



# County of Fairfax, Virginia

To protect and enrich the quality of life for the people, neighborhoods and diverse communities of Fairfax County

June 10, 2011

Kelly M. Atkinson, Senior Project Planner  
Land Design Consultants  
9401 Centreville Road, Suite 300  
Manassas, VA 20110

Re: Interpretation for RZ/FDP 2004-SP-027, Roseglen (formerly Nassir Property), Tax Map  
Parcel 56-1 ((1)) 46A, 56-1 ((7)) 1A: Evergreene Companies: Elevations (Lots 1-3, 15-16)

Dear Ms Atkinson:

This is in response to your letter dated August 12, 2010, and subsequent materials submitted on September 30, 2010, December 22, 2010, April 11, 2011, and May 4, 2011, requesting an interpretation of the proffers and Conceptual Development Plan (CDP) accepted by the Board of Supervisors and the Final Development Plan (FDP) approved by the Planning Commission in conjunction with the approval of the above-referenced applications. As I understand it, your question is whether the proposed elevations are in substantial conformance with the proffers and the CDP/FDP. This determination is based on your letter; a copy of Sheet 2 of the approved CDP/FDP that shows the approved elevations; and, three sets of elevations entitled "Waterford, Burwell, and Woodson." In total you have proposed twelve variations of the three models. Copies of your letter and relevant exhibits are attached.

Your letter states that The Evergreene Companies, Inc. is the current owner of the property and plans to construct homes on Lots 1-3 and 15 and 16. You note that another builder, Neighborhood VII, Inc., will construct homes on Lots 4-14 and filed a separate interpretation request. A determination of substantial conformance was issued for the proposed revised elevations on November 24, 2010.

You state that Sheet 1 of the CDP/FDP does not address building footprints or setbacks; however, Sheet 2 shows typical lot layouts with setbacks, which your proposed dwellings meet. You also note that Sheet 2 of the development plan shows three typical architectural elevations and a note, which states "*The images on this sheet are to certify the quality of the proposed development and are shown for illustrative purposes only. The developer reserves the right to generally change the configuration, dimensions, and or location due to Ordinance, PFM or final engineering requirements. However, the elements will be provided in substantial conformance with the character of the illustrations shown.*"

You further note Proffer 9, which states "*The general design and architecture of the approved units shall be in substantial conformance with the illustrative elevations and building materials attached as Sheet two (2) of the CDP/FDP, as determined by DPWES. The illustrative architectural rendering as shown on Sheet two (2) of the CDP/FDP is provided to illustrate the design intent of the proposed units. The building elevations shall be generally consistent in terms of character and quality with the*

Department of Planning and Zoning  
12055 Government Center Parkway, Suite 801  
Fairfax, Virginia 22035-5509  
Phone 703 324-1290  
FAX 703 324-3924  
[www.fairfaxcounty.gov/dpz/](http://www.fairfaxcounty.gov/dpz/)



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*illustration, and the materials on the exterior of the units will consist of masonry on not less than three sides and either masonry or cementitious siding on the rear elevation. The specific features, such as the exact location of windows, doors, shutter and roofline, number of stories and other architectural details are subject to modification with final engineering and architectural design."*

The typical architectural elevations contained on Sheet 2 of the CDP/FDP show three two-story dwellings with attached two-car front-load garages with a full story above. The design of all of the units is characterized by hipped roofs with gables, large mullioned windows, keystone lintels, separate garage doors with articulated facades, and well defined entrances,

You have submitted twelve proposed elevations of three basic models, the Burwell, the Waterford, and the Woodson to be constructed on the five lots. The proposed elevations show all of the dwellings with gable roofs with multiple gables or gabled dormers with the exception that one of the proposed Burwell elevations features a hip roof. The proposed models are all constructed with brick fronts and sides. All of the proposed elevations show two car garages with single garage doors without lights, mullioned windows with architectural detailing and/or shutters, and well-defined entrances. You have stated that you will build two of the dwellings, or 40%, with hipped roofs. You have also stated that all of the dwellings will be constructed with single garage doors because the proposed house design does not provide adequate area for separate doors. To address this issue, you have submitted an exhibit (attached) showing a proposed single door with hardware that is designed to create the appearance of two separate doors. This exhibit also adds four sets of eight lights each across the top of the door.

It is my determination the submitted models are in substantial conformance with the proffers and the CDP/FDP provided that a minimum of 40% of the units are constructed with hipped roofs and that all of the garages are constructed with doors and hardware that conform with those shown in your exhibit.

This determination has been made in my capacity as the duly authorized agent of the Zoning Administrator and only addresses the issues discussed herein. If you have any questions regarding this interpretation, please feel free to contact Mary Ann Godfrey at (703) 324-1290.

Sincerely,



Barbara C. Berlin, AICP, Director  
Zoning Evaluation Division, DPZ

O:\BCB\m\godf2\Proffer Interpretations PI\Roseglen (RZ 2004-SP-027) Evergreene Co. elevations.doc

Attachments: A/S

cc: Pat Herrity, Supervisor, Springfield District  
Peter Murphy, Planning Commissioner, Springfield District  
Diane Johnson-Quinn, Deputy Zoning Administrator, Permit Review Branch, ZAD, DPZ  
Kenneth Williams, Office of Land Development Services, DPWES  
Angela Rodeheaver, Section Chief for Site Analysis, DOT  
Jack Weyant, Director, Environmental and Facilities Inspection Division, DPWES  
Audrey Clark, Director, Building Plan Review Division, DPWES  
Kevin Guinaw, Chief, Special Projects/Applications Management Branch, DPZ  
File: RZ/FDP 2004-SP-027, PI 1008 077, Imaging, Reading File



**LAND DESIGN**  
CONSULTANTS

August 12, 2010

RECEIVED  
Department of Planning & Zoning

AUG 12 2010

Mrs. Regina Coyle, Director  
Fairfax County Department of Planning and Zoning  
12055 Government Center Parkway, Suite 801  
Fairfax, Virginia 22035

Zoning Evaluation Division

Re: Roseglen (formerly known as Nassir Property)  
Fairfax County Tax Map #56-1 ((1)), Parcel 46A and #56-1 ((7)), Parcel 1A  
Currently Zoned PDH-2, Approximately 8.0718 Acres (Combined)  
RZ 2004-SP-027  
LDC Project #10005-1-1

Dear Mrs. Coyle:

The purpose of this correspondence is to request your formal interpretation regarding the Roseglen (formerly known as Nassir Property) Conceptual/Final Development Plan. On December 5, 2005, the Fairfax County Board of Supervisors approved a rezoning from C-8, R-1, WS to PDH-2, WS to permit development of the subject property with sixteen (16) single-family detached dwellings. A copy of the approved Conceptual/Final Development Plan (C/FDP) is attached for your reference. A subdivision plan (6148-SD -001-2) was approved June 4, 2010.

