FAIRFAX COUNTY, VIRGINIA

MEMORANDUM

DATE: May 2, 2003

TO: FILE

FROM: Peter Braham
Senior Staff Coordinator, ZED, DPZ

SUBJECT: RZ 2001-BR-022

Attached are executed proffers dated January 27, 2003 between Fairfax City and Rocky Gorge Homes, LLC. These proffers are the companion proffers to the executed proffers dated November 22, 2002 for the portion of the property that is in Fairfax County which was rezoned pursuant to RZ 2001-BR-022.

ROCKY GORGE HOMES, L.L.C.

PROFFERED CONDITIONS

ZONING MAP AMENDMENT

January 27, 2003

Pursuant to Section 15.2-2303(a) of the 1950 Code of Virginia, as amended, and Section 26-6(b) of the Zoning Ordinance of the City of Fairfax, Virginia, Rocky Gorge Homes, L.L.C. (the "Applicant") and the Fairfax County Redevelopment and Housing Authority (the "Owners"), and each of their successors and assigns agree that the development of the property that is the subject of an application for Zoning Map Amendment Z-790-01-1 filed by Rocky Gorge Homes, L.L.C., dated April 5, 2001, as amended, and shown on City of Fairfax Tax Map 57-5 ((2)) 7, 8, 9, 10, 11 (the "Property"), will be in accordance with the following Proffered Conditions if the Zoning Map Amendment is granted and the Property is rezoned to the PD(p) (Planned Development with proffers) District in accordance with Applicant's General Development Plan/Preliminary Site Plan dated August 3, 2001, as amended through November 15, 2002, showing up to 10 units. The Applicant and owners proffer the following conditions:

1. **GENERAL DEVELOPMENT PLAN/PRELIMINARY SITE PLAN**. The general character of the development of the Property shall be in substantial conformance with the General Development Plan/Preliminary Site Plan (GDP/PSP) entitled "Fairfax Gateway" dated August 3, 2001, as amended through November 15, 2002, prepared by Christopher Consultants, and consisting of 7 sheets.

2. **DEDICATION AND ROAD CONSTRUCTION**. At the time of final site plan approval, the Applicant shall dedicate right-of-way along the Property's School Street frontage measuring 25 feet from the existing centerline, subject to review and approval of Director of Public Works. The Applicant shall, at its sole expense, construct frontage improvements along its School Street frontage measuring 18 feet from the existing centerline.

3. **PARK CONSTRUCTION**. The Applicant shall, at its sole expense, construct a park area on the Property adjacent to the intersection of Chain Bridge Road and School Street in the general location shown on Sheets 2, 3 and 5. The park shall include tree preservation as described in Proffer 5. In addition, the park shall include additional landscaping, hardscaping, lighting, structures, and seating creating a visual focal point/gateway feature. Notwithstanding that park designs are shown on Sheet 5 of the GDP/PSP, a new alternate design of the park shall be proposed by the Applicant after consultation with the Department of Community Development and Planning, Historic Fairfax Inc. and the Board of Architectural Review (BAR). The design shall be more in keeping with the plaza concept generally illustrated in Exhibit 1 attached to these proffers. The design shall be presented to the City Council for their review prior to BAR approval.

   The portion of the park with the retaining wall, structures, seating, and paved plaza area

immediately adjacent to the intersection of School Street and Chain Bridge Road shall be dedicated in fee to the City of Fairfax for public use. After dedication and acceptance of this real estate, the maintenance of this area shall be the responsibility of the City. The remainder of this park area shall be owned and maintained by the Homeowners Association. Completion of the entire park and dedication of the City portion of the park shall occur prior to final bond release. In the event the tree proposed to be preserved in the park does not survive a five year period following final bond release for the park area, an alternate landscape plan shall be prepared and approved by the BAR at the time of the park approval to show how this area should be landscaped. The Applicant shall escrow with the City the amount of $7,500.00, to defray the cost of the City implementing the alternate plan. Should the tree survive the five year period, the escrow shall be returned to the Applicant.

4. **LANDSCAPING.** The Applicant shall, at its sole expense, provide landscaping in general conformance with the landscaping shown on Sheets 2 and 5 of the GDP/PSP, subject to BAR approval. The Applicant also reserves the right to preserve existing trees in lieu of providing new landscaping within the peripheral landscaped buffers and elsewhere on the Property, subject to BAR approval.

   The private road serving the Property shall include an entry apron at its intersection with School Street constructed of brick pavers or stamped asphalt tinted to resemble brick as shown on the GDP/PSP. The brick pavers or stamped asphalt area shall be located entirely out of the public right-of-way, and shall like all private streets on the Property be maintained by the Homeowners Association.

