

## SUMMIT OAKS SECTION 2

### RZ 2011-MV-001 PROFFERS

June 7, 2011

Pursuant to Section 15.2-2303(a) of the Code of Virginia, 1950, as amended, the property owner who is the Applicant in this rezoning proffer that the development of the parcels under consideration and shown on the Fairfax County Tax Map as Tax Map Reference – 108-3-((1))-16A (hereinafter referred to as the “Property”) shall be in accordance with the following conditions if, and only if, said rezoning request for the PDH-3 District is granted by the Board of Supervisors of Fairfax County, Virginia (the “Board”). In the event said application request is denied or the Board’s approval is overturned by a court of competent jurisdiction, these proffers shall be null and void. The Owners and the Applicant (“Applicant”), for themselves, their successors and assigns, agree that if approved, these proffers shall supersede any and all previously approved proffers or conditions and shall be binding on the future development of the Property unless modified, waived or rescinded in the future by the Board, in accordance with applicable County and State statutory procedures. The proffered conditions are:

#### I. GENERAL

1. Substantial Conformance. 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/Final Development Plan (CDP/FDP), containing six (6) sheets prepared by Land Design Consultants, as revised through May 26, 2011.

2. Architecture. The architectural design of the dwellings shall be in substantial conformance with the bulk, mass and type and quality of materials and elevations shown on sheet 5 of the CDP/FDP. The primary building material for the fronts of the homes exclusive of trim shall be limited to brick, stone, shingles, other similar masonry materials. Secondary materials shall be permitted as accents. The sides and rears of the units 1 and 4-10 which are visible from Route 1 shall be brick faced and have matching façade treatments, such as siding material and shutters, with those of the front of the houses. The final architecture shall be subject to review and approval by the Fairfax County Architectural Review Board (ARB). It shall be further understood that the ARB process may dictate further modifications from that shown on Sheet 5 of the CDP/FDP.

3. Minor Modifications. Minor modifications from what is shown on the CDP/FDP and these Proffers, which may become occasioned as a part of final architectural and engineering design, may be permitted as determined by the Zoning Administrator in accordance with the provisions set forth in Article 16 of the Zoning Ordinance.

4. Lot Yield. The development shall consist of a maximum of thirty (30) single-family detached dwelling units.

5. Establishment of HOA. Prior to record plat approval, the Applicant shall establish a Homeowners Association (HOA) in accordance with Sect. 2-700 of the Zoning Ordinance for the purpose of, among other things, 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 the maintenance obligations and other provisions noted in these proffer conditions. The requirements of

this proffer may be fulfilled through an expansion of the HOA established to govern "Summit Oaks Section 1" located directly to the east of the Application property.

6. Dedication to HOA. At the time of record plat recordation, open space, common areas and amenities not otherwise conveyed or dedicated to the County shall be dedicated to the HOA and be maintained by the same.

7. Disclosure. Prior to entering into a contract of sale, prospective purchasers shall be notified in writing by the Applicants of the maintenance responsibility for the common area landscaping, stormwater management area and any other open space amenities and that the property is located within a Fairfax County Historic Overlay District and shall acknowledge receipt of this information in writing. The initial deeds of conveyance and HOA governing documents shall expressly contain these disclosures.

8. Escalation. All monetary contributions required by these proffers shall escalate on a yearly basis from the base year of 2011, and change effective each January 1 thereafter, based on the Consumer Price Index as published by the Bureau of Labor Statistics, the U.S. Department of Labor for the Washington-Baltimore, MD-VA-DC-WV Consolidated Metropolitan Statistical Area (the "CPI), as permitted by Virginia State Code Section 15.2-2303.3.

9. Garage Conversion. Any conversion of garages or use of garages that precludes the parking of vehicles within the garage is prohibited. A covenant setting forth this restriction shall be recorded among the land records of Fairfax County in a form approved by the County Attorney prior to the sale of any lots and shall run to the benefit of the HOA and the Board of Supervisors. This restriction shall also be disclosed in the

HOA documents. Prospective purchasers shall be advised of this use restriction, in writing, prior to entering into a contract of sale.

