equipment and conducted in a manner that does not impact individual trees and/or groups of trees that are to be preserved as reviewed and approved by the UFM, DPWES.
- g. Site Monitoring. During any clearing or tree/vegetation/structure removal on the Applicants Property, a representative of the Applicants shall be present to monitor the process and ensure that the activities are conducted as proffered and as approved by the UFM. The Applicants shall retain the services of a certified arborist or landscape architect to monitor all construction and demolition work and tree preservation efforts in order to ensure conformance with all tree preservation proffers, and UFM approvals. The monitoring schedule shall be described and detailed in the Landscaping and Tree Preservation Plan, and reviewed and approved by the UFM.
- h. Bonds, Cash, Letter of Credit. The Applicants shall retain a professional arborist with experience in plant appraisal, to determine the replacement value of all trees ten (10) inches in diameter or greater located on the Application Property that are shown to be saved 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 so-called "Trunk Formula Method" contained in the latest edition of the Guide for Plant Appraisal published by the International Society of Arboriculture, subject to review and approval by UFM.

In order to provide a remedy for any disruption to trees required to be preserved under these proffers, at the time of final subdivision plan approval, the Applicants shall both post a cash bond and a letter of credit payable to the County of Fairfax to ensure preservation and/or replacement of the trees for which a tree value has been determined (herein the "bonded trees") that die or are dying due to unauthorized construction activities. The letter of credit shall be equal to fifty percent (50%) of the replacement value of the bonded trees. The cash bond shall consist of thirty tree percent (33%) of the amount of the letter of credit.

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 or if removal of any bonded trees is authorized by Urban Forest Management

Division due to disease or deterioration, the cash, bond, or letter of credit shall be used as necessary to plant replacement trees of a size and species appropriate to the site in consultation with the UFM, DPWES, and the Applicants' certified arborist. A meeting shall be held between UFM and the Applicants' arborist to determine if the cause of death is the result of unauthorized construction activities or natural causes. If the decision of the UFM representative is that the death or dying trees was caused by unauthorized construction activities, the Applicants shall replace such trees as noted above. This does not preclude the owner/developer from exercising any appeal rights under the law. The replacement trees shall be selected to provide canopy cover equivalent to those trees that are lost and shall incorporate native species. These preservation measures shall not apply to trees otherwise protected by these proffers that die or begin to die as a result of factors not related to unauthorized construction activities. At the time of approval of the final Residential Use Permit (RUP), the Applicants may request a release of any monies remaining in the cash bond and a reduction in the letter of credit to an amount up to twenty percent (20%) of the total amounts originally committed to provided they are in good standing with the tree proffer commitments. Any funds remaining in the letter of credit or cash bond shall be released concurrently with the site performance bond release, or sooner, if approved by UFM, DPWES.

V. EXISTING DWELLING & OTHER EXISTING STRUCTURES

The existing dwelling and other structures shall be removed prior to the issuance of a building permit for a new dwelling on the application property.

VI. ENERGY CONSERVATION

All dwellings shall meet the thermal guidelines of the CABO Model Energy Program, or its equivalent, as determined by DPWES for either gas or electric energy systems, as may be applicable.

VII. STORM WATER MANAGEMENT AND BEST MANAGEMENT PRACTICES

If approved by DPWES, stormwater management (SWM) and Best Management Practices (BMP) may be accomplished through the provision of infiltration trenches or alternative Low Impact Development techniques, as generally shown on the GDP and shall be in accordance with the requirements of the Fairfax County Public Facilities Manual (PFM). The size and location of the facilities may be subject to modifications based on final engineering provided they are in substantial conformance with the GDP. If SWM/BMP is not provided in substantial conformance with the GDP, then a PCA shall be required to provide water quantity and quality control measures in accordance with the PFM or such modification as may be determined by DPWES. This facility will be

designed for the one-year storm and provide proportional improvement to the two and ten year events in accordance with the PFM.

VIII. SIGNS

No temporary signs (including "popsicle" style paper or cardboard signs), which are prohibited by Article 12 of the Zoning Ordinance or Chapter 7 of Title 33.1, of Chapter 8 of Title 46.2 of the Code of Virginia, 1950 as amended, shall be placed on or off site by the Applicants or at the Applicants' direction, to assist in the initial sale of homes on the Application Property. The Applicants shall direct its agents and employees involved in marketing and/or home sales for the Application Property to adhere to this proffer.

IX. HOUSE DESIGN

The design and architecture of the approved units shall be in general conformance with the illustrative elevations contained in the GDP, or of comparable quality as determined by DPWES. The exterior building materials shall consist of materials, such as brick, wood, stucco, concrete with architectural coating, glass, or cementitious panel (e.g. HardiPlank by James Hardie Building Products), fiberboard cement product, or other masonry product.