5. **TREE PRESERVATION.** During site plan processing, the Applicant shall analyze the feasibility of preserving the large oak tree located in the northwest corner of the Property as shown on Sheets 2 and 3 of the GDP/PSP. The Applicant shall contract with a certified arborist to conduct a root excavation and decay evaluation of the oak tree to determine the extent of decay. The arborist shall produce a report describing the methods employed and extent of decay observed with a recommendation regarding the status and treatment of the tree. This report shall be provided to the City's arborist for review and comment. If the arborist's examination determines that 30% or more of the primary buttress roots have decay, the tree will be removed. If less than 30% of the primary buttress roots have decay, the arborist will prepare a tree management plan to be submitted in conjunction with final site plan processing and implemented during construction. Specific tree preservation activities designed to maximize the survivability of the tree shall be incorporated into the tree management plan. Activities should include, but are not limited to, crown pruning, root pruning, mulching and fertilization.

6. **STORMWATER MANAGEMENT.** The Applicant shall provide stormwater management and Best Management Practices (BMP) facilities within the portion of the Fairfax Gateway development located in Fairfax County as shown on the GDP/PSP.

7. **SIDEWALKS AND CROSSWALKS.**

   a. The existing sidewalk along Chain Bridge Road shall remain as constructed. The sidewalk shall not be blocked for construction without prior permission of the Director of Public Works and installation of proper signage directing pedestrians to alternate routes. If the existing sidewalk is damaged due to construction activities on the Property, it shall be replaced/repaired. If, in the opinion of the Director of Public Works, the damage creates a hazard for pedestrians, the damage shall be repaired immediately. Otherwise needed repair or replacement shall occur prior to release of the site plan bond on the Property. A joint inspection with DPW of the condition of the sidewalk shall be made prior to the start of construction.

   b. The Applicant shall construct a four (4) foot sidewalk along the Property's frontage with School Street as shown on the GDP/PSP.

8. **PRIVATE STREETS.** The Applicant shall construct at its sole expense private streets, with pavement widths as shown on the GDP/PSP. All private streets shall be constructed (subgrade and pavement thickness) to City of Fairfax standards as specified in The Thickness Design of Asphalt Pavements for Highways and Streets, prepared by The Asphalt Institute dated February, 1991, or to the requirements of Section 7-502 of the Fairfax County Public Facilities Manual, as determined by the Director of the City of Fairfax Department of Public Works. The Applicant shall provide a public ingress/egress easement for all private streets and adjacent sidewalks.

9. **ARCHITECTURAL DESIGN.** The building elevations and design guidelines provided in the document *Fairfax Gateway, Architectural Standards, Prototypical Elevations and Ancillary Structures*, prepared by Design Concepts Architects dated November 2002 illustrate the architectural theme and design intent of the community. The architectural design of the proposed residences shall generally conform with the character and quality of these illustrative elevations. The Applicant reserves the right to modify these elevations and add additional elevations based on final architectural design subject to BAR approval. The corner park details shown in the above-referenced document shall be superceded by the new alternate park design described in Proffer 4.

   All facades of residences shall be constructed of brick or stone, or a combination thereof except for architectural appurtenances, ornamentation, detailing and/or accents. All exterior chimneys shall be constructed of brick or stone.

10. **NOISE ATTENUATION.**

A. Prior to final site plan approval, the Applicant shall retain an acoustical consultant to prepare a noise assessment based on final site grades and future traffic volumes on Route 123 for review and approval by the Zoning Administrator.

B. 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, as ultimately determined by the study in Paragraph (A) above, shall be constructed with the following acoustical treatment measures:

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

(2) Doors and windows shall have a laboratory STC rating of at least 28 unless windows constitute more than 20% of any façade exposed to noise levels of DNL 65 dBA or above. If glazing constitutes more than 20% of an exposed façade, then the windows should have a STC rating of at least 39. However, the Applicant may elect to have a refined acoustical analysis performed to determine minimum STC ratings for exterior walls, windows, and doors; and the STC rating specifications may be reduced based on this analysis, as determined appropriate by DPW.

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

C. In order to reduce interior noise to a level of approximately DNL 45 dBA, units within a highway noise impact zone of DNL 70-75 dBA, as determined by the study in Paragraph (A) above, shall be constructed with the following acoustical treatment measures:

(1) Exterior walls shall have a laboratory sound transmission class (STC) rating of at least 45.

(2) Doors and windows shall have a laboratory STC rating of at least 37 unless windows constitute more than 20% of any façade exposed to noise levels of DNL 65 dBA or above. If glazing constitutes more than 20% of an exposed façade, then the windows should have a STC rating of at least 45. However, the Applicant may elect to have a refined acoustical analysis performed to determine minimum STC ratings for exterior walls, windows, and doors; and the STC rating specifications may be reduced based on this analysis, as determined appropriate by DPW.

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

D. Nothing herein shall be construed to restrict or otherwise limit the use of upper-level balconies or decks on residential units.

11. **RECREATIONAL CONTRIBUTION.** The Applicant shall provide a cash contribution of $955.00 per dwelling unit for the 10 units located in the City of Fairfax to the City of Fairfax for the development of recreational facilities in the vicinity of the Property. Contribution shall be made at the time of issuance of occupancy permits.