10. Length of Driveways. All driveways serving the residential single family units shall be a minimum of twenty feet (20') in length as measured outward from the face of the garage door to the property line.

11. Decks and Similar Appurtenances. Decks, bay windows, patios, chimneys, areaways, stairs and stoops, mechanical equipment and other similar appurtenances may encroach into minimum yards, as depicted on the "lot typical" contained on the CDP/FDP, as permitted by Section 2-412 and Article 10 of the Zoning Ordinance. The restrictions and limitations of this proffer shall be disclosed to purchasers prior to contract ratification and further disclosed in the homeowners association documents. In addition, all prospective purchasers shall be notified of the applicable County requirements as they pertain to matters of permitting and related construction requirements.

## **II. TRANSPORTATION**

12. Right-of-Way Dedication along Richmond Highway for Bike Lane. At the time of subdivision plan recordation, or upon demand by VDOT or Fairfax County, whichever occurs first, the Applicant shall dedicate, at no cost to Fairfax County and in fee simple without encumbrances to the Board, the right-of-way along the site frontage of Richmond Highway, as generally shown on the CDP/FDP to accommodate a future bike lane.

13. Bike Lane Striping. Prior to subdivision approval, the Applicant shall escrow funds for the re-striping of the highway segment fronting the subject property to facilitate creation of the on-road bike route.

## II. ENVIRONMENTAL

14. Stormwater Management Facilities and Best Management Practices. Stormwater management and BMP requirements, in accordance with PFM standards, shall be designed by the Applicant and approved by DPWES. Water quality controls that exceed the minimum shall be provided to improve water quality in the Pohick Creek Watershed. The stormwater management and water quality requirements for the proposed development shall be satisfied via existing off-site stormwater ponds and the preservation of undisturbed open space located on Tax Maps Parcels 108-3-((3))-b and 108-1-((19))-C. In this event, joint maintenance agreement between Sections 1 and 2 shall be executed prior to subdivision plan approval and discussed in the HOA documents for Section 2.

15. Landscaping. At the time of subdivision plan review, the Applicant shall submit to DPWES, a landscape plan showing landscaping consistent with the quality, quantity and general location shown on the Sheet 2 of the CDP/FDP. This plan shall be subject to review and approval of Urban Forestry Management, DPWES. At the time of planting, the minimum caliper for deciduous trees shall be two and one-half (2.5) inches to three (3) inches and the minimum height for evergreen trees shall be seven (7) feet. Actual types and species of vegetation shall be determined pursuant to more detailed landscape plans approved by Urban Forest Management at the time of subdivision plan approval. Maintenance responsibilities for the landscaping shall be disclosed in the

homeowners' association documents. It shall be further understood that the ARB process may dictate supplemental landscaping in addition to that shown on Sheet 2 of the CDP/FDP and that landscaping approved by the ARB is to be incorporated into the subdivision plan, subject to review and approval of the UFM, DPWES.

16. Off-Site Landscaping. Subject to obtaining permission, at no cost, from the property owner of Tax Map 108-1-((19))-C, Summit Oaks Section Association, Inc. the Applicant shall install off-site supplemental landscaping along the Route 1 frontage as shown on Exhibit A attached to these proffered conditions. Such permission shall be requested in writing prior to first submission of the Subdivision Plan. If an affirmative response is not obtained within 45 days of such written request or prior to subdivision plan approval, whichever is later, the Applicant shall escrow the funds for purchase and installation of such landscaping for use by the Section 2 HOA for future landscaping maintenance purposes and have no further obligation under this proffer. Should permission be obtained, the required off site landscaping shall be installed by the Applicant concurrently with similar on site landscaping provided along the Richmond Highway frontage. It shall be further understood that proposed landscaping is subject to review by the ARB and may dictate further modifications from that which are described on Exhibit A attached to these proffers and that landscaping approved by the ARB is to be incorporated into the subdivision plan.