### **Project History**

As stated, the subject property is part of a previously approved rezoning. The applicant at the time was Randolph Bender. In 2007, Nassir Ansari submitted a Subdivision Plan per this approved C/FDP. In 2010, Neighborhood VII, LLC acquired the property and obtained approval of the plan. The job will begin construction the week of August 15, 2010. Our client, The Evergreene Companies, Inc. (TEC), will be constructing houses on five (5) of the sixteen (16) lots in this community (lots 1-3, 15-16). A separate interpretation request has been submitted for the remaining houses to be constructed by Neighborhood VII, LLC (lots 4-14).

In light of the numerous applicants on this job and prior to submitting a Composite Grading Plan for the proposed houses, the Applicant is requesting confirmation the proposed houses are in conformance with the approved C/FDP and associated elevations.

### **Approved GDP, Elevations and Proffers**

As you can see, the subject property has been subject to development proposals for almost five (5) years. In light of this extended time period, the property has changed ownership a number of times.

On Sheet 1 of the C/FDP, specific house footprints are not shown. Instead, the Applicant has shown building restriction lines which conform to those shown on Sheet 2 in the Typical Lot Layout. Specifically, any proposed house shall have a minimum of an 18' front yard, minimum of a 10' side yard and a minimum of a 25' rear yard. Please note that other than these dimensions, no other dimensions are noted on the C/FDP as they apply to the proposed houses.

On Sheet 2 of the C/FDP, the Applicant also identified three (3) typical architectural elevations. There is also a note on the plan which states, "The images on this sheet are to certify the quality of the proposed

Mrs. Regina Coyle, Director  
Fairfax County Department of Planning and Zoning  
Re: Roseglen (formerly known as Nassir Property)  
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development and are shown for illustrative purposes only. The developer reserves the right to generally change the configuration, dimensions and/or location due to Ordinance, PFM, or final engineering requirements. However, the elements will be provided in substantial conformance with the character of the illustrations shown."

Further, per Proffer 9, "The general design and architecture of the approved units shall be in substantial conformance with the illustrative elevations and building materials attached as Sheet 2 of the CDP/FDP, as determined by DPWES. The illustrative architectural rendering as shown on Sheet 2 of the CDP/FDP is provided to illustrate the design intent of the proposed units. The building elevations shall be generally consistent in terms of character and quality with the illustration, and the materials on the exterior of the units will consist of masonry on not less than three (3) sides and either masonry or cementitious siding on the rear elevation. The specific features, such as the exact location of windows, doors, shutter and roofline, number of stories and other architectural details are subject to modification with final engineering and architectural design."

#### **Proposed Plan and Elevations**

In light of the subject property being under new ownership by a different builder, the Applicant is proposing an alternative, but similar, product for the subject property from that shown on the C/FDP.

Land Design Consultants, Inc. (LDC) has provided elevations of the proposed houses. These elevations are similar in building material and design to those shown with the approved C/FDP and will contain masonry on three (3) sides and either masonry or cementitious siding on the rear elevation. The proposed houses are colonial style houses. TEC has recently constructed the Waterford house on Fernbrook Drive in Fairfax County. Pictures of that house are included for your reference. We believe the Applicant's houses are of comparable, if not higher quality, than those included with the aforementioned C/FDP and are "in character" with that previously provided.

In regards to the location of the houses on the lots, the Applicant has sited the houses within the building restriction lines shown on the C/FDP and meets the minimum yard setbacks as shown on Sheet 2. In some cases, the setback from the property lines is increased, thereby reducing the massing of the product. Please note that LDC has shown a composite "footprint" on three (3) of the lots, which was developed from five (5) specific houses. The houses that make up each composite are included with the grading plan for reference. Please note that only one of the houses from each composite will actually be constructed on the lot, subject to the final contract. As a result, the "footprint" is graphically larger than what will actually be constructed on each lot but will still result in an increase in setbacks than that shown on the C/FDP.

Additionally, the proposed minor modification is in accordance with the following standards listed in Section 16-403 of the Zoning Ordinance:

- The proposed houses will not change the amount of land area, or permit a more intensive use from that approved pursuant to the proffered conditions. No increase to the number of units is proposed.
- The proposed houses will not result in an increased parking requirement, as the proposed houses have a minimum of a two (2) car garage. Further, covenant 5 precludes the conversion of these garages into living space and 5 requires a minimum 18' long driveway, which will allow the parking of two (2) additional vehicles.
- The proposed houses are permitted uses in accordance with the approved C/FDP.

Mrs. Regina Coyle, Director

Fairfax County Department of Planning and Zoning

Re: Roseglen (formerly known as Nassir Property)

Fairfax County Tax Map #56-1 ((1)), Parcel 46A and #56-1 ((7)), Parcel 1A

Currently Zoned PDH-2, Approximately 8.0718 Acres (Combined)

RZ 2004-SP-027

LDC Project #10005-1-1

August 12, 2010

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- The proposed houses are located in the building restriction lines as shown on the approved C/FDP. Transitional screening and buffering is not required as the property is adjacent to similar uses. The Applicant is honoring all open space and limits of clearing as shown on the approved C/FDP.
- Again, the proposed houses are located in the footprint as shown on the approved C/FDP. The Applicant has provided an exhibit showing the location of the proposed houses and their setbacks from the applicable property lines. Again, the Applicant is improving the setbacks in a number of locations. This will not adversely affect any adjacent property owners.
- The proposed houses will not result in an increase in the amount of proffered clearing and/or grading for a stormwater management facility. The Applicant is honoring the proffered clearing limits and tree save areas.
- No increase in the number of units is proposed.

At this time, the Applicant is respectfully requesting confirmation that the proposed houses are in general conformance with the previous elevations and are in substantial conformance with the C/FDP. This confirmation will be included as part of the Composite Grading Plan.

LDC has included a copy of the approved C/FDP (including elevations), proffers, proposed elevations and proposed Composite Grading Plan showing the proposed houses. I would greatly appreciate your expeditious review of this information as this job will be under construction. If you have any questions or require additional information, please do not hesitate to contact me. Thank you and I look forward to hearing from you soon.

Sincerely,



Kelly M. Atkinson, AICP  
Senior Project Planner

cc: Marlae Schnare, Senior Legislative Aide, Supervisor Herrity's Office  
Rob Cappellini, The Evergreene Companies, Inc.  
Matt Marshall, L.S., AICP, Land Design Consultants, Inc.  
File



