PROFFERS

Christopher Management, Inc.
RZ 2003-BR-012

September 30, 2003

Pursuant to Section 15.2-2303(a) of the Code of Virginia, 1950, as amended, the property owners ("Owners") and the applicant ("Applicant") in this rezoning proffer that the development of the parcel under consideration and shown on the Fairfax County Tax Maps as Tax Map Reference No. 57-1-((1))-3, 4, 5, 6, 7 and a portion of an existing outlet road (hereinafter referred to as the "Property") will be in accordance with the following conditions if, and only if, said Rezoning request for the PDH-4 District is granted. In the event said application request is denied, these proffers shall be null and void. The Owners and the Applicant, for themselves, their successors and assigns, agree that these proffers shall be binding on the future development of the Property unless modified, waived or rescinded in the future by the Board of Supervisors of Fairfax County, Virginia, in accordance with applicable County and State statutory procedures. The proffered conditions are:

I. GENERAL

1. Subject to the proffers and the provisions of Article 16 of the Zoning Ordinance, under which minor modifications to an approved development plan are permitted, the development shall be in substantial conformance with the Conceptual Development Plan/Final Development Plan ("CDP/FDP"), containing eight (8) sheets prepared by Urban Engineering, dated November 2002, and revised through September 22, 2003.

2. The development shall consist of a maximum of twenty-five (25) single family detached residential units. The size, configuration and orientation of units shown on the CDP/FDP is subject to change, as permitted by Paragraph 4 of Section 16-403 of the Ordinance, based on final engineering and the requirements of these proffers.

3. The general design and architecture of the approved units shall be in substantial conformance with the general bulk, style, quality and proportion of materials described on the architectural elevations contained on Sheet 7 of the CDP/FDP. Materials used on the exterior facades shall include brick and/or stone on a portion of the front facade.

4. Any rear or side facade visible from Rust Road (Units 4, 11, 20-25) shall be designed with types and general proportions of building materials and architectural elements (to include shutters) that are consistent with that used on the front facade.

5. At the time of record plat approval, the Applicant shall establish a Homeowners Association ("HOA") for the purpose of establishing the necessary residential covenants governing the design and operation of the approved development and to provide a mechanism for ensuring the ability to complete certain maintenance obligations for open space areas and as otherwise required by these proffer conditions. Any conversion of garages that will preclude the parking of vehicles within the garage is prohibited. A covenant setting forth this restriction shall be incorporated in the HOA documents and 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 and the Board of Supervisors. Prospective purchasers shall be advised of this use restriction prior to the time of entering into a contract of sale.

6. The Applicant reserves the right to install privacy and/or decorative fences at the periphery of any individual lot. The height of such fences shall comply with the lot typicals on the CDP/FDP..

II. TRANSPORTATION

7. The private streets shown on the CDP/FDP that provide access from the approved lots to Rust Road shall be designed to TS1 standards as determined appropriate by the Fairfax County Department of Public Works and Environmental Services ("DPWES"), and shall be maintained by the HOA. Such maintenance obligations shall be disclosed in the appropriate HOA documents and prospective purchasers shall be advised of the existence of the easement , described in Proffer 8 below, and the associated maintenance obligations prior to the time of entering into a Contract of Sale. The budget established within the initial HOA documents shall include a requirement for funds to be allocated specifically for the maintenance of the private streets. The Applicant shall provide the HOA with $3,500 to off-set potential future maintenance costs of private streets.

8. At the time of record plat approval for the approved development the Applicant shall record the public access easements necessary to provide pedestrian and vehicular access to the Fairfax Villa Park south of the Property. Such pedestrian and vehicular access shall be via the private street and associated sidewalk generally located along the southern boundary of the application property, as shown on the CDP/FDP. The existence of such public access easements shall be disclosed within the HOA documents and to prospective purchasers prior to entering into a Contract of Sale.

9. The Applicant shall contribute to the Fairfax Center Road Fund in accordance with the "Procedural Guidelines" adopted by the Board of Supervisors (the "Board") on November 22, 1982, as amended, subject to credit for all creditable expenses, as determined by the Fairfax County Office of Transportation and the Fairfax County Department of Public Works and Environmental Services.

10. The Applicant shall provide a pedestrian connection from the application property to the existing sidewalk located on the west side of Rust Road generally north of the site.