12. **HOMEOWNERS ASSOCIATION.** The Applicant shall form a Homeowners Association (HOA) that shall be responsible for maintenance for the common areas and the enforcement of restrictions on the Property. The Applicant shall notify all prospective purchasers in sales literature and purchasers in writing at the time of settlement of these maintenance responsibilities and restrictions. Maintenance responsibilities shall include, but not be limited to, snow removal, travel aisle/parking lot maintenance and common area maintenance.

13. **RESTRICTIVE COVENANTS.** Restrictive covenants for the Property shall include, but not be limited to, the following:

a. No person will be allowed to construct any exterior structural improvements (including accessory structures, decks and fences) without the review and approval by the Homeowners Association, which shall be guided by architectural guidelines established by the Applicant, the homeowners association documents, and approval of the City's Zoning Administrator and receipt of necessary building permits.

b. Conversion of garages that will preclude the parking of vehicles within the garage will be prohibited in the development. (This shall not preclude the use of garages as sales offices in the model homes during marketing of the development, with the understanding the sales offices will be converted back to garages upon sale of the models.)

c. Outside storage or parking of recreational vehicles on the Property shall be prohibited both on individual lots and elsewhere on the Property.

14. **SPLIT JURISDICTION NOTIFICATION.** Purchasers shall be advised in writing prior to entering into a Contract of Sale that the proposed residential community is located partially within Fairfax County and partially within the City of Fairfax, and that the two jurisdictions provide different services to its residents. The homeowners association documents shall include documentation of these jurisdictional differences.

15. **DISCLOSURE.** The initial purchasers of dwelling units on the Property shall execute a Disclosure Memorandum at time of Contract of Sale acknowledging their review of City plans showing the future closing of School Street, the extension of George Mason Boulevard, the potential for a mixed use redevelopment of the Eleven Oaks School Property, and the potential vehicular connection between the Property and the parcel to the east. The Disclosure Memorandum shall notify homeowners that the proposed development is located partially with the City of Fairfax and partially within Fairfax County, and that these two jurisdictions provide different public services to their residents and have different tax rates. The Disclosure Memorandum shall also state that there are proffers and other zoning restrictions upon their property, and shall impart general information about the proposed Homeowners Association and the existence of covenants, conditions and restrictions. Such Disclosure Memorandum shall be submitted to the Zoning Administrator for review for compliance with this proffer prior to execution of the first Contract of Sale for a home on the Property

16. **COMMUNICATIONS TECHNOLOGY.** The Applicant shall make available to purchasers of all homes, on an optional basis, the following home features and shall display such features in the model homes/sales office:

    i. Multiple telephone lines using wiring of a quality sufficient to transmit data to telephones, facsimile machines, modems, and/or similar communications equipment in the homes.

    ii. Dedicated circuits to serve electrical power needs of home office equipment and/or family computer work spaces.

    iii. Home security systems and/or wiring network systems for distribution of other data throughout the home.

    iv. Empty wiring conduits installed in the walls of the home for the purpose of accommodating future wiring which may be desired by the homeowners after construction.

17. **CONSTRUCTION MANAGEMENT PLAN.** Subsequent to rezoning approval but prior to site plan approval, the Applicant agrees to submit a management plan for approval by the City Manager or designee for construction which will include the following information:

    A. Hours of operation;

    B. Truck routes to and from entrances;

    C. Location of parking areas for construction employees;

D. Truck staging and cleaning areas;

E. Storage areas;

F. Fencing details;

G. Trailer and sanitary facility locations;

H. Traffic control measures; and

I. Maintenance of entrances.

The Applicant shall take every reasonable step to discourage construction traffic through nearby single-family neighborhood communities. The Applicant shall post signs banning construction traffic from exiting the site onto eastbound School Street and shall route all construction traffic to the site via Chain Bridge Road.

Applicant shall ban its employees and employees of contractors and subcontractors working on the site from parking in the on-street spaces on the north side of School Street and on other nearby City streets including the portion of School Street on the west side of Chain Bridge Road. The Applicant shall install signs to that effect if requested by the City's representative.

The Applicant shall provide cash, bond or letter of credit in the amount of $20,000 to provide for any damage to the road system fronting the Property (i.e., School Street and Chain Bridge Road) due to construction traffic. A joint inspection with the DPW of the condition of such roads shall be made prior to the start of construction.

The Applicant shall provide a plan for phased construction of the development one month prior to beginning of construction to include the timetable for public and site improvements and plans for any ancillary facilities such as sales or construction trailers.

Construction activity shall be limited from 7:00 A.M. to 6:00 P.M., weekdays and 8:30 A.M. to 5:00 P.M., Saturdays. No construction activity shall take place on Sundays.

18. **FUTURE AMENDMENTS**. Individual sections of the Property may be subject to consideration by the Planning Commission and City Council of an amendment to this application (including GDP and proffers) without joinder or consent of the owners/residents of other sections, if such amendment does not significantly affect the other sections, as determined by the Director of Community Development and Planning. Previously approved

proffers applicable to the section(s) which are not subject to such an amendment shall otherwise remain in full force and effect.