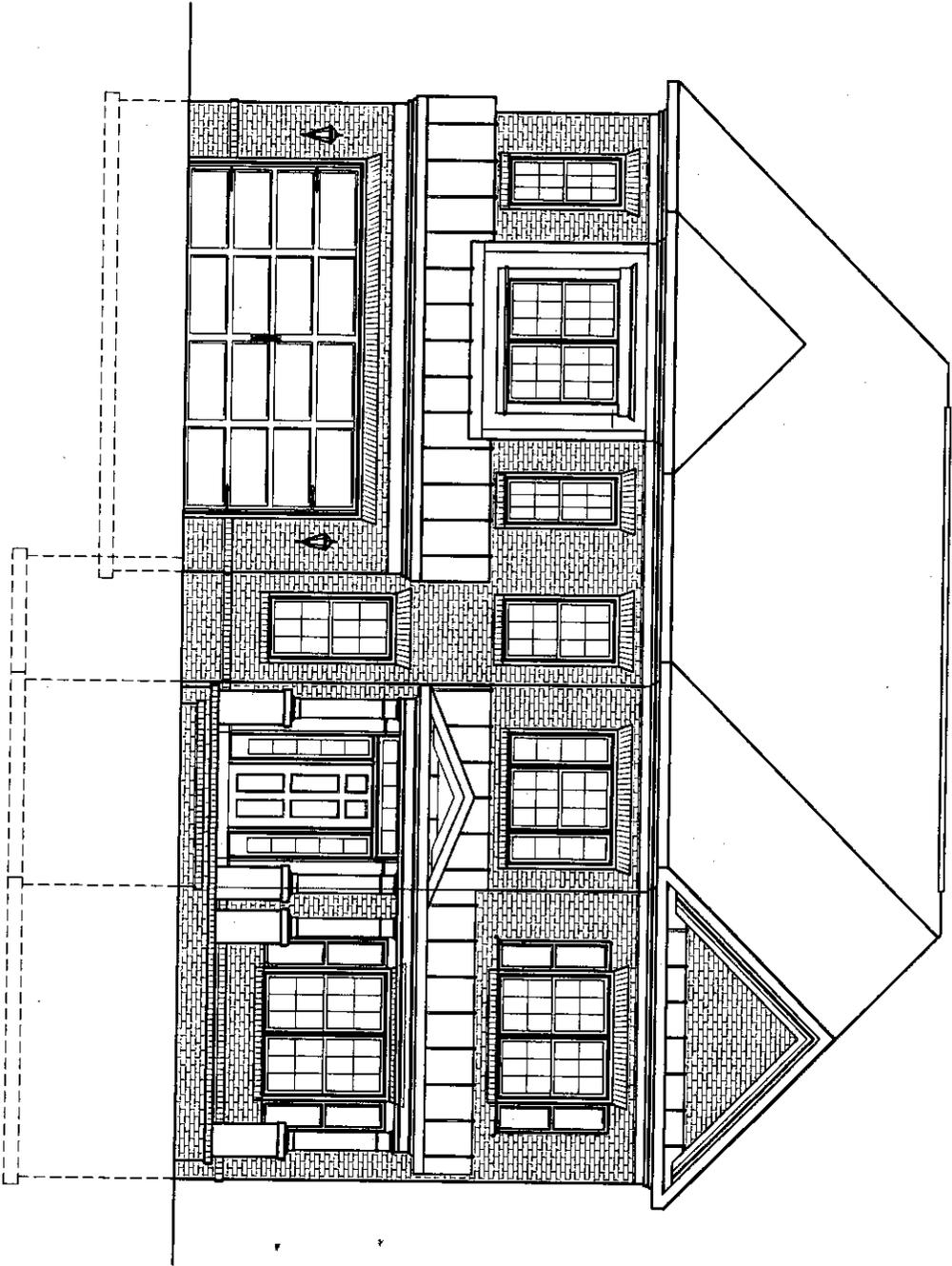








BURWELL w/ HIP ROOF



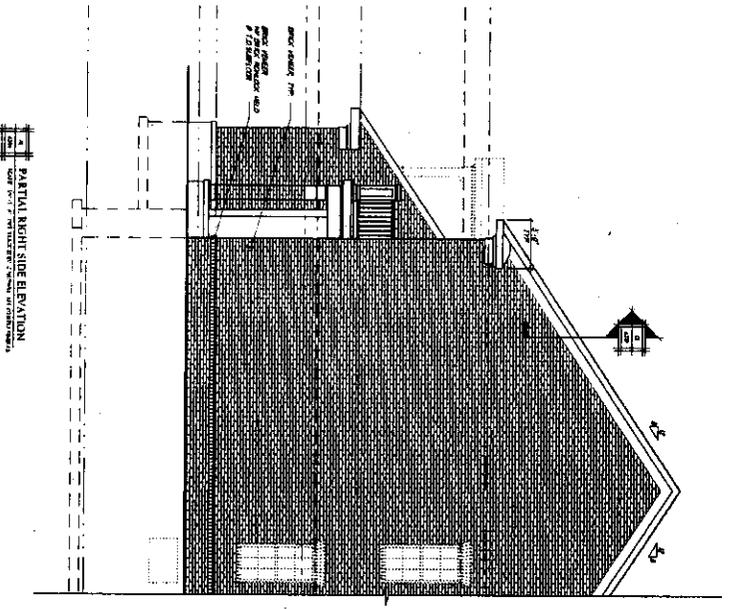
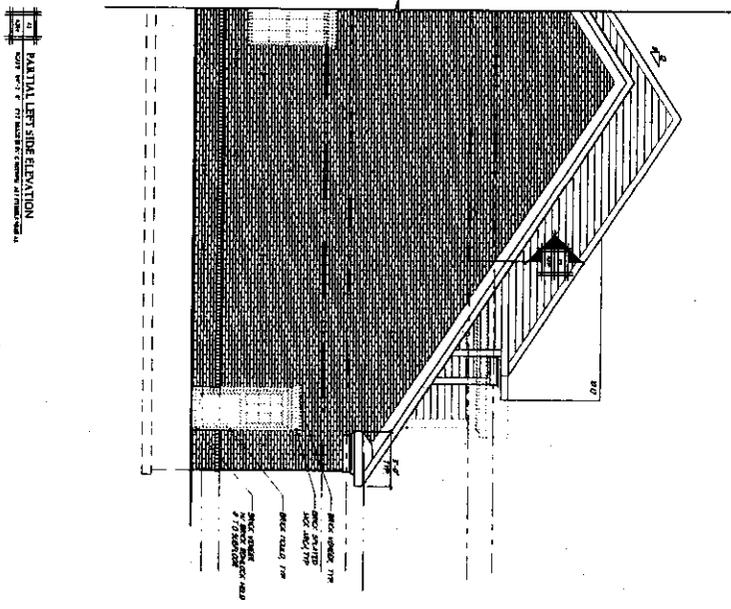
12.21.10











1-1  
PARTIAL LEFT SIDE ELEVATION  
DATE: 05/12/2010 11:57 AM  
DRAWN BY: J. WOODSON

1-2  
PARTIAL RIGHT SIDE ELEVATION  
DATE: 05/12/2010 11:57 AM  
DRAWN BY: J. WOODSON



NO.	DESCRIPTION	DATE
1	ISSUED FOR PERMIT	05/12/2010
2	ISSUED FOR CONSTRUCTION	05/12/2010
3	ISSUED FOR OCCUPANCY	05/12/2010
4	ISSUED FOR RECORD	05/12/2010
5	ISSUED FOR ARCHIVE	05/12/2010
6	ISSUED FOR CLOSURE	05/12/2010
7	ISSUED FOR DESTRUCTION	05/12/2010
8	ISSUED FOR REPAIR	05/12/2010
9	ISSUED FOR RENEWAL	05/12/2010
10	ISSUED FOR CANCELLATION	05/12/2010
11	ISSUED FOR AMENDMENT	05/12/2010
12	ISSUED FOR SUSPENSION	05/12/2010
13	ISSUED FOR RESCINDMENT	05/12/2010
14	ISSUED FOR REPEAL	05/12/2010
15	ISSUED FOR REVOCATION	05/12/2010
16	ISSUED FOR WITHDRAWAL	05/12/2010
17	ISSUED FOR REJECTION	05/12/2010
18	ISSUED FOR RECALL	05/12/2010
19	ISSUED FOR REPEL	05/12/2010
20	ISSUED FOR REPEL	05/12/2010