III. ENVIRONMENTAL

11. Stormwater Management and Best Management Practices (BMPs) shall be provided in accordance with the PFM, as determined by DPWES. Subject to the review and approval by DPWES of a waiver of the requirements for on-site detention, and subject to execution of agreement with the owner of the adjacent Waples Mill Mobile Home Park property (Tax Map number 56-2 ((1)) 46), stormwater management and BMPs may be provided using an off-site stormwater management facility located on said Waples Mill Mobile Home Park property, in which case the area designated on the CDP/FDP as "SWM/BMP Facility" shall be maintained as landscaped open space. In the event the necessary waiver is not approved by DPWES or an agreement is not executed with the owner of the Waples Mill Mobile Home Park property, and/or at the Applicant's option, the Applicant may provide on-site Stormwater Management/BMPs as generally depicted on the CDP/FDP and as approved by DPWES. If an on-site facility is used, it shall be landscaped to the maximum extent possible, as determined by the Urban Forestry Division, in accordance with the planting policies of Fairfax County.

12. Subject to approval by DPWES, the Applicant shall incorporate the following Low Impact Development approaches:

- The creation of a more natural edge along private streets through the elimination of curbing and/or the installation of "rolled curbing" along portions of the internal streets, including those areas directly adjacent to the "Village Green" and those areas near or adjacent to any on-site SWM/BMP facilities;
- Directing roof drains and downspouts to vegetated areas to the extent practical;
- The incorporation of a perimeter vegetated buffer at the edge of any on-site stormwater pond.

To the extent any of the items described above impose additional private maintenance obligations on the HOA, the same shall be disclosed to prospective purchasers prior to entering into a contract of sale.

13. Landscaping shall be provided in substantial conformance with the landscaping concepts shown on the CDP/FDP and the requirements of these proffers. If, during the process of subdivision plan review, any new landscaping shown on the CDP/FDP or required by these proffers cannot be installed, in order to locate any utility lines, trails, etc., as determined necessary by the Director, DPWES, 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 alternative location on the site, as determined by the Urban Forestry Division. If it is determined necessary by DPWES to install utilities, trails or similar infrastructure outside the limits of clearing and

grading shown on the CDP/FDP, they shall be located in the least disruptive manner necessary as determined by the Urban Forestry Division. A replanting plan shall be developed and implemented, subject to approval by the Urban Forestry Division for any areas outside the limits of clearing and grading that must be disturbed for trail or utility purposes. To the extent practical, native species shall be used in all landscaped areas as determined by DPWES and the Urban Forestry Division.

14. The Applicant shall submit a tree preservation plan as part of the first and all subsequent subdivision plan submissions. The preservation plan shall be prepared by a professional with experience in the preparation of tree preservation plans, such as a certified arborist or landscape architect, and reviewed and approved by the Urban Forestry Division. The tree preservation plan shall consist of a tree survey which includes the location, species, size, crown spread and condition rating percentage of all trees shown on the CDP/FDP to be saved and all trees twelve (12) inches or greater in diameter, located within designated tree save areas, or within twenty (20) feet to either side of the limits of clearing and grading shown on the CDP/FDP. The tree survey shall also include areas of clearing and grading not shown on the CDP/FDP resulting from engineering requirements such as off-site clearing and grading for utilities or stormwater outfall. The condition analysis shall be prepared using methods outlined in the latest edition of The Guide for Plant Appraisal. Specific tree preservation activities designed to maximize the survivability of trees designated for preservation shall be provided. Activities may include, but are not limited to, crown pruning, root pruning, mulching, and fertilization.

All trees shown to be preserved on the tree preservation plan shall be protected by tree protection fencing. Tree protection fencing consisting of a four (4) foot high, fourteen (14) gauge welded wire fence, attached to six (6) foot steel posts, which are driven eighteen (18) inches into the ground and placed no further than ten (10) feet apart, shall be erected at the limits of clearing and grading as shown on the subdivision plan's Phase I and II erosion and sediment control sheets in all areas. 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, the Urban Forestry Division shall be notified and given the opportunity to inspect the site to assure that all tree protection devices have been correctly installed.

The tree protection fencing shall be made clearly visible to all construction personnel. The fencing shall be installed prior to any clearing and grading activities on the site, including the demolition of any existing structures.

15. The limits of clearing and grading shown on the CDP/FDP shall be maximum limits and shall be strictly adhered to except as permitted by this proffer. Before or during the required pre-construction meeting, the Applicant shall walk the limits of clearing and grading with a representative of the Urban Forestry Division 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. Trees that are not likely to survive construction due to their species, condition, and/or their proximity to disturbance shall also be identified at this time and the Applicant shall be given the option of removing them as part of the clearing operation. Any tree that is designated for removal at the edge of the limits of clearing and grading or within a tree preservation area

shall be removed using a chainsaw 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.

16. In an effort to allow existing vegetation of a size and type suitable for transplantation to be utilized for the screening and landscape concepts generally shown on the CDP/FDP, the Applicant shall provide a Transplanting Plan as part of the first and all subsequent site or subdivision plan submissions for review and approval by the Urban Forestry Division. The Plan shall be prepared by a professional with experience in the preparation of tree transplanting plans such as a certified arborist or landscape architect. To maximize the effectiveness of the Transplantation Plan, the Urban Forestry Division shall be invited to walk the property with the preparer of the Transplantation Plan prior to approval of the Plan. The Plan shall generally address the following items:

- The species and sizes to be transplanted
- The existing location of the trees
- The final location of the trees
- The proposed time of the year when the trees will be moved
- The transplant methods to be used
- Details regarding after transplant care, including mulching, watering and if necessary, support measures such as cabling or staking.