19. **COUNTERPARTS.** These proffers may be executed in one or more counterparts, each of which when so executed and delivered shall be deemed an original document and all of which taken together shall constitute but one in same document.

20. **SCHOOL CONTRIBUTION.** At the time of site plan approval, the Applicant shall make a contribution in the amount of $10,000 to the City of Fairfax School Board to support renovation efforts at Fairfax High School.

[SIGNATURE PAGES BEGIN ON NEXT PAGE]

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PROFFERED CONDITIONS
ZONING MAP AMENDMENT

APPLICANT/CONTRACT PURCHASER

ROCKY GORGE HOMES, L.L.C.

By: Christopher S. Dorment
Its: Chairman

[SIGNATURES CONTINUE ON NEXT PAGE]

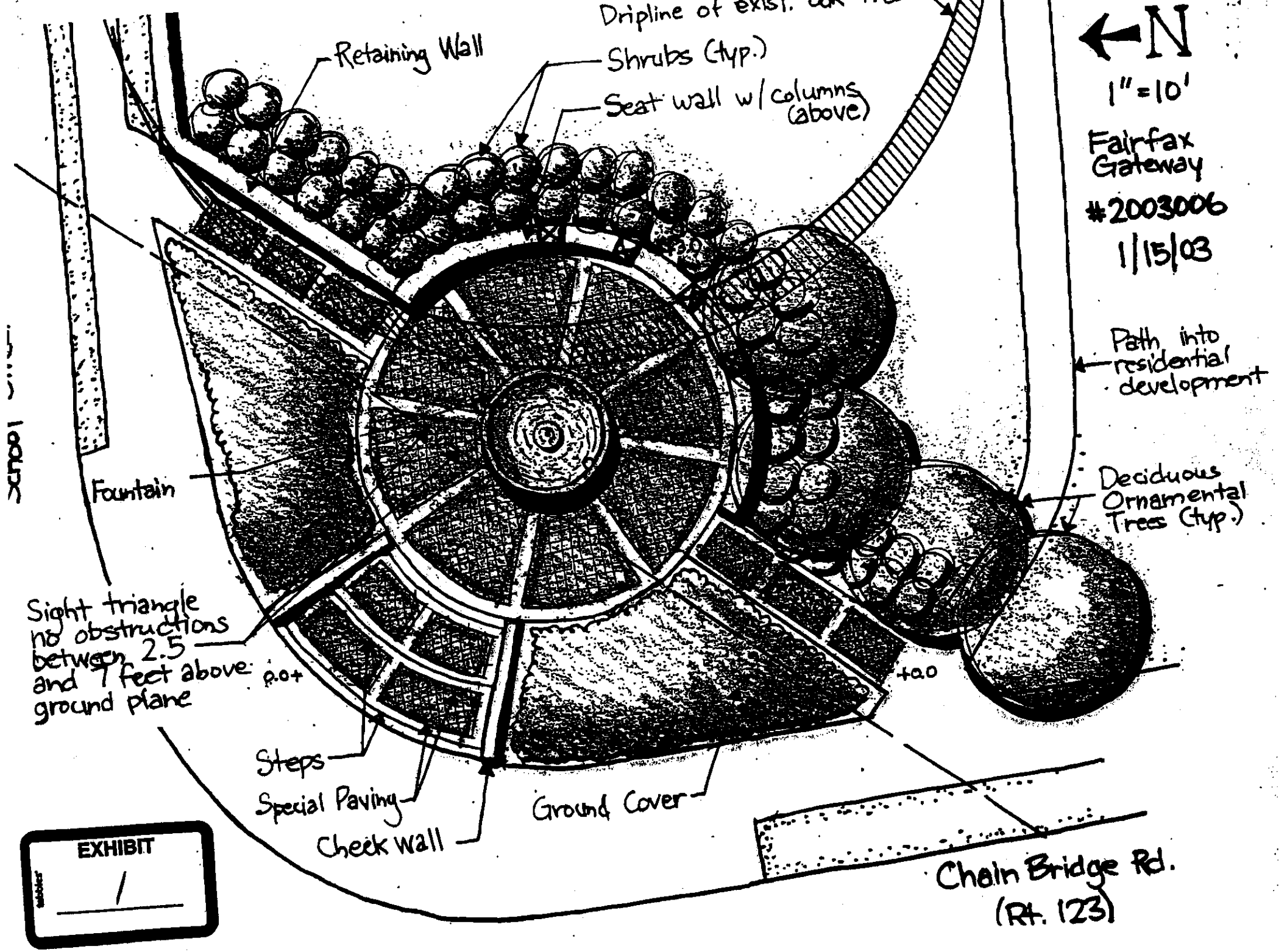
PROFFERED CONDITIONS
ZONING MAP AMENDMENT