**WOODSON**  
FAIRFAX COUNTY, VA  
EVERGREENE HOMES-VA

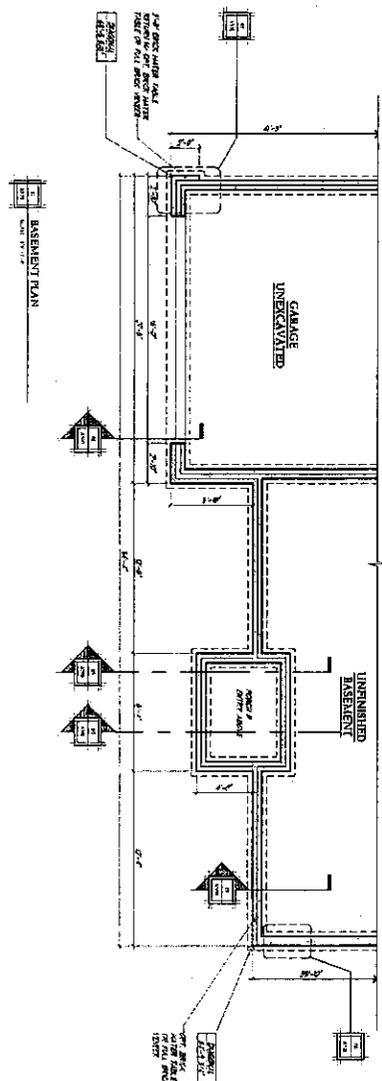
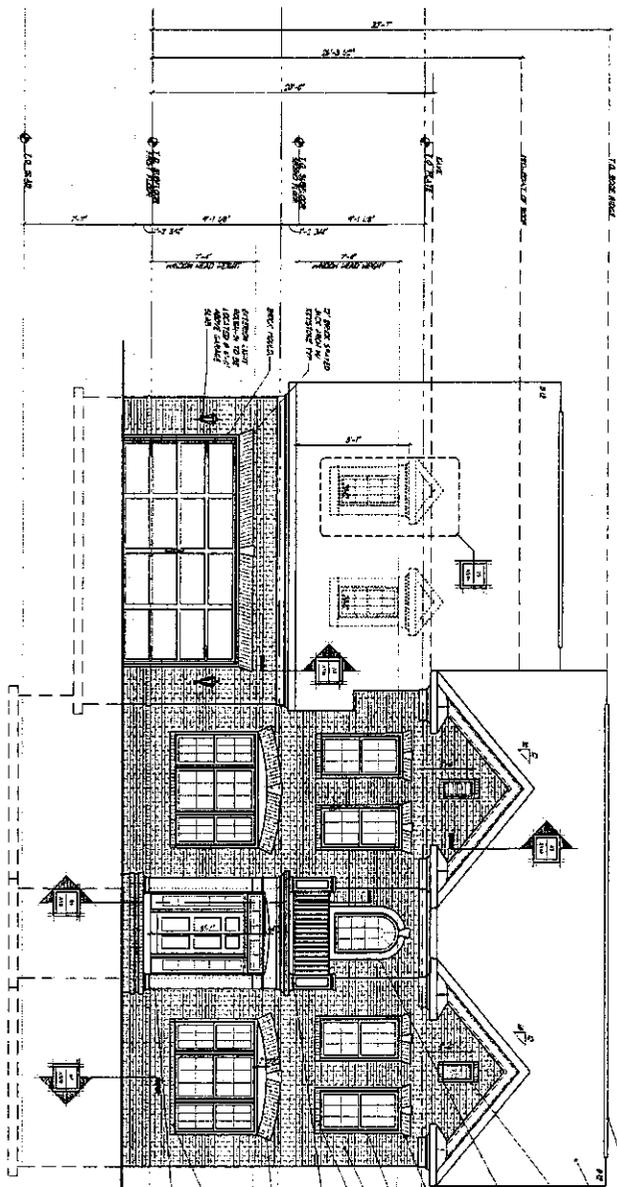
ELEVATION 'C'      BRICK











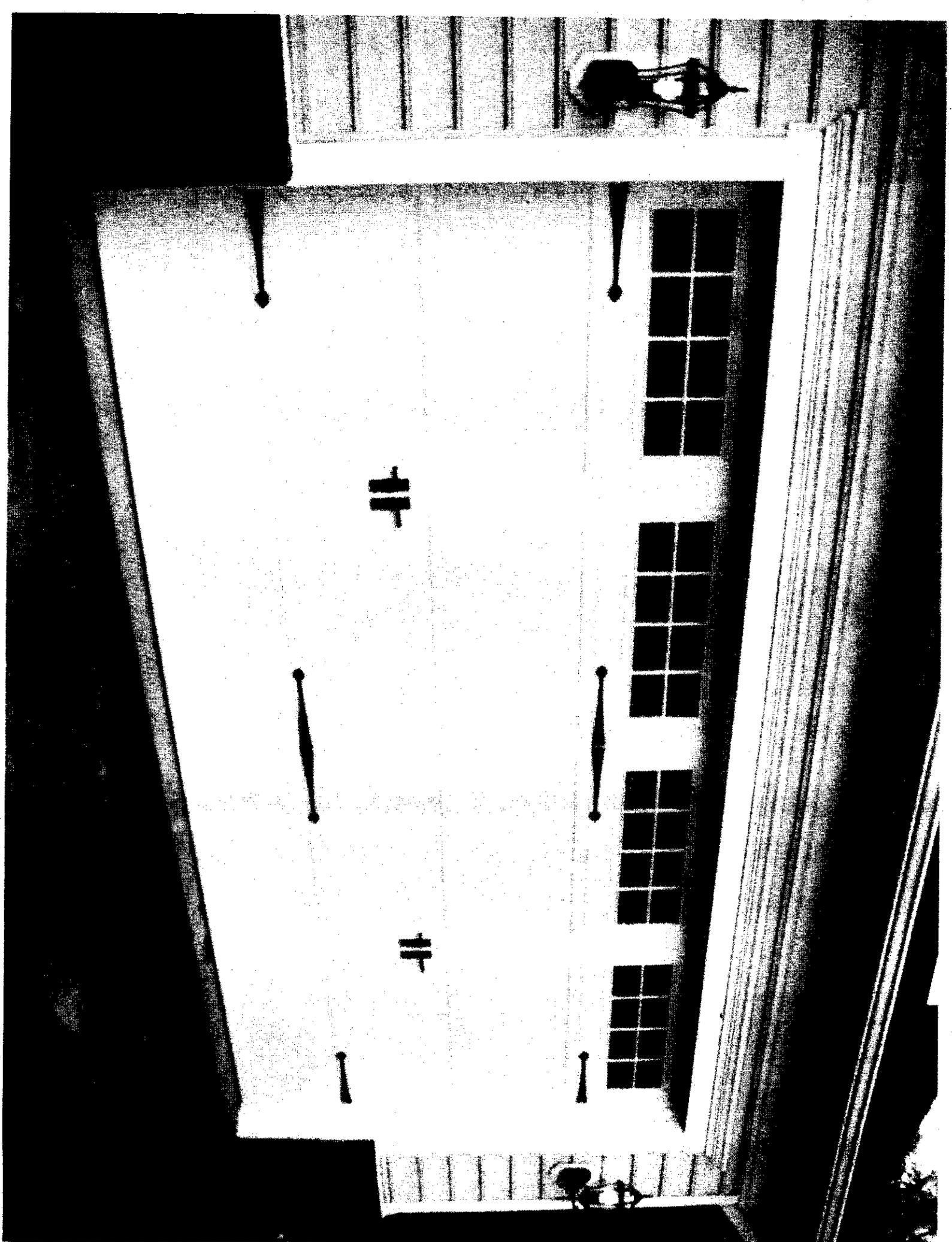
WOODSON  
FAIRFAX COUNTY, VA.  
EVERGREEN HOMES-V-A