17. Interior Noise. In order to reduce interior noise to a level of approximately DNL 45 dBA, lots 1 and 4-10 which are in the highway noise impact zone of DNL 65-70 dBA shall employ the following acoustical treatment measures:

- Exterior walls shall have a laboratory sound transmission class (STC) rating of at least 39.
- Doors and glazing shall have a laboratory STC rating of at least 28 unless glazing constitutes more than 20 percent of any façade exposed 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.
- 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.

18. Exterior Noise. All lots affected by highway noise above DNL 65 dBA shall be identified on the Subdivision Plan. At the time of Subdivision Plan approval, the Applicant shall demonstrate, through a noise study approved by DPWES, in coordination with the Environmental and Design Review Branch, and DPWES, that exterior noise levels for the lots 1 and 4-10 shall be reduced below DNL 65 dBA through the use of noise attenuation fencing. The acoustical fencing shall be architecturally solid from ground up with no gaps or openings and not exceed seven (7) feet.

#### IV. TREE PRESERVATION

19. Tree Preservation Plan. The Applicant shall submit a Tree Preservation Plan and Narrative as part of the first and all subsequent submissions of the subdivision plan review process. The preservation plan and narrative shall be prepared by a Certified Arborist or a Registered Consulting Arborist, and shall be subject to the review and approval of the Urban Forest Management Division, DPWES.

The tree preservation plan shall include a tree inventory that identifies the location, species, critical root zone, size, crown spread and condition analysis percentage rating for all individual trees to be preserved, as well as all on and off-site trees, living or dead with trunks 12 inches in diameter and greater (measured at 4 1/2 -feet from the base of the trunk or as otherwise allowed in the latest edition of the Guide for Plant Appraisal published by the International Society of Arboriculture) located within 10 feet of either side of the limits of clearing and grading as shown on sheet ten (10) of the CDP/FDP. 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 CDP/FDP and those additional areas in which trees can be preserved as a result of final engineering. The tree preservation plan and narrative shall include all items specified in PFM 12-0506 and 12-0508. Specific tree preservation activities that will maximize the survivability of any tree identified to be preserved, such as: crown pruning, root pruning along the limits of clearing (LOC), mulching, fertilization, installation of welded wire tree protection fencing and others as necessary, shall be included in the plan.

20. Tree Preservation Walk-Through. The Applicant shall retain the services of a certified arborist or registered consulting arborist, and shall have the limits of clearing and grading marked with a continuous line of flagging prior to the walk-through meeting as part of the tree preservation plan. During the tree preservation walk-through meeting which shall occur prior to the commencement of construction, the Applicant's certified arborist or registered consulting arborist shall walk the limits of clearing and grading with an UFMD, 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 understory 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 understory vegetation and soil conditions

21. Limits of Clearing and Grading. The Applicant shall conform strictly to the limits of clearing and grading as shown on the CDP/FDP, subject to allowances specified in these proffered conditions and for the installation of utilities or other similar infrastructure required by the County to meet PFM or Code requirements 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 CDP/FDP, they shall be located in the least disruptive manner necessary as determined by the UFMD, DPWES. A replanting plan shall be developed and implemented, subject to approval by the UFMD, DPWES, for any areas protected by the limits of clearing and grading that must be disturbed for such utilities.

22. Tree Preservation Fencing. All trees shown to be preserved on the tree preservation plan shall be protected by tree protection fence. Tree protection fencing in the form of four (4) foot high, fourteen (14) gauge welded wire attached to six (6) foot steel posts driven eighteen (18) inches into the ground and placed no further than ten (10) feet apart or, super silt fence 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 shall be erected at the limits of clearing and grading as shown on the demolition, and phase I & II erosion and sediment control sheets, as may be modified by the "Root Pruning" proffer below.

All tree protection fencing shall be installed after the tree preservation walk-through meeting but 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, and accomplished in a manner that does not harm existing vegetation that is to be preserved. Three (3) days prior to the commencement of any clearing, grading or demolition activities, but subsequent to the installation of the tree protection devices, the UFMD, DPWES, shall be notified and given the opportunity to inspect the site to ensure that all tree protection devices have been correctly installed. If it is determined that the fencing has not been installed correctly, no grading or construction activities shall occur until the fencing is installed correctly, as determined by the UFMD, DPWES.