TITLE OWNER OF 57-4 ((2)) 7-11

FAIRFAX COUNTY REDEVELOPMENT AND HOUSING AUTHORITY

By: Mary A. Stevens
Its: Assistant Secretary

[SIGNATURES END]


Dripline of exist. oak tree
Retaining Wall
Shrubs (typ.)
Seat wall w/ columns (above)
N
1" = 10'
Fairfax Gateway
#2003006
1/15/03
Path into residential development
Deciduous Ornamental Trees (typ.)
Fountain
Sight triangle no obstructions between 2.5 and 7 feet above ground plane
+0.0
+0.0
Steps
Special Paving
Check Wall
Ground Cover
Chain Bridge Rd. (Rt. 123)

EXHIBIT

1

PROFFERS

Rocky Gorge Homes, L.L.C.

RZ 2001-BR-022

November 22, 2002

Pursuant to Section 15.2-2303(a), *Code of Virginia*, 1950 as amended and subject to the Board of Supervisors approving a rezoning to the PDH-12 District, for property identified as Tax Map 57-4 ((1)) 1A, 1, 3 and 7 (hereinafter referred to as the "Property"), the Applicant and owner proffer for themselves, their successors and assigns the following conditions:

1. **Development Plan.**

   A. Development of the Property shall be in substantial conformance with the Conceptual Development Plan/Final Development Plan (CDP/FDP) prepared by Christopher Consultants, consisting of 7 sheets, dated November 15, 2002. A maximum of 37 dwelling units shall be constructed on the Property and a maximum of 10 dwelling units shall be constructed on adjacent property in the City of Fairfax identified as Tax Map 57-4 ((2)) 7, 8, 9, 10 and 11

   B. Notwithstanding that the CDP/FDP is presented on Sheets 1-7 and said CDP/FDP is the subject of Proffer 1 above, it shall be understood that the proffered portion of the CDP shall be the entire plan shown on Sheet 1 and 2 relative to the points of access, the maximum number and type of dwelling units, the amount and general location of open space, and the general location and arrangement of the buildings. The Applicant has the option to request a FDPA for elements other than the CDP elements from the Planning Commission for all or a portion of the CDP/FDP in accordance with the provisions set forth in Section 16-402 of the Zoning Ordinance with respect to the remaining elements.

   C. Pursuant to Paragraph 4 of Section 16-403 of the Zoning Ordinance, minor modifications from the Final Development Plan (FDP) may be permitted as determined by the Zoning Administrator. The Applicant shall have the flexibility to modify the layouts shown on the FDP without requiring approval of an amended FDP provided such changes are in substantial conformance with the FDP as determined by the Zoning Administrator and do not increase the total number of dwelling units; decrease the setback from the peripheries; or reduce open space or landscaping.

   D. Advanced density credit shall be reserved as may be permitted by the provisions of Paragraph 5 of Section 2-308 of the Fairfax County Zoning Ordinance for all

eligible dedications described herein, or as may be required by Fairfax County or VDOT at time of site plan approval.

2. **Landscape Plan.** A landscape plan in general conformance with the landscape design shown on Sheet of the CDP/FDP shall be submitted with the site plan and shall be coordinated with and approved by the Urban Forester. The landscape plan shall include detailed streetscape and open space landscaping. The following additions shall be made to the landscape plan included in the site plan:

- Two large deciduous trees shall be included in the common open space behind Lots 36 through 38;
- Two large deciduous tress shall be included in the common open space between Lots 38 and 39;
- Two large evergreen trees and a large deciduous tree shall be included south of Lot 36 to screen the adjacent visitor parking area; and
- Shrubbery shall be included adjacent to the fire truck turn around.

3. **Tree Preservation.**

A. For the purposes of maximizing the preservation of trees in tree save areas shown on the CDP/FDP, the Applicant shall prepare a tree preservation plan. The Applicant shall contract with a certified arborist or landscape architect (the "Project Arborist") to prepare a tree preservation plan to be submitted as part of the first site plan submittal and subsequent site plan submissions. The tree preservation plan shall be reviewed and approved by the Urban Forestry Branch. The tree preservation plan shall consist of a tree inventory which includes the location, species, size, crown spread and condition rating percent of all trees 10 inches or greater in diameter, measured 4½ feet from the ground, and located within twenty (20) feet of the limits of clearing and grading of the tree save areas shown on the CDP/FDP. 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 incorporated into the tree preservation plan. Activities should include, but are not limited to, crown pruning, root pruning, mulching and fertilization.

B. The Project Arborist shall also determine the replacement value of healthy trees measuring 10 inches or larger located within the tree save area depicted on the CDP/FDP. These trees and their value shall be identified on the tree preservation plan at the time of the first submission of the site plan. The replacement value shall be determined according to the methods contained in the latest edition of the *Guide for Plant Appraisal,* subject to review and approval by the Urban Forestry Division.

