

## **PROFFERS**

**D. R. HORTON, INC.**

**RZ 2001-MV-018**

**October 18, 2001**

Pursuant to Section 15.2-2303 (A), Code of Virginia, 1950 as amended, the owners and D.R. Horton, Inc. for themselves, their successors and assigns, (hereinafter referred to as the "Applicant"), in RZ 2001-MV-018, filed for property identified on Fairfax County Tax Map as 108-1 ((1)) Parcels 17 and 18, (hereinafter referred to as the "Application Property"), agree to the following proffers, provided that Fairfax County Board of Supervisors (hereinafter referred to as the "Board") approves a rezoning of the Application Property from the R-1 District to the PDH-5 District

**1. CONCEPTUAL DEVELOPMENT PLAN/FINAL DEVELOPMENT PLAN (CDP/FDP)**

- a. Subject to the provisions of the Fairfax County Zoning Ordinance (hereinafter referred to as the "Zoning Ordinance"), development of the Application Property shall be in substantial conformance with the Conceptual Development Plan/Final Development Plan (CDP/FDP), prepared by VIKA, Incorporated, dated March 29, 2001 and revised through October 18, 2001.
- b. The illustrative architectural rendering as shown on Sheet 6 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 a mix of masonry and siding. 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.
- c. Rear facades of houses on Lots 19 through 22 shall have a minimum of 50% brick and/or glass.

**2. TRANSPORTATION**

- a. At time of subdivision plan approval or upon demand by Fairfax County or Virginia Department of Transportation (VDOT), whichever occurs first, the Applicant shall dedicate and convey in fee simple to the Board right-of-way along Telegraph Road as shown on the CDP/FDP and ancillary easements.
- b. At time of subdivision plan approval, the Applicant shall escrow funds for a right turn lane per VDOT standards along the Application Property's Telegraph Road frontage to serve a future entrance to the properties to the

north across from Whernside Street. The interim entrance to the Application Property as shown on the CDP/FDP shall have a taper or improved radius as approved by VDOT.

- c. Prior to the issuance of the first Residential Use Permit (RUP), the Applicant shall construct the segment of public street from the interior public street system to the northern property line, as shown on the CDP/FDP. At such time, a sign shall be erected within the adjacent open space area, notifying residents of the future roadway connection. The Applicant shall disclose within the Homeowners Association documents and in writing to all initial purchasers that the future interparcel access to the north and future closure of the interim entrance will occur. This disclosure shall also identify the vacation of the public right-of-way and its reversion to the ownership by the Homeowners Association for open space purposes.
- d. At time of subdivision plan approval, the Applicant shall escrow funds for the future vacation and closure of the Telegraph Road entrance, pavement scarification, regrading and seeding subject to an escalator based upon any increase from time of rezoning approval in the Consumer Price Index as published in the Engineering News Record. At such time that the public street connection to the parcel to the north is completed, allowing public access to Telegraph Road across from Whernside Street, the interim entrance to the Application Property on Telegraph Road shall be closed, the pavement scarified, and the area re-seeded and turned into a recreational field owned by the Homeowners Association for the proposed community.

### 3. ENVIRONMENTAL

- a. In order to reduce interior noise to a level of approximately 45 dBA Ldn, units within a highway noise impact zone of 65-70 dBA Ldn at 185 feet from the centerline of Telegraph Road, the following acoustical treatment measures shall be employed:
  - 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 facade exposed to noise levels of 65 dBA Ldn or above. If glazing constitutes more than 20 percent of an exposed facade, 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.

- b. In order to reduce exterior noise levels below 65 dBA Ldn, noise attenuation structures such as acoustical fencing, walls, earthen-berms, or combination thereof shall be provided along the rear of Lots 19 through 22 as depicted on Sheet 7 of the CDP/FDP. 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 (not to exceed 8 feet in height) to adequately shield the impact area from the source of the noise.
- c. As an alternative to the above, the Applicant may elect to have a refined 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.
- d. Stormwater Management (SWM) and Best Management Practice (BMP) shall be provided in accordance with the Public Facilities Manual (PFM) requirements subject to waivers as noted on the CDP/FDP as determined by DPWES. The Spring adjacent to the proposed SWM facility shall be preserved in its natural state as determined by the Urban Forester when engineering and constructing the SWM facility. The location of the SWM outfall shall be coordinated with the Urban Forester during review of the Tree Preservation Plan.
- e. All initial purchasers of units shall be notified in writing at the time of contract execution by the Applicant of the proximity of Davison Airfield and the potential for periodic noise from aircraft. A notation to this effect shall be included in every Deed of Conveyance to ensure proper notification to all future purchasers, and disclosed within the HOA documents.
- f. Prior to subdivision plan approval, a Phase I Environmental Site Investigation of the property shall be submitted to DPWES for review and approval in coordination with the Fire and Rescue Department, the Health Department, and other appropriate agencies as determined by DPWES (hereinafter referred to as the "reviewing agencies"). This investigation shall be generally consistent with the procedures described within the American Society for Testing and Materials document entitled "Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process" as determined by DPWES in coordination with the reviewing agencies. Hazardous substances or petroleum products shall be removed in accordance with the recommendations of the Phase I environmental report, and to the satisfaction of DPWES. If contaminants are detected in concentrations requiring remedial action, a remediation program shall be performed in accordance with all applicable Federal, State and Country requirements. Sufficient documentation of completion of the remediation program (with the possible exception of long term