17. In addition to the landscaping shown on the CDP/FDP, at the time of subdivision plan approval, the required landscape plan shall incorporate additional evergreen and understory plantings of a type and amount determined feasible by the Urban Forestry Division along the southern property line in the area adjacent to the Park

Authority property.

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

19. If based on the soils analysis submitted as part of the subdivision approval process, DPWES determines that a potential health risk exists due to the presence and associated disturbance of asbestos-containing rock on the Property, the Applicant shall:

(a) Take appropriate measures as determined by the Fairfax County Health Department to alert all construction personnel as to the potential health risks.

(b) Commit to appropriate construction techniques as determined by the Fairfax County Health Department to minimize this risk. Such techniques may include, but shall not be limited to, dust suppression measures during all blasting and drilling activities and covered transportation of removed materials presenting this risk, and appropriate disposal.

20. In the event blasting is necessary, prior to any blasting occurring on the Subject Property, the Applicant shall:

(a) Insure that the Fairfax County Fire Marshal has reviewed the blasting plans prior to blasting;

(b) Follow all safety recommendations, including the use of blasting mats, made by the Fire Marshal;

(c) Determine the pre-blast conditions of nearby structures. Subject to receiving permission from the applicable property owners, the Applicant shall retain professional inspection consultants to perform a pre-blast survey of each house or

residential building, to the extent that any of these structures are located within two hundred fifty (250) feet of the blast site. In addition, the Applicant shall retain qualified inspection consultants approved by DPWES to do pre-blast and post-blast surveys of wells within five hundred (500) feet of the blasting site where access is granted by the property owner to implement this proffer (the "Inspected Wells"). The qualified inspectors shall check the flow rate for each of the Inspected Wells immediately before and immediately after blasting and conduct a pre-blast assessment of water quality, followed by a post-blast water quality assessment within two (2) months after blasting within five hundred (500) feet of the Inspected Wells. The results of these surveys shall be set forth in written survey summaries prepared by the inspection consultants for each house and the Inspected Wells, all as described above. Any nearby land owner that refuses to allow the pre and post blast surveys described herein shall be deemed to have affirmatively waived rights to any potential remediation available under these proffers.

(d) The Applicant's inspection consultants will be required to give a minimum of five (5) days written notice of the scheduling of each pre-blast survey;

(e) The professional inspection consultants shall place seismographic instruments prior to blasting to monitor the shock waves. These seismographic instruments will be placed at locations as determined by said consultants. The Applicant shall provide seismographic monitoring records to the Fire Marshal;

(f) Signs shall be placed at the property lines of the site prior to blasting advising of blasting activities;

(g) The Applicant shall notify in writing, residents within two hundred fifty (250) feet of the blast site, ten (10) days prior to blasting;

(h) Upon receipt of the Applicant of a claim of actual damage resulting from said blasting, the Applicant shall respond within five (5) days by meeting at the site of the alleged damage to confer with the property owner. Any verified claims for damage due to blasting shall be expeditiously resolved. With regard to verified claims, the Applicant shall have its professional inspection consultants prepare a written analysis of the damages and a proposed repair scheme within thirty (30) days of the meeting at the site. The property owner shall be given a copy of such report. If allowed by County or State regulations, the Applicant shall repair any damage to, or at its sole discretion, may replace any Inspected Well(s) determined by the inspector have been damaged as a result of blasting on the property, or the Applicant shall pay for hook-up of public water to serve any house whose well has been irreparably damaged by blasting on the property.

(i) The Applicant shall require in its contracts with blasting subcontractors that they maintain liability insurance for property damages in a commercial reasonable amount and that the blasting subcontractors are bonded. However, this provision shall not relieve the Applicant from potential liability; and

(j) The Applicant shall implement control measures as needed to prevent the unreasonable spreading of dust and other small debris beyond the boundaries of the property.

IV. AFFORDABLE HOUSING

21. At the time of, or prior to, issuance of the first Building Permit for the approved development, the Applicant shall contribute one half of one percent of the projected sales price of the new homes to the Housing Trust Fund. The final amount of

such contribution shall be determined by the Applicant in consultation with staff of the Department of Housing and Community Development.