At the time of site plan approval, the Applicant will post a cash bond or letter of credit payable to the County of Fairfax to ensure preservation and/or replacement of the designated trees that die or are dying due to negligent construction activities.

If the trees are found to be dead or dying at the time of final bond release by an Urban Forestry Division representative due to the Applicant's negligent construction activities, the cash bond or letter of credit shall be used to plant similar species, or species appropriate to the site, in consultation with the Urban Forestry Division and the Project Arborist. The cash bond or letter of credit shall not be used for the removal of the dead/dying trees normally required by the PFM and the Conservation Agreement. If the Project Arborist, in consultation with the Urban Forestry Division representative, determines that only a certain number of trees can be planted due to space constraints which amounts to less than the full extent of the security, the remainder of the moneys shall be returned to the developer. The letter of credit or cash bond will be released at the time of final bond release.

C. All trees shown to be preserved on the tree preservation plan shall be protected by tree protection fencing. Tree protection fencing, consisting of four foot high, 14 gauge welded wire attached to 6 foot steel posts driven 18 inches into the ground and placed no farther than 10 feet apart, shall be placed at the limits of clearing and grading as shown on the Phase I and Phase II erosion and sedimentary control sheets in all areas. The tree protection fencing shall be made clearly visible to all construction personnel. The tree protection fencing shall be installed prior to the performance of any clearing and grading activities on the site. All tree preservation activities, including installation of tree protection fencing, shall be performed under the supervision of the Project Arborist. Prior to the commencement of any clearing or grading on the site, the Project Arborist shall verify in writing that the tree protection fencing has been properly installed.

D. Clearing, grading and construction shall conform to the limits of clearing and grading as shown on the CDP/FDP, subject to the installation of necessary utility lines and other required site improvements, all of which shall be installed in the least disruptive manner possible, considering cost and engineering, as determined in accordance with the approved plans. The Applicant shall have the limits of clearing and grading marked with a continuous line of flagging prior to the pre-construction meeting. The Applicant and Project Arborist shall walk the limits of clearing and grading with an Urban Forestry Division representative to determine where 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 proximity to disturbance shall also be identified at this time and the Applicant shall remove such trees as part of the clearing operation. Any tree that is designated for removal within a tree preservation area or at the edge of the limits of clearing and grading shall be removed using a chain saw to avoid damage to surrounding trees.

4. **Stormwater Management.** The Applicant shall provide stormwater management and Best Management Practices (BMP) facilities as shown on the CDP/FDP subject to approval by DPWES. The innovative BMP measures shown on the CDP/FDP are infiltration trenches. Other innovative BMP measures such as, but not limited to biofiltration swales may be substituted as determined by DPWES. The proposed stormwater management pond, benches and infiltration trenches shall be landscaped as shown on the CDP/FDP subject to approval by DPWES and the Urban Forester who may, if determined necessary, reduce the amount of landscaping in these areas. Any innovative BMP measures shall be maintained by the Homeowners Association in accordance with procedures established for innovative BMPs as determined by DPWES. Exhibit 1 outlines possible procedures for the infiltration trenches subject to the approval of DPWES. Said maintenance responsibility shall be incorporated in an agreement to be reviewed and approved by the Fairfax County Attorney's office. Purchasers shall be advised in writing prior to entering into a contract of sale that the homeowners association shall be responsible for the maintenance of all the innovative BMP measures. The homeowners association documents shall specify that the homeowners association is responsible for the maintenance of the innovative BMP measures. Further, the developer shall establish an initial reserve fund for future maintenance of innovative BMP measures in the amount of $3,000 with the Homeowners Association, prior to the conveyance of the first dwelling unit on the Property.

   If the proposed innovative BMP measures are not approved by DPWES and alternative stormwater management measures are required which affect the site design, the Applicant shall request an administrative interpretation of site design modifications. If such modifications are deemed by the Zoning Administrator as too extensive to be granted an administrative approval, the Applicant shall file a proffered condition amendment.

5. **Recreational Facilities.** Pursuant to Paragraph 2 of Section 16-404 of the Zoning Ordinance regarding developed recreational facilities, the Applicant shall provide a cash contribution of $955.00 per dwelling unit for the 37 units located in Fairfax County to the Fairfax County Park Authority for the development of active recreational facilities at Fairfax Villa Park. Contribution shall be made at the time of issuance of Residential Use Permits for the Property.

6. **Noise Attenuation.**

   A. Prior to final site plan approval, the Applicant shall provide a noise analysis based on final site grades and future traffic volumes on Route 123 to DPWES for review and approval. The noise analysis shall identify which unit/lots are exposed to noise levels above DNL 65 dBA. The affected lots/units shall be identified on the site plan.

   B. For privacy yards exposed to noise levels above DNL 65 dBA, solid wood privacy fences, or other solid wall/fence configurations that are solid from the

ground up, with no gaps or openings, as determined necessary, shall be utilized as a sound attenuation measure.