follow up monitoring efforts) or an appropriate corrective action plan consistent with the proposed development, as determined by DPWES, shall be provided to DPWES prior to site plan approval.

#### 4. LANDSCAPING AND OPEN SPACE

- a. Street trees, peripheral, and interior landscaping shall be provided by the Applicant with a minimum caliper of 2 ½ inches at planting generally as shown on Sheet 3 of the CDP/FDP. The exact location of the proposed plantings may be modified, as necessary, and as approved by the Urban Forester DPWES for the installation of utilities. Any planting proposed within right-of-way shall be subject to VDOT approval.
- b. The SWM pond shall be landscaped to the maximum extent possible in conformance with Board planting policy, as approved by DPWES.
- c. Prior to the issuance of the 21<sup>st</sup> RUP, the Applicant shall install a 6-foot high architecturally solid wooden fence along the entire eastern property line.

#### 5. TREE SAVE AND PRESERVATION

- a. As part of subdivision plan submission, the Applicant shall prepare a tree preservation plan along the limits of clearing and grading line as shown on the CDP/FDP for the Application Property to be submitted as part of final site plan submittal. The tree preservation plan shall, *inter alia*, show individual trees to be preserved and or transplanted, the limits of clearing, and easements, and shall be reviewed and approved by the Urban Forestry Division. The tree preservation plan shall consist of a tree inventory which includes the location, species, size crown spread and condition rating of all trees 12 inches or greater in diameter, measured 4 ½ feet from the ground, within 20 feet on the tree preservation side of the limits of clearing and grading shown on the CDP/FDP. The condition analysis shall be prepared using methods outlined in the eighth edition of the *Guide for Plant Appraisal*. Specific tree preservation activities designed to maximize the survivability of trees designated for preservation shall be incorporated into the tree preservation plan. Activities should include, but are not limited to, crown pruning, root pruning, mulching, and fertilization.
- b. The demolition of existing features and structures shall be conducted in such a manner as to minimize the impact on individual trees and groups of trees to be preserved. These methods are to be included in the tree preservation plan.
- c. The limits of clearing and grading shall conform to the limits as shown on the CDP/FDP, subject to installation of utilities if necessary as approved by the Department of Public Works and Environmental Services (DPWES). If necessary, utilities outside the limits of clearing and grading

will be located and installed in the least disruptive manner possible considering cost and engineering. A replanting plan in accordance with the Public Facilities Manual will be developed and implemented, as approved by the Urban Forestry Division for any areas outside the limits of clearing and grading that must be disturbed. The Applicant 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 shall walk the limits of clearing and grading with an Urban Forestry Division 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. Trees that are not likely to survive construction due to their species 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 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.

- d. All trees shown to be preserved shall be protected and preserved at all times during construction. Tree protection shall be erected at the limits of clearing and grading as shown on the CDP/FDP. Materials and installation of tree protection fencing shall constitute a four (4) foot high, orange plastic fence attached to six (6) foot steel posts, driven eighteen (18) inches into the ground and placed no further than six (6) feet apart. The tree protection fencing shall be made clearly visible to all construction personnel. The fencing shall be maintained by the Applicant throughout the period of construction activities on this portion of the site. The tree protection shall be installed prior to the performance of any clearing and grading activities on the site, including the demolition of any existing structures.
- e. The Applicant shall coordinate with the Urban Forestry Branch to identify Holly trees appropriate for transplanting in the area designated on the CDP/FDP. The Applicant shall prepare a transplanting plan for review and approval by the Urban Forestry Branch, which shall specify methods for removal, storage and replanting of the selected Holly trees.