ELEVATION 'C' BRICK

A-205

NO.	DESCRIPTION	DATE
1	FOUNDATION	11.15.11
2	FLOOR PLAN	11.15.11
3	FRONT ELEVATION	11.15.11
4	REAR ELEVATION	11.15.11
5	LEFT SIDE ELEVATION	11.15.11
6	RIGHT SIDE ELEVATION	11.15.11
7	BASEMENT PLAN	11.15.11
8	SECTION A-A	11.15.11
9	SECTION B-B	11.15.11
10	SECTION C-C	11.15.11
11	SECTION D-D	11.15.11
12	SECTION E-E	11.15.11
13	SECTION F-F	11.15.11
14	SECTION G-G	11.15.11
15	SECTION H-H	11.15.11
16	SECTION I-I	11.15.11
17	SECTION J-J	11.15.11
18	SECTION K-K	11.15.11
19	SECTION L-L	11.15.11
20	SECTION M-M	11.15.11
21	SECTION N-N	11.15.11
22	SECTION O-O	11.15.11
23	SECTION P-P	11.15.11
24	SECTION Q-Q	11.15.11
25	SECTION R-R	11.15.11
26	SECTION S-S	11.15.11
27	SECTION T-T	11.15.11
28	SECTION U-U	11.15.11
29	SECTION V-V	11.15.11
30	SECTION W-W	11.15.11
31	SECTION X-X	11.15.11
32	SECTION Y-Y	11.15.11
33	SECTION Z-Z	11.15.11





## PROFFERS

RZ/FDP 2004-SP-027

RANDOLPH J. BENDER

November 10, 2005

Pursuant to Section 15.2-2303(A) of the Code of Virginia, 1950, as amended, upon approval by the Board of Supervisors of rezoning application RZ/FDP 2004-SP-027 to rezone the property identified on the Fairfax County Tax Map as 56-1((1))46 and 56-1((7))1A (hereinafter referred to as the "Subject Property") from the R-1, C-8, and WS Districts to the PDH-2 and WS Districts, to permit the development of 16 single-family detached units in accordance with the provisions of the PDH-2 and WS Districts and the CDP/FDP (hereinafter defined), the undersigned hereby proffers the following conditions:

### I. GENERAL

1. **Definition.** Each reference to "Applicant" in this proffer will include within its meaning, and will be binding upon, Applicant, owner and/or their successor(s) in interest and/or the developer(s) of the Subject Property or any portion thereof.
2. **Substantial Conformance.** Development of the Subject Property will be in substantial conformance with the Conceptual Development Plan/Final Development Plan ("CDP/FDP"), which consists of nine (9) sheets, prepared by BC Consultants, and dated June 24, 2004, as revised through April 12, 2005.
3. **Minor Modifications.** Minor Modification(s) from what is shown on the CDP/FDP and set forth in these Proffers shall be permitted pursuant to Sections 16-403 of the Fairfax County Zoning Ordinance ("Ordinance").
4. **Homeowners' Association.** The Applicant will establish a separate Homeowners' Association ("HOA") for the proposed development to own, manage, and maintain the open space and all other community-owned land and improvements. Prior to entering into a contract of sale, prospective purchasers of houses shall be notified in writing by the Applicant of the maintenance responsibilities of the Subject Property and said purchasers shall be required to acknowledge receipt of this information in writing; this information shall be included in the HOA documents.
5. **Dwelling Units.** The number of dwelling units shall not exceed sixteen (16) single-family detached dwellings. Each dwelling unit shall have a two-car garage and minimum driveway length of 18 feet from the inside of the sidewalk to the garage door. Any conversion of garages that precludes the parking of vehicles within garages 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 HOA, which shall be established, and the Board of Supervisors. Prospective purchasers shall be advised of the use restriction, in writing, prior to entering into a contract of sale; this information shall be included in the HOA documents.

6. Community Signage. Applicant reserves the right to construct an entry feature including community identification within the open space area along the Lee Highway frontage as shown on Sheet six (6) of the CDP/FDP. The general design of such entrance feature shall be in substantial conformance with the illustrative elevations and building materials attached as Sheet six (6) of the CDP/FDP, as determined by the Department of Public Works and Environmental Services ("DPWES") and shall be in a location and of a size and height that complies with Article 12 of the Zoning Ordinance, unless a greater height is approved by a variance to the limitation on fence height per Par. 8 of Sect. 16-401.
7. Escalation. All monetary contributions required by these proffers shall be adjusted upward or downward based on changes to the Marshall and Swift Building Cost Estimate occurring subsequent to the date of rezoning approval and up to the date of payment.
8. Encroachment of Decks and Similar Appurtenance. Notwithstanding the "lot typical" generally described on the CDP/FDP, decks, bay windows, patios and mechanical equipment may encroach into peripheral minimum yards as permitted by Section 2-412 and/or Article 10 of the Zoning Ordinance.
9. Architectural Design. The general design and architecture of the approved units shall be in substantial conformance with the illustrative elevations and building materials attached as Sheet two (2) of the CDP/FDP, as determined by DPWES. The illustrative architectural rendering as shown on Sheet two (2) of the CDP/FDP is provided to illustrate the design intent of the proposed units. The building elevations shall be generally consistent in terms of character and quality with the illustration, and the materials on the exterior of the units will consist of masonry on not less than three sides and either masonry or cementitious siding on the rear elevation. The specific features, such as the exact location of windows, doors, shutter and roofline, number of stories and other architectural details are subject to modification with final engineering and architectural design.
10. Amenity Design. The entry and pocket park area shall include landscaping, seating areas and site amenities as generally illustrated on Sheet five (5) of the CDP/FDP. The design of the entry and pocket park area is subject to minor modifications by final engineering in accordance with Sect. 16-403 of the Zoning Ordinance.