C. 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, as ultimately determined by the study in Paragraph (A) above, shall be constructed with the following acoustical treatment measures:

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

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

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

D. In order to reduce interior noise to a level of approximately DNL 45 dBA, units within a highway noise impact zone of DNL 70-75 dBA, as determined by the study in Paragraph (A) above, shall be constructed with the following acoustical treatment measures:

(1) Exterior walls shall have a laboratory sound transmission class (STC) rating of at least 45.

(2) Doors and windows shall have a laboratory STC rating of at least 37 unless windows constitute more than 20% of any façade exposed to noise levels of DNL 65 dBA or above. If glazing constitutes more than 20% of an exposed façade, then the windows shall have a STC rating of at least 45.

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

E. Nothing herein shall be construed to restrict or otherwise limit the use of upper-level balconies or decks on residential units.

7. **Architectural Design.** The architectural design of the townhomes shall be in general character with the elevations shown on Sheet 5A of the CDP/FDP, and shall be generally consistent in style on all sides of the structure. The elevations may be refined as a result of final design and engineering so long as the character and quality of the buildings remain consistent with those shown. The architectural design for dwellings on the Property shall be similar in terms of details, materials, and overall quality as those

townhouses to be built on adjacent property immediately to the north in the City of Fairfax.

8. **Design Details.** The design details shown on Sheet 5 submitted with the CDP/FDP are provided to illustrate the design intent and overall community organization of the proposed development. Landscaping and on-site amenities shall be generally consistent in terms of character and quality with the illustrations and details presented on this sheet. Features such as exact locations of plantings or pedestrian lighting, etc. are subject to modification with final engineering and architectural design.

9. **Pedestrian Facilities.** The Applicant shall provide a comprehensive sidewalk system within the Property as generally shown on Sheet 2 of the CDP/FDP. The existing sidewalk along Chain Bridge Road (Route 123) shall remain. Construction of sidewalks shall be concurrent with development activity on the Property.

10. **Housing Trust Fund.** At the time of final site plan approval, the Applicant shall make a cash contribution to the Fairfax County Housing Trust Fund of one percent (1%) of the sales prices of each unit in accordance with the Residential Cash Proffer Formula adopted by the Board of Supervisors.

11. **Homeowners Association.** The Applicant shall establish a homeowners association for the proposed development to own, manage and maintain the open space including the private streets, innovative BMP facilities, any recreational facilities and all other community owned land and improvements. The Applicant shall notify all initial purchasers prior to contract of sale of the maintenance responsibilities in the proffers and the restrictions identified in Proffers 12 and 13. The homeowners association documents shall specify said maintenance responsibilities and restrictions.

12. **Use of Garages.** A covenant shall be recorded which provides that townhouse garages shall only be used for a purpose that will not interfere with the intended purpose of garages (e.g., parking of vehicles). This covenant 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 homeowners association, which shall be established, and the Fairfax County Board of Supervisors. Purchasers shall be advised in writing of the use restriction prior to entering into contract of sale.

13. **Parking Covenant.** A covenant shall be recorded which prohibits the parking of motor homes, boats and other recreational vehicles on the Property. This covenant 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 homeowners association and the Fairfax County Board of Supervisors.

14. **Private Streets.** Private streets on the Property shall be constructed of materials and depth of pavement consistent with that required by Section 7-502 of the Public Facilities Manual. Purchasers shall be advised in writing prior to entering into a contract of sale that the homeowners association shall be responsible for the maintenance of all private

streets in the development. The homeowner association documents shall specify that the homeowner association is responsible for the maintenance of the private streets.

15. **Driveways.** All driveways on the Property shall be a minimum of 18 feet in length from the garage door to the sidewalk.

16. **Lighting.** Outdoor lighting fixtures used to illuminate the parking area and walkways shall not exceed 12 feet in height, shall be of low intensity design and shall utilize full cut-off fixtures which shall focus directly on the Property.

17. **Bus Shelter.** The Applicant shall construct a bus shelter on Route 123 as generally located on the CDP/FDP. The bus shelter shall be the typical open type and construction shall be limited to the concrete pad and the shelter itself. No bus turn outs or special lanes shall be provided by the Applicant. Bus shelter construction shall be complete prior to the issuance of the 35th Residential Use Permit (RUP) on the Property. The bus shelter and trash can shall be maintained by the homeowners association. Purchasers shall be advised in writing prior to entering into a contract of sale that the homeowners association shall be responsible for the maintenance of the bus shelter. The homeowner association documents shall specify that the homeowner association is responsible for the maintenance of the bus shelter.

18. **School Contribution.** At the time of site plan approval, the Applicant shall make a contribution in the amount of $10,000 to the Fairfax County School Board to support renovation efforts at Woodson High School.

19. **Archeology.** The Applicant shall have a Phase I Archeological Study of the Property prepared and submitted to the County Archeologist prior to land disturbing activities. If determined necessary by the County Archeologist, the Applicant shall conduct Phase II and Phase III Archeological Studies for submission to the County Archeologist. In the event a Phase III Archeological Study is determined necessary by the County Archeologist, the County Archeologist shall be permitted to recover any artifacts, provided such work does not delay or interfere with construction.