## **6. HOMEOWNERS ASSOCIATION**

At the time of subdivision plan approval, the Applicant shall create a homeowner's association to own and maintain all of the open space areas and recreation facilities shown on the CDP/FDP. It shall be disclosed in the homeowners documents that all tree preservation areas will remain as undisturbed open space with no structures and that only diseased or dying trees may be removed.

**7. RECREATION**

- a. Prior to the issuance of the 20<sup>th</sup> RUP, the Applicant shall construct a tot lot within the open space area as shown on the CDP/FDP.
- b. At such time that the public street connection to the parcel to the north is completed, as referenced in paragraph 2.c. above, the roadway pavement shall be removed, and the vacated right-of-way seeded to create a flat open space area in combination with the contiguous open space, for active recreational purposes.
- c. In the event that the value of paragraphs a. and b. above excluding pavement removal and seeding of area, do not meet or exceed the amount of \$955.00 per unit, the Applicant shall contribute the remaining funds to the Fairfax County Park Authority for improvements to a nearby park.

**8. LIGHTING**

Streetlights shall be installed with full cut off luminary devices diverted downward to reduce glare, and shall be a maximum of 14 feet in height. The exact location of light fixtures shall be determined at subdivision plan review.

**9. TEMPORARY SIGNAGE**

No temporary signs (including "Popsicle" style 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 the homes on the Application Property. Furthermore, the Applicant shall direct its agents and employees involved in marketing and/or home sales for the Property to adhere to this Proffer.

**10. OTHER**

- a. A contribution of \$1,200 per unit shall be made to the Board for a specific fund designated for schools with \$800 of the per unit contribution allocated to predevelopment costs for a new secondary school serving the Lorton area, and \$400 of the per unit contribution will be allocated for the new Lorton Station Elementary School to be built. Per unit contributions will be paid at the time of issuance of individual building permits.
- b. A covenant which provides that garages shall only be used for purposes that will not interfere with their intended purpose of parking vehicles and that garages may not be converted to living space, 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. The covenant shall run to the benefit of the Homeowner's Association and the Fairfax County Board

- of Supervisors. Initial purchasers shall be advised in writing of this use restriction prior to entering into a contract for sale.
- c. All prospective purchasers shall be provided written disclosure that a deck no deeper than 7 feet (5 feet from the rear property line) may be constructed in the rear yard without the approval of a variance from the Board of Zoning Appeals. This disclosure shall also be included in the HOA documents.
  - d. The Applicant shall return to the Architectural Review Board for final review and approval of building plans prior to subdivision plan approval.
  - e. All new utility lines (electrical, telephone and cable) shall be placed underground.

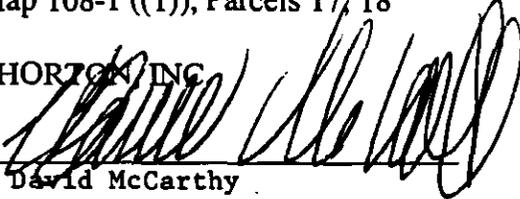
**[SIGNATURES BEGIN ON FOLLOWING PAGE]**

PROFFERS  
RZ 2001-MV-018

APPLICANT/CONTRACT PURCHASERS OF  
Tax Map 108-1 ((1)), Parcels 17/18

D. R. HORTON, INC.

BY

  
C. David McCarthy  
Division President/Virginia

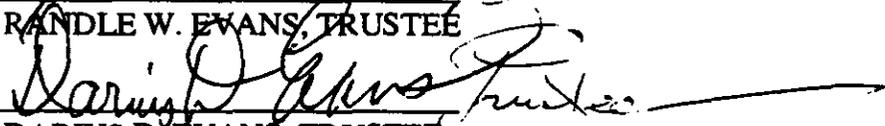
(SIGNATURES CONTINUE NEXT PAGE)

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Title Owners  
Tax Map 108-1 ((1)), Parcel 17

RANDLE W. EVANS and DARIUS D. EVANS  
CHARITABLE REMAINDER TRUST DATED  
DECEMBER 1, 1998

BY   
RANDLE W. EVANS, TRUSTEE

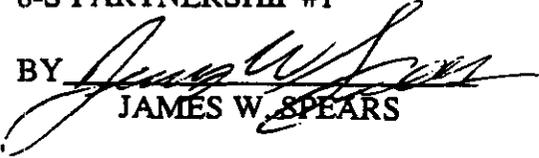
BY   
DARIUS D. EVANS, TRUSTEE

(SIGNATURES CONTINUE NEXT PAGE)

PROFFERS  
RZ 2001-MV-018

Title Owners  
Tax Map 108-1 ((1)), Parcel 18

8-S PARTNERSHIP #1

BY   
JAMES W. SPEARS

(END OF SIGNATURES)





F A I R F A X C O U N T Y

BOARD OF SUPERVISORS ACTION  
ZONING MAP AMENDMENT  
DATE OF ACTION 11/19/01

APPLICATION NUMBER: RZ 01-V-018

MT. VERNON DISTRICT

APPLICANT: D.R. HORTON, INC.