## II. ENVIRONMENTAL

11. **Tree Preservation Area.** The Applicant shall submit a tree preservation plan as part of the first and all subsequent subdivision plan submissions. The tree 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 Urban Forest Management. The tree preservation plan shall be prepared in consultation with the design professional preparing the full plan set information. 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 10 inches in diameter and greater within 20 feet to either side of the limits of clearing and grading shown on the CDP/FDP for the entire site. The tree preservation plan shall provide relevant information on individual trees and specify protection measures and activities to enhance their survivability for the future project. The tree preservation plan shall provide for the preservation of those areas shown for tree preservation and those areas outside of the limits of clearing and grading shown on the CDP/FDP, and other 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 trees identified to be preserved, such as: crown pruning, root pruning, mulching, fertilization, and others as necessary, shall be included in the plan.
12. **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 an Urban Forest Management representative to determine where minor adjustments to the clearing limits can be made to increase the survivability of trees at the edge of the limits of clearing and grading. The limits of clearing and grading shall be modified to reflect such adjustments. Any tree that is designated for removal at the edge of the limits of clearing and grading shall be removed using a chain saw to avoid damage to surrounding trees. If a stump must be removed, this shall be done using a stump-grinding machine in a manner causing as little disturbance as possible to the adjacent trees.
13. **Tree Protection Fencing.** All trees shown to be preserved on the tree preservation plan shall be protected by tree protection fence. Tree protection fencing consisting of four foot high, 14 gauge fence attached to 6 foot steel posts driven 18 inches into the ground and placed no further than 6 feet apart, shall be erected at the limits of clearing and grading as shown on the demolition and phase I & II erosion and sediment control sheets for the entire site as may be modified by Proffer 12 above. Methods to preserve existing trees may include, but not be limited to, the following: use of super silt fence, welded

protection fence, root pruning and mulching. All tree protection fencing shall be installed prior to any clearing and grading activities, including the demolition of any existing structures. The installation of all tree protection fencing shall be performed under the supervision of a certified arborist. Three days prior to the commencement of any clearing, grading, or demolition activities, but subsequent to the installation of the tree protection devices, Urban Forest Management and the District Supervisor shall be notified and given the opportunity to inspect the site to assure that all tree protection devices have been correctly installed. If not correctly installed, no further activity shall occur until the devices are installed correctly. Notwithstanding the foregoing, the use of any specific protection measures or methods within the water line easement on the western boundary of the Subject Property is subject to approval of the Fairfax County Water Authority.

14. Demolition of Existing Structures: The demolition of existing features and structures shall be conducted in a manner that does not impact on individual trees or groups of trees that are to be preserved as reviewed and approved by Urban Forest Management.
15. Site Monitoring: During any clearing or tree/vegetation/structure removal on the Subject Property, a representative of the Applicant shall be present to monitor the process and ensure that the tree protection fencing remains in place and the trees protected by said fencing are preserved. 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. The monitoring schedule shall be described and detailed in the tree preservation plan, and reviewed and approved by Urban Forest Management.
16. Stormwater Management Facilities and Best Management Practices. Stormwater Management (SWM) and Best Management Practice (BMP) shall be provided in accordance with the Public Facilities Manual (PFM) requirements as determined by DPWES. The Applicant intends to request a waiver of the SWM/BMP requirements from DPWES to permit a diversion of surface waters from the natural drainage divide and thereby eliminate the southernmost SWM/BMP pond depicted on the Alternate Plan at Sheet four (4) of the CDP/FDP. If such waiver is obtained, Applicant shall provide the SWM/BMP pond depicted on Sheet one (1) of the CDP/FDP; if it is not obtained, Applicant shall provide the SWM/BMP pond depicted on the Alternate Plan at Sheet four (4) of the CDP/FDP. If required, stormwater management and BMPs will be provided in a stormwater management pond with extended drawdown time. Other measures, including innovative BMPs, may be utilized as supplemental designs. In the event the southernmost SWM/BMP pond is not waived, LID measures, i.e., a vegetative swale, rain garden and/or filter strip, will be used within open space areas in the northern portion of the site as necessary to meet BMP requirements, subject to approval by DPWES and Urban Forest Management.

17. **Stormwater Management Pond Landscaping.** In order to restore a natural appearance to the proposed stormwater management pond, the landscape plan submitted as part of the first submission of the subdivision plan shall show the restrictive planting easement for the pond and the maximum feasible amount of landscaping that will be allowed in the planting areas of the pond outside of that restrictive planting easement, in keeping with the planting policies of Fairfax County and the Applicant shall install said landscaping in accordance with said plan, subject to DPWES and Urban Forest Management approval.
18. **Conservation Area.** The Conservation Area at the southern end of the site depicted on the CDP/FDP will be preserved as undisturbed open space and no structures or fencing will be constructed on it. In the event the waivers as noted in Proffer 16 above for the southernmost SWM/BMP pond depicted on the Alternate Plan at Sheet four (4) of the CDP/FDP are obtained, the area of the facility as shown on the CDP/FDP shall remain undisturbed. If not, the area of the facility will be disturbed to construct said facility. Additional tree save at the northern end of the site is depicted on the CDP/FDP.
19. **Limits of Clearing and Grading.** An undisturbed buffer shall be provided along the proposed limits of clearing and grading along the eastern and western property boundaries, of varying width as depicted on Sheet 1, 3, and 4 of 9 of the CDP/FDP, to protect adjacent off-site trees. The Applicant shall conform to the limits of clearing and grading as shown on the CDP/FDP subject to the installation of necessary utilities, as determined necessary by the Director of DPWES. If it is determined necessary to install utilities within of the limits of clearing and grading as shown on the CDP/FDP, they shall be located in the least disruptive manner necessary as determined by Urban Forest Management. A replanting plan shall be developed and implemented, subject to approval by Urban Forest Management, for any areas within the limits of clearing and grading that must be disturbed.
20. **Landscaping.** The Applicant shall submit a detailed landscaping plan as part of the first and all subsequent subdivision plan submissions that is in substantial conformance with the location, quality and quantity of the landscaping shown on the CDP/FDP and these proffers. Notwithstanding the foregoing, the location of the street trees as shown on the CDP/FDP, to the extent within the right-of-way or shared utility easement areas, is subject to the approval of VDOT and utility companies, whose approval shall be diligently pursued; and in the event such approval is not granted, Applicant shall move the street trees to the area immediately behind the shared utility easement, as approved by Urban Forest Management. The landscaping plan shall utilize a variety of tree species of various sizes planted throughout the site. The native species may include, but are not limited to, white oak, red maple, red oak, American holly, American beech, willow oak, dogwood and others. Pursuant to the PFM, the Applicant shall receive additional tree cover credit if native and desirable trees comprise a minimum of 90% of all trees listed on site. The Applicant shall also receive additional tree cover credit for utilizing tree species and planting locations that are effective for energy conservation as

determined by DPWES. If, during the process of subdivision plan review, any new landscaping shown on the CDP/FDP cannot be installed in order to locate utility lines, trails, etc., as determined necessary by Urban Forest Management, then an area of additional landscaping consisting of trees and/or plant material of a type and size generally consistent with that displaced, shall be substituted at an alternate location on the Subject Property, subject to approval by Urban Forest Management.