20. The development of the Property as depicted on the CDP/FDP is contingent on zoning and site plan approvals on adjacent land in the City of Fairfax. Access to the Property is provided from School Street across property in the City of Fairfax. Development on the Property in Fairfax County cannot occur until and unless the necessary approvals are granted by the City of Fairfax. In the event the approvals are not granted by the City, the Applicant shall file a proffered condition amendment with Fairfax County.

21. **Split Jurisdiction Notification.** Purchasers shall be advised in writing prior to entering into a Contract of Sale that the proposed residential community is located partially within Fairfax County and partially within the City of Fairfax, and that the two jurisdictions provide different services to its residents. The homeowners association documents shall include documentation of these jurisdictional differences.

22. **Temporary 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 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.

23. **Severability.** Any of these buildings within the Property may be subject to Proffered Condition Amendments and Final Development Plan Amendments without joinder or consent of the property owners of the other buildings.

24. **Successors and Assigns.** These proffers will bind and inure to the benefit of the Applicant and his/her successors and assigns.

25. **Counterparts.** These proffers may be executed in one or more counterparts, each of which when so executed and delivered shall be deemed an original document and all of which taken together shall constitute but one in the same instrument.

[SIGNATURES BEGIN ON NEXT PAGE]

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APPLICANT/CONTRACT PURCHASER

Rocky Gorge Homes, L.L.C.

By: Christopher S. Dorment
Its: Chairman

[SIGNATURES CONTINUE ON NEXT PAGE]

RZ 2001-BR-022

TITLE OWNER

Fairfax County Redevelopment and Housing Authority

By: Paula C. Sampson
Its: Assistant Secretary

[SIGNATURES END]

EXHIBIT 1
Infiltration Trench
Maintenance Specifications

1. Infiltration trenches and appurtenances shall be maintained in good working condition acceptable to the County.

2. Infiltration trenches and appurtenances shall be privately owned and maintained.

3. Infiltration trenches shall be inspected quarterly for gully erosion, density of vegetation, damage from foot or vehicular traffic, and evidence of concentrated flows circumventing the strip. The level spreader shall also be inspected to verify that it is functioning as intended.

4. Inspections are critical during the first few years to ensure that the strip becomes adequately established. Maintenance is especially important during this time and shall include watering, fertilizing, re-seeding or planting as needed.

5. Once an infiltration trench is well established and functioning properly, periodic maintenance, such as watering, fertilizing and spot repair, may still be necessary. However, fertilization efforts shall be kept to a minimum. Natural selection allows certain species (usually native plants) to thrive while others decline. Excessive fertilization and watering to maintain individual plantings may prove costly, especially in abnormally dry or hot seasons. Overseeding and replanting shall be limited to those species which have exhibited the ability to thrive.

6. At least once annually, deposited sediment shall be manually removed, especially from the upstream edge, to maintain the original contours and grading and the vegetation reestablished. If accumulated sediment has clogged the surface pores of the infiltration trench, reducing or eliminating the infiltration capacity, then the surface shall be tilled and restabilized. Drilling or punching small holes into the surface layer can be used instead of tilling, if desired.

7. Grass used in the filter strip shall be kept at a height of 6 to 12 inches.

8. Vegetation shall be reestablished in eroded areas.

9. Invasive species and weeds shall be periodically removed.

10. Woody vegetation shall be periodically pruned to stimulate growth.

11. The infiltration trench shall be kept free of debris (including trash, grass clippings, etc.)

12. The owner shall provide an annual report of inspections and maintenance activities including a fiscal summary of budgeted and actual expenditures to the County (Maintenance and Stormwater Management Division) within 45 days of the end of the calendar year. The annual report shall include the names, addresses, telephone numbers and other available means of contact (FAX numbers and e-mail addresses) of the current owner(s) and the individual(s) responsible for the maintenance of the facility. Inspection and maintenance records also shall be kept on-site or at a location that is readily accessible and shall be made available to County officials upon request.

APPENDIX 2

PROPOSED DEVELOPMENT CONDITIONS

October 24, 2002

FDP 2001-BR-022

If it is the intent of the Planning Commission to approve Final Development Plan FDP 2001-BR-022 for residential development on property located at Tax Maps 57-4 ((1)) 1A, 1, 3, and 7, staff recommends that the Planning Commission condition the approval by requiring conformance with the following development conditions:

1. Utility connections from the street to the individual dwelling shall not preclude the planting of the landscaping shown in front of the dwelling units on the CDP/FDP.

2. The following additions shall be made to the landscape plan included in the site plan:
   - Two large deciduous trees shall be included in the common open space behind Lots 36 through 38;
   - Two large deciduous trees shall be included in the common open space between lots 38 and 39; and,
   - Two large evergreen trees and a large deciduous tree shall be included south of Lot 36 to screen the adjacent visitor parking area.