23. Root Pruning. The Applicant shall root prune after the tree preservation walk-through, 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 UFMD, DPWES, accomplished in a manner that protects affected and adjacent vegetation to be preserved, and may include, but not be limited to the following:

- Root pruning shall be done with a trencher or vibratory plow to a depth of 18 inches.

- Root pruning shall take place prior to any clearing and grading, or demolition of structures.
- Root pruning shall be conducted with the supervision of a certified arborist.
- An UFMD, DPWES, representative shall be informed when all root pruning and tree protection fence installation is complete.

24. Site Monitoring. During any clearing or tree/vegetation/structure removal on the Applicant Property, a representative of the Applicant shall be present to monitor the process and ensure that the activities are conducted as proffered and as approved by the UFMD. The Applicant shall retain the services of a certified arborist or registered consulting arborist to monitor all construction and demolition work and tree preservation efforts in order to ensure conformance with all tree preservation proffers, and UFMD approvals. The monitoring schedule shall be described and detailed in the Landscaping and Tree Preservation Plan, and reviewed and approved by the UFMD, DPWES.

## V. RECREATION

25. Park Authority Contributions: The Applicant shall contribute \$77,691 to the Board of Supervisors for transfer to the Fairfax County Park Authority for use at off-site recreational facilities intended to serve the future residents, as determined by FCPA in consultation with the Supervisor for the Mount Vernon District. Such contribution shall be paid prior to the issuance of the first RUP.

26. 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 Application Property. Per Section 6-409, recreational facilities such as recreational trails, walking paths, excluding any trails required by the Comprehensive

Plan, and similar features may be used to fulfill this requirement. 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 \$1,600 per unit. In the event it is demonstrated that the proposed facilities do not have sufficient value, the Applicant shall contribute funds in the amount needed to achieve the overall proffered amount of \$1,600 per unit to the Fairfax County Park Authority ("FCPA") for off-site recreational facilities intended to serve the future residents, as determined by FCPA in consultation with the Supervisor for the Mount Vernon District.

27. Park Space. The area identified as "Proposed Passive Recreation Area" on sheet 2 of the CDP/FDP may be programmed with recreational amenities at the discretion of the homeowners association. The recreational amenities may include but are not limited to: additional landscaping, playground equipment, benches and street furniture.

## **VI. OTHER**

28. Temporary Signage. 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.

29. Affordable Dwelling Units. The Applicant shall contribute to the Fairfax County Housing Trust Fund the sum equal to one half of one percent (1/2 %) of the value of all the units approved on the property. The one half of one percent (1/2 %)

contribution shall be based on the aggregate sales price of all of the units subject to the contribution, as if those units were sold at the time of the issuance of the first Building Permit. The projected sales price shall be determined by the Applicant through an evaluation of the sales prices of comparable units in the area, in consultation with the Fairfax County Department of Housing and Community Development (HCD) and DPWES. Such payment shall be made on a pro-rata basis at the time of issuance of a Building Permit for each approved unit.

30. Archaeological Study. Prior to any land disturbing activities on the Application Property, the Applicant shall conduct a Phase I archaeological study on those areas of the Application Property identified by the Cultural Resource Management and Protection Section ("CRMPS") of the Fairfax County Park Authority and provide the results of such study to CRMPS. The study shall be conducted by a qualified archaeological professional approved by CRMPS, and shall be reviewed and approved by CRMPS. The study shall be completed prior to Record Plat recordation. If the Phase I study concludes that significant artifacts are present on the Application Property, CRMPS shall notify Applicant, in writing within thirty (30) days of the submission of the study results to CRMPS, of its desire to conduct additional investigations. If warranted by the initial Phase I survey, as determined by CRMPS, subsequent Phase II and/or Phase III evaluation 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 CRMPS. Such Phase II and Phase III evaluation if applicable, shall not be a pre-condition of subdivision plan approval. Applicant shall provide access to the Application Property so that CRMPS may conduct additional investigations for a period of two (2) months from the date of

notification provided that said investigations shall not interfere with the proposed construction and development schedule of the Application Property or affect the number of lots or lot layout as shown on the CDP/FDP. Additional time may be permitted to conduct such investigations if mutually agreed to by the Applicant and CRMPS.