Any extension into the minimum required side and rear yards for covered and uncovered decks shall be permitted in accordance with Section 2-412 of the Fairfax County Zoning Ordinance. Restrictions placed on the location of extensions such as covered and uncovered decks per Section 2-412 of the Zoning Ordinance and these Proffers shall be disclosed to all prospective purchasers in writing prior to entering into a contract of sale and included as a covenant in the deed of subdivision. For Proposed Lot 1, no sunroom, deck, or carport shall be located within the eastern required side yard.

X. FRONTAGE IMPROVEMENTS / TRAILS

Prior to issuance of the first residential use permit, the Applicants shall provide a 6' wide asphalt trail along the subject property's Old Courthouse Road frontage as generally shown on Sheet 2 of the GDP and subject to final engineering. The trail shall be located within the existing/proposed right-of-way of Old Courthouse Road and shall be subject to approval by Fairfax County and the Virginia Department of Transportation (VDOT). In the event that VDOT or the County does not want the trail at the time of final subdivision plan approval, the Applicants shall provide funds, in a form deemed appropriate by the County, equal to the construction costs of the trail in accordance with the prices listed in the Fairfax County Unit Price List, to the Hunter Mill District Walkway Fund. A modification of the trails requirement is requested in order to provide a 6 foot asphalt trail in lieu of a 10 foot trail.

XI. CONTRIBUTIONS

Parks: Prior to bond release, the Applicants shall contribute \$795.00 to the Fairfax County Park Authority for its use in establishing and maintaining parks and recreational facilities in the Hunter Mill District of Fairfax County. The contribution amount shall be adjusted by increases to the Marshall and Swift Building Cost Index from the date of the Board of Supervisor's approval of this rezoning application to the date of subdivision plan approval.

Housing Trust Fund Contribution: Prior to the issuance of the first building permit, a contribution shall be made to the Fairfax County Housing Trust Fund a sum of one half of one percent (0.5%) of the estimated sales price of each single family dwelling actually constructed. The amount of said contribution, determined by the Department of Housing and Community Development and the Applicants, is for the purpose of assisting the County in its goal to provide affordable dwellings elsewhere in the County.

Schools: At the time of issuance of the first building permit, the Applicants shall contribute \$12,400.00 or capital improvements to the public schools served by the subdivision. Said contribution shall be deposited with DPWES for transfer to Fairfax County Public Schools.

XII. TELECOMMUTING

All dwellings shall be pre-wired with broadband, high capacity data/network connections in multiple rooms, in addition to standard phone lines.

XIII. OUTLOT A

Ownership of Outlot A may be transferred to any contiguous property owner either by sale or gift. A Conservation Easement running to the Board of Supervisors shall be recorded on Outlot A simultaneously with the recordation of the subdivision plat. The form and substance of the Conservation Easement shall be approved by the County Attorney and the Easement shall provide that Outlot A shall remain in its undisturbed state except that dead or dying trees, or trees that are determined to be unsafe as determined by the Fairfax County Urban Forestry Branch in conjunction with the property owner's certified arborist, and invasive vegetation may be removed.

XIV. TREE PRESERVATION COVENANT

A Tree Protection Covenant shall be recorded among the land records of Fairfax County in conjunction with the deed of subdivision for each individual lot. The purpose of this covenant is to preserve tree cover on the rear of the lots as generally shown on the

Generalized Development Plan. However, this covenant shall not preclude the removal of dead, dying, or diseased trees, noxious vegetation, or trees that are determined to be unsafe, as determined by a certified arborist. The removal of small trees, shrubs and ground covers that are not invasive is prohibited, except when necessary for the building of small accessory structures such as a gazebo, water fountain and similar small type structures provided such structures would not damage existing trees.

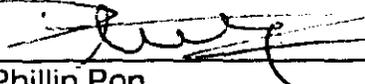
XV. OTHER

Outdoor construction activity will be limited to between the hours of 7:00 a.m. and 7:00 p.m. Monday through Friday and 8:00 a.m. and 5:00 p.m. on Saturdays. No outdoor construction activities will be permitted on Sundays or on Federal holidays. The site superintendent shall notify all employees and subcontractors of these hours of operation and shall ensure that the hours of operation are respected by all employees and subcontractors. Construction hours shall be posted on-site in both English and Spanish. This proffer applies to the original construction only and not to future additions and renovations by homeowners.

XVI. MISCELLANEOUS

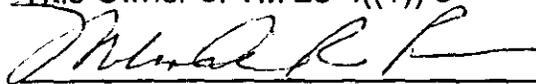
- a. Successors and Assigns. These proffers shall bind the Applicants and his/her successors and assigns.
- b. Counterparts. These proffers may be executed on one or more counterparts, each of which when so executed and delivered shall be deemed an original document and all of which taken together shall constitute but one and the same instrument.

TITLE OWNERS SIGNATURES TO FOLLOW ON NEXT PAGE:



Phillip Pon
Title Owner of TM 28-4((1)) 5

August 1, 2008
Date



Melinda R. Pon
Title Owner of TM 28-4((1)) 5

August 1, 2008
Date