Prior to the issuance of the first residential use permit, the Applicant shall construct a berm along the Subject Property's Lee Highway frontage and, subject to the provisions of Paragraph 29 hereinbelow, along the Lee Highway frontage on Tax Map 56-1 parcel 44 located to the east of the Subject Property. Such berming shall be constructed in substantial conformance with the berm detail shown on Sheet five (5) of the CDP/FDP; provided, however, that the Applicant reserves the right to change the configuration of the berm in order to maximize the preservation of quality trees identified on the tree preservation plan to be preserved, and to eliminate the landscaping shown on the CDP/FDP where tree save occurs. Landscaping on the berm shall be installed during the next appropriate planting season as determined by Urban Forest Management.

21. Tree Preservation Bond. At the time of subdivision plan approval, the Applicant shall post a cash bond or a letter of credit payable to the County of Fairfax, in form approved by the County Attorney, to ensure removal and replacement of any on-site, co-owned or off-site trees designated on the tree preservation plan for preservation that are left dead, dying, or hazardous as a result of normal (as approved) construction activities under the approved plan. As part of the tree preservation plan, the Applicant's certified arborist shall identify trees to be preserved and determine the replacement value of each designated tree according to the methods contained in the latest edition of the Valuation of Landscape Trees, Shrubs and Other Plants published by the International Society of Arboriculture, taking into account size and species, subject to review and approval by Urban Forest Management prior to posting the cash bond or letter of credit. The cash bond or letter of credit shall be in an amount equal to the sum of the assigned replacement values of the designated trees. Such bond or letter of credit shall be in addition to any conservation escrow that is required at the time of subdivision plan approval, and shall not be used for the removal of the dead/dying trees normally required by Urban Forest Management. If, at the time of final bond release, trees designated to be preserved on the tree preservation plan are found to be dead or dying by Urban Forest Management, DPWES, the cash bond or letter of credit shall be used as necessary to plant a replacement of similar size and species, or species appropriate to the site, in consultation with Urban Forest Management and the Applicant's certified arborist; provided, however, that any trees designated to be preserved on the tree preservation plan that die or are dying due to construction activities not permitted on the approved plan shall be replaced with trees of similar species and size, and the bond monies for said trees shall not be refunded. Any funds remaining in the letter of credit or cash bond will be released one year from the date of release of the project's conservation escrow, or

sooner, if approved by Urban Forest Management. Notwithstanding anything to the contrary contained herein, in no event shall the bond include the value of trees within the water line easement on the western boundary of the Subject Property, nor shall Applicant be required to replace any trees within such water line easement.

22. Noise Attenuation. In order to reduce interior noise to a level of approximately DNL 45 dBA, units within a highway noise impact zone of DNL 65-70 dBA at 370 feet from the centerline of Route 29 (Lots 1,2, 3 and 16 or Lots 1-3 and 14-16 of the alternate plan as shown on the CDP/FDP) shall employ the following acoustical treatment measures:

i. Exterior walls shall have a laboratory sound transmission class (STC) rating of at least 39.

ii. Doors and glazing shall have a laboratory STC rating of at least 28 unless glazing constitutes more than 20 percent of any façade expose to noise levels of DNL 65 dBA or above. If glazing constitutes more than 20 percent of an exposed façade, then the glazing shall have an STC rating of at least 39.

iii. All surfaces shall be sealed and caulked in accordance with methods approved by the American Society of Testing and Materials (ASTM) to minimize sound transmission.

In order to reduce exterior noise levels below DNL 65 dBA, noise attenuation structures such as acoustical fencing, walls, earthen-berms, or combination thereof shall be provided for unscreened common and private outdoor recreational areas. If acoustical fencing or walls are used, they shall be architecturally solid from the ground up with no gaps or openings. The structure must be of sufficient height within the maximum limitations permitted by the Zoning Ordinance to adequately shield the impact area from the source of the noise.

As an alternative to the above, the Applicant may, prior to subdivision plan approval, elect to have an acoustical analysis performed subject to approval by DPWES, in coordination with Environmental and Design Review Branch, DPWES, to verify or amend the noise levels and impact areas as set forth above, and/or to determine which units may have sufficient shielding to permit a reduction in the mitigation measures prescribed above or which may include alternative measures to mitigate noise impact on the side. The noise affected units shall be indicated on the subdivision plan.

23. Energy Conservation. All homes on the Subject 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.

24. Lighting. All lighting shall be in conformance with Part 9, Article 14 of the Zoning Ordinance.
25. Utilities. All utilities on the Subject Property will be installed underground.

### III. TRANSPORTATION

26. Right-of-Way Dedication. At the time of subdivision plat approval or upon demand from the Virginia Department of Transportation or DPWES, whichever occurs first, the Applicant shall dedicate in fee simple to the Board, a right-of-way along the Subject Property's Lee Highway frontage as shown on the CDP/FDP.
27. Service Drive. Prior to the issuance of the first residential use permit, the Applicant shall construct a service drive along the Subject Property's Lee Highway frontage and, subject to the provisions of Paragraph 29 hereinbelow, along the Lee Highway frontage on Tax Map 56-1 parcel 44 located to the east of the Subject Property, as depicted on the CDP/FDP.
28. Trail Extension. Prior to final bond release, the Applicant shall construct a 10-foot wide trail within dedicated right-of-way along the Subject Property's Lee Highway frontage as shown on the CDP/FDP and, subject to the provisions of 29 hereinbelow, along the Lee Highway frontage on Tax Map 56-1 parcel 44 located to the east of the Subject Property.
29. Off-Site Right-of-Way Easements. In order to implement the above described service drive and trail improvements, (herein the "Improvements"), the Applicant shall diligently pursue acquisition of any necessary off-site right-of-way and/or temporary or permanent easements for construction of the Improvements. If the Applicant is unable to acquire the right-of-way and/or temporary or permanent easements necessary for the Improvements at fair market value, the Applicant shall request Fairfax County to acquire the necessary right-of-way and/or temporary or permanent easements through its powers of eminent domain, at the Applicant's expense. The Applicant's request will not be considered until it has been forwarded, in writing, to the Director of Property Management accompanied by:
  - (a) Plans and profiles showing the necessary right-of-way and/or temporary or permanent easements;
  - (b) An independent appraisal, by an appraiser who is not employed by the County, of the value of the land taken and damages, if any, to the residue of the affected property;
  - (c) A sixty (60) year title search certificate of the right-of-way and/or temporary or permanent easements to be acquired; and
  - (d) A Letter of Credit in an amount equal to the appraised value of the property

to be acquired and of all damages to the residue which can be drawn upon by Fairfax County. It is understood that in the event the property owner of the right-of-way and/or temporary or permanent easements to be acquired is awarded more than the appraised value of the property and of the damages to the residue in a condemnation suit, the amount of the award shall be paid to Fairfax County by the Applicant within five (5) days after said award has become final. It is further understood that all other costs incurred by Fairfax County in acquiring the right-of-way and/or temporary or permanent easements shall be paid to Fairfax County by the Applicant upon demand.