STAFF: BELGIN

APPLICATION DATA

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EXISTING ZONING AND ACREAGE

ZONING: R- 1

ACRES: 5.88

PROPOSED:

PDH- 5  
5.88

ACTION:

PDH- 5  
5.88

TOTAL ACRES

5.88

TOTAL ACRES

5.88

MAP NUMBERS

108-1- /01/ /0017- ,0018-

REMARKS:

FULL - EVM

ZONING MAP AMENDMENT

RZ 01-V-018

ZONING DISTRICT DATA

ZONING DISTRICT: PDH- 5

PROFFERED/CONDITIONED DWELLING UNIT DATA

| TYPES | UNITS | ACRES | DENSITY | RANGE | LOMOD INCL | LOMOD ADD |
|-------|-------|-------|---------|-------|------------|-----------|
|-------|-------|-------|---------|-------|------------|-----------|

|     |    |      |  |  |  |  |
|-----|----|------|--|--|--|--|
| SFD | 28 | 5.88 |  |  |  |  |
|-----|----|------|--|--|--|--|

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TOT

PROFFERED/CONDITIONED NON-RESIDENTIAL GROSS FLOOR AREAS

| USE | GFA | FAR | USE | GFA | FAR |
|-----|-----|-----|-----|-----|-----|
|-----|-----|-----|-----|-----|-----|

|                |  |  |                  |  |  |
|----------------|--|--|------------------|--|--|
| COMMERICAL-GEN |  |  | PUBLIC/QUASI PUB |  |  |
|----------------|--|--|------------------|--|--|

|             |  |  |        |  |  |
|-------------|--|--|--------|--|--|
| HOTEL/MOTEL |  |  | OFFICE |  |  |
|-------------|--|--|--------|--|--|

|                |  |  |                |  |  |
|----------------|--|--|----------------|--|--|
| INDUSTRIAL-GEN |  |  | TRAN-UTIL-COMM |  |  |
|----------------|--|--|----------------|--|--|

|                   |  |  |                   |  |  |
|-------------------|--|--|-------------------|--|--|
| CULT/EDU/RELG/ENT |  |  | RETAIL-EATING EST |  |  |
|-------------------|--|--|-------------------|--|--|

|                  |  |  |                 |  |  |
|------------------|--|--|-----------------|--|--|
| INDUST-WAREHOUSE |  |  | *****TOTAL***** |  |  |
|------------------|--|--|-----------------|--|--|

REMARKS:

ZONING MAP AMENDMENT

RZ 01-V-018

CONDITION/CONTRIBUTION DATA

| COND CODE DESCRIPTION              | COND CODE DESCRIPTION               |
|------------------------------------|-------------------------------------|
| 1B CONCEPTUAL DEVEL PLAN           | 1Z OTHER - GENERAL                  |
| 2I ARCHITECTURE                    | 2Z OTHER - LAND USE                 |
| 3B RIGHT-OF-WAY: DEDICATION/RESERV | 3Z OTHER - TRANSPORTATION           |
| 1Z OTHER - GENERAL                 | 3Z OTHER - TRANSPORTATION           |
| 3Z OTHER - TRANSPORTATION          | 4E NOISE ATTENUATION                |
| 4Z OTHER - ENVIRONMENT             | 6A SPECIAL NOTIFICATION REQUIREMENT |
| 1Z OTHER - GENERAL                 | 4B TREES/COUNTY ARBORIST            |
| 4Z OTHER - ENVIRONMENT             | 1Z OTHER - GENERAL                  |
| 1Z OTHER - GENERAL                 | 2H RECREATION FACIL/SITES           |
| 4P LIGHTING                        | 1Z OTHER - GENERAL                  |

| CONTRIB DATA: CND CODE | AMOUNT | CONDITIONED | EXPIRES  | CONTRIB CODE |
|------------------------|--------|-------------|----------|--------------|
|                        | \$0    |             | 00/00/00 |              |
|                        | \$0    |             | 00/00/00 |              |
|                        | \$0    |             | 00/00/00 |              |
|                        | \$0    |             | 00/00/00 |              |

REMARKS:

DATED OCT. 18, 2001 (COMBINED COP/FOP).