31. Universal Design. At the time of initial purchase, the following Universal Design options shall be offered to each purchaser at no additional cost: clear knee space under sink in kitchen, lever door handles instead of knobs, light switches 44"-48" high, thermostats a maximum of 48" high, and/or electrical outlets a minimum of 18" high.

At the time of initial purchase, additional Universal Design options shall be offered to each purchaser at the purchaser's sole cost. These additional options may include, but not be limited to, one no-step pathway into the house, 36-inch-wide doorways and/or zero-threshold doorways

32. Energy Conservation. All new dwelling units shall be designed and constructed as ENERGY STAR® qualified homes. The major features of an ENERGY STAR home include: Effective Insulation, High Performance Windows, Tight Construction and Ducts, Efficient Heating and Cooling Equipment, Efficient Products (may include but are not limited to: refrigerator, stove and dishwasher) and Third Party Verification (Home Energy Rater). Within thirty (30) days of issuance of the Residential use Permit (RUP) for each dwelling unit, documentation shall be submitted to the Environment and Development Review Branch of the Department of Planning and Zoning (DPA) from a home energy rater certified through the Residential Energy Services network (RESNET) program that demonstrates that the dwelling unit has attained the ENERGY STAR for homes certification, as described in these conditions.

33. School Contribution. A contribution of \$50,000.00 shall be made to the Board of Supervisors for transfer to Fairfax County Public Schools and designated for capital improvements for schools serving the area. The contribution shall be made at the time of, or prior to, issuance of the first Building Permit for the approved units.

34. Successors and Assigns. Each reference to "Applicant" in this Proffer Statement shall include within its meaning, and shall be binding upon, Applicant's successor(s) in interest, assigns, and/or developer(s) of the Property or any portion of the Property.

Trustees of Engleside Baptist Church

Owner of Tax Map No. 108-3-((1))-16A

By: David O. Zimmerman  
Name: David O. Zimmerman  
Title: Trustee  
6-22-11

By: William E. Martin  
Name: William E. Martin  
Title: Trustee  
6-22-11

By: Craig J. Jones  
Name: Craig J. Jones  
Title: Trustee  
6/20/2011

Summit Oaks Section 2, LLC

Contract Purchaser of Tax Map No. 108-3-((1))-16A

By: J. Gary Sanyal.  
Printed Name: F. GARY GARCZYNSKI  
Title: Manager / Director

V30080308.8

## **FINAL DEVELOPMENT PLAN CONDITIONS**

**FDP 2011-MV-001**

**June 2, 2011**

If it is the intent of the Planning Commission to approve FDP 2011-MV-001 for a single-family detached residential development located on Tax Map 108-3 ((1)) 16A, staff recommends that the Planning Commission recommend approval subject to conformance with the following development conditions.

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1. Development of the property shall be in substantial conformance with the FDP entitled "Summit Oaks Section 2", prepared by LDC and dated September 2010 and date-stamped May 31, 2011 subject to minor modifications in accordance with the Zoning Ordinance.
2. The single-family detached dwellings shall have a maximum height of 35 feet.
3. The street-facing facades of the side yards of the corner lots shall contain materials and architectural elements similar to those planned for the front facades of the dwellings.
4. The subdivision plat shall include delineation of any utility easement located between the face-of-curb and the far edge of the sidewalk and delineation of the right-of-way line one foot beyond the sidewalk
5. Prior to any land disturbing activity on site or at the time of subdivision plan review, whichever first occurs, the applicant shall demonstrate to the satisfaction of Urban Forestry Management Division of The Department of Public Works and Environmental Services that adequate tree preservation measures shall be implemented during construction to ensure conformance with the PFM.