V. OTHER

22. Concurrent with the initial submission of the subdivision plan, the Applicant shall work with Fairfax City and Fairfax County to identify and implement potential on or off-site improvements within the existing right-of-way to potentially improve the geometry and drainage conditions on Rust Road (a Fairfax City maintained road) in the vicinity of the application property. Such improvements may include one or more of the following: drainage improvements, improvements that better facilitate pedestrian movements and crossings, and potential changes in pavement width and/or configuration along the property frontage. Any such improvements shall be identified within ninety (90) days of the submission of the subdivision plan and shall not require the acquisition of additional right-of-way and off-site easements at additional cost to the Applicant beyond nominal consideration associated with any necessary deed or agreement. Should Fairfax City determine no such improvements are needed, this proffer shall be deemed fulfilled.

23. 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 marketing and sale of homes on the subject Property. Furthermore, the Applicant shall direct its agents and employees involved in marketing and/or sale of residential units on the subject Property to adhere to this proffer.

24. A contribution of $3,000.00 per unit or a total of $75,000 shall be made to the Board of Supervisors of Fairfax County for a specific fund designated for installing modular classroom facilities at Robinson High School. The contribution shall be made at the time of, or prior to, final subdivision plan approval.

25. At the time of subdivision plan approval, the Applicant shall demonstrate to the satisfaction of DPWES that the value of any proposed on-site recreational facilities have a value of $955.00 per unit or a total of $23,275.00 based on twenty-five (25) approved lots. In the event the on-site facilities are not of sufficient value to fulfill the requirements of this proffer, the Applicant shall make a contribution of equivalent value to the Fairfax County Park Authority to be used for Fairfax Villa Park as the Braddock District Park Authority appointee designates. This money can be used for park planning, design or equipment. If applicable, the required contribution shall be made at the time of subdivision plan approval for the approved development. In addition, the Applicant shall contribute the additional sum of $7,375 to the Park Authority to be allocated in accordance with the requirements of this proffer.

26. All driveways shall have a minimum length of 18 feet as measured from the face of curb, or edge of pavement, whichever is closer.

27. The entry feature shown on the CDP/FDP shall be designed with a type, quality and general proportion of materials that is complimentary to the design and architecture of the approved units or other structural amenities in the community as shown on the CDP/FDP.

VI. ARCHEOLOGICAL

27. The Property shall be the subject of a Phase I archeological survey

conducted in substantial conformance with the methodology identified in the April 19, 2003 memorandum. If warranted by the initial Phase I survey, subsequent Phase II and/or Phase III evolution and recovery shall occur with the scope of work of such potential Phase II and Phase III analyses being subject to review and approval by County Archeological Services. Should such evaluation and recovery efforts uncover any artifacts, such artifacts shall be offered to the County Archeological Services. The County Archeologist shall be notified three weeks prior to initial clearing and given the opportunity to conduct a field inspection within this three week period.

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

Title Owner
Fairfax County Tax Map 57-1 ((1)) 3

JEROME M. WOLGIN

By: _____
Jerome M. Wolgin

D. MEZZIE WOLGIN

By: _____
D. Mezzie Wolgin

Title Owner
Fairfax County Tax Map 57-1 ((1)) 4

FRANCES C. CALLAHAN

By: _____
Frances C. Callahan

Title Owner
Fairfax County Tax Map 57-1 ((1)) 5 and 6

RUSTU S. KALYONCU

By: _____
Rustu S. Kalyoncu

Title Owner
Fairfax County Tax Map 57-1 ((1)) 7

LARRY B. STONE

By: _____
Larry B. Stone

CAROL E. MARSH

By: Carol E. Marsh
Carol E. Marsh

Contract Purchaser
Fairfax County Tax Map 57-1 ((1)) 3 – 7

CHRISTOPHER MANAGEMENT, INC.

By: _____
Name: E. John Regan
Title: Vice President

PROPOSED DEVELOPMENT CONDITIONS

FDP 2003-BR-012

September 24, 2003

If it is the intent of the Planning Commission to approve Final Development Plan Application FDP 2003-BR-012 for residential development located at Tax Map 57-1 ((1)) 3-7 and a portion of a private outlet road, staff recommends that the Planning Commission condition the approval by requiring conformance with the following development conditions.

1. Development of the subject property shall be in conformance, as defined by Section 16-403 of the Zoning Ordinance, with the Final Development Plan (FDP) entitled "Rust Road Property", prepared by Urban Engineering & Assoc., Inc., and dated November 2002, as revised through September 22, 2003.

2. The entrance feature shown on Sheet 7 of the FDP shall be a maximum of 3 feet in height, shall not be lighted, and shall be landscaped with low-growing shrubs or flowers in front, medium-sized evergreens on the sides, and ornamental trees to the rear.

3. All street trees and large canopy trees which are installed on the site shall have a minimum caliper of 2 ½ to 3 inches, irrespective of the legend on Sheet 7 of the FDP.

4. All water service notes requested by the City of Fairfax in the memo contained in Appendix 6 of the staff report shall be included on the subdivision plan.