In the event condemnation of right-of-way and/or temporary or permanent easements is required, such condemnation shall not serve to delay approval of the subdivision plan, provided that any improvement whose contribution is impeded by the unavailability of right-of-way or easement shall be bonded in a form and amount acceptable to the County. To ensure that condemnation proceedings, if any, for right-of-way and/or temporary or permanent easements do not serve to delay approval of the subdivision plan, the Applicant may, at its discretion, submit plans for the Improvements separately from the subdivision plan, in which case approval of the subdivision plan shall not be contingent upon approval of plans for the Improvements; provided, however, that any improvement whose contribution is impeded by the unavailability of right-of-way or easements shall be bonded in a form and amount acceptable to the County.

In the event the County is successful in acquiring the off-site right-of-way and/or temporary or permanent easements necessary to fully complete any or all of the Improvements, the Applicant shall construct the Improvement(s) for which right-of-way and/or temporary or permanent easements are available. It is expressly understood that in the event the County abandons efforts to or does not acquire the aforesaid right-of-way and/or temporary or permanent easements by means of its condemnation powers within one (1) year of the Applicant's written request, the Applicant shall be relieved of any responsibility under these proffers to construct any off-site portion of the aforesaid Improvement(s) specifically affected by the unavailability of the right-of-way or associated easements and any bonds held by the County for such Improvement(s) shall be released, provided that the Applicant shall escrow funds with the County sufficient for the construction of the Improvement(s) not constructed pursuant to this condition. The amount of such escrowed funds will be determined by the Applicant and approved by the County.

30. Interparcel Access. At the time of subdivision plan approval, the Applicant shall dedicate in fee simple at no cost, the fifty-one (51) foot wide outlot located at the terminus of the cul de sac to the Fairfax County Board of Supervisors for a possible public connection to and from the west, along with ancillary temporary grading and construction easements for the future construction of the public street segment. The dedication of the outlot for interparcel access shall be disclosed in writing to all initial

purchasers and within the HOA documents. The Applicant shall provide and post a sign at the temporary cul-de-sac informing the public that the cul-de-sac is temporary and the road is subject to continuation in the future. The sign shall be located so as to be clearly visible to drivers and pedestrians entering the cul-de-sac bulb. The sign shall be in place prior to the issuance of the first residential use permit. The sign shall be maintained by the developer until bond release, or until the roadway is accepted into the VDOT system for maintenance and operations, whichever occurs first, after which the sign shall be maintained by Fairfax County. Prior to entering into a contract of sale, prospective purchasers of houses shall be notified in writing by the Applicant that the cul-de-sac is temporary and that the road is subject to continuation in the future. Said purchaser shall be required to acknowledge receipt of this information in writing; and this information shall be included in the HOA documents.

31. Third Lane Escrow. The Applicant shall, at the time of subdivision plan approval, escrow funds in an amount to be determined by DPWES, not to exceed \$100,000, for the future construction of a third lane for eastbound Lee Highway along the frontage of the Subject Property, less all costs associated with the relocation of the traffic signal pole and other utilities in the area of the third lane.
32. Fairfax Center Area Road Fund. The Applicant shall contribute to the Fairfax Center Area Road Fund in accordance with the "Procedural Guidelines" adopted by the Board on November 22, 1982, as amended, subject to credits for any creditable expenses, as determined by the FCDOT and DPWES.

#### IV. RECREATION

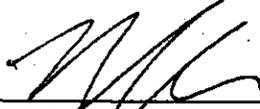
33. Parks and Recreation. Pursuant to Section 6-409 of the Zoning Ordinance regarding developed recreational facilities, the Applicant shall provide the recreational facilities to serve the Subject Property. Per Section 6-409, recreational facilities such as tot lots, fitness courses, gazebos, playgrounds, and recreational trails may be used to fulfill this requirement. Any proposed construction of active recreation facilities shall be completed prior to final bond release. At the time of subdivision plan review, the Applicant shall demonstrate that the value of any proposed recreational amenities is equivalent to a minimum of \$955.00 per unit as required by Article 6 of the Zoning Ordinance. In the event it is demonstrated that the proposed facilities do not have sufficient value, the Applicant shall have the option to: (1) provide additional on-site recreational amenities within the open space areas shown on the Plan, if it is determined that the location would be in substantial conformance with the CDP/FDP; and/or (2) contribute funds in an amount to total \$955.00 per unit to the Fairfax County Park Authority for Popes Head Estates Park.
34. Park Authority Contributions. Prior to subdivision plan approval, in addition to Proffer 33 above, the Applicant shall contribute \$14,310.00 to the Fairfax County Park Authority

for the development of active recreational facilities at the Popes Head Estates Park.

#### V. OTHER

35. School Contribution. Prior to the issuance of the first building permit, the Applicant shall contribute \$30,000 to the Board of Supervisors to be utilized for the provision of capital facilities within the Fairfax County School Board's pyramid of schools serving this development. In the event that the approved final subdivision plan yields less than 16 units, this contribution amount shall be reduced proportionately based upon a ratio of 16 units to \$30,000.
36. Housing Trust Fund Contribution. The Applicant will contribute to the Fairfax County Housing Trust Fund an amount equal to 0.5% of the sales value of all of the units approved on the Subject Property, as determined by the Department of Housing and Community Development. Said contribution shall be made payable to the Fairfax County Board of Supervisors at the time of issuance of the first building permit.
37. 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 Subject Property. Furthermore, the Applicant and every builder shall direct its agents and employees involved in the marketing and sale of the residential units on the Subject Property to adhere to this proffer.
38. Heritage Resources. Prior to any land disturbing activities on the Subject Property, Applicant shall conduct a Phase I archaeological study on those areas of the Subject Property identified by the Heritage Resources Branch of the Fairfax County Park Authority ("Heritage Resources") and provide the results of such study to Heritage Resources. The study shall be conducted by a qualified archaeological professional approved by Heritage Resources, and shall be reviewed and approved by Heritage Resources. The study shall be completed prior to subdivision plat recordation. If the Phase I study concludes that significant artifacts are present on the Subject Property, Heritage Resources shall notify Applicant, in writing within thirty (30) days of the submission of the study results to Heritage Resources that additional investigations are warranted. The Applicant shall then conduct Phase II and Phase III archaeological studies, if determined necessary by Heritage Resources.

These proffers may be executed in counterparts and the counterparts shall constitute one and the same proffer statement.



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Randolph J. Bender, Applicant/  
Contract Purchaser



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Nassir Ansary, Owner