

PROFFERS

D. R. HORTON, INC.

RZ 2001-PR-054

September 13, 2002

Pursuant to Section 15.2-2303 (A), Code of Virginia, 1950 as amended, the undersigned Applicant and owners, for themselves, their successors and assigns, (hereinafter referred to as the "Applicant"), filed for a rezoning for property identified on Fairfax County Tax Map as 48-1 ((1)) Parcel 55A, (hereinafter referred to as the "Application Property"), hereby 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 to the PDH-4 Zoning District for 11 single-family detached lots, as proffered herein.

1. CONCEPTUAL/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 CDP/FDP, prepared by Paciulli, Simmons & Associates, Ltd., dated September 13, 2002.
- b. Site amenities, including benches, brick wall, entry feature, in substantial conformance with those shown on Sheet 4 of the CDP/FDP, shall be provided within the Application Property.
- c. Notwithstanding the minimum yard setbacks shown on the typical lot diagram on the CDP/FDP, the houses on Lots 8 through 11 shall be separated by approximately 24 feet, and Lots 7 and 8 separated by approximately 18 feet, in substantial conformance as depicted on the CDP/FDP.

2. FINAL DEVELOPMENT PLAN AMENDMENT

Notwithstanding that the CDP/FDP is the subject of Proffer 1 as set forth above, it shall be understood that the CDP shall be the entire Plan relative to the points of access, the maximum total number and type of units, the limits of clearing and grading, general location of residential lots and the location and amount of common open space, and that the Applicant has the option to request a Final

Development Plan Amendment (FDPA) for elements other than the CDP elements from the Planning Commission for all of, or a portion of the CDP/FDP in accord with the provisions as set forth in Section 16-402 of the Fairfax County Zoning Ordinance, dated August 14, 1978, as amended ("Ordinance").

3. ENERGY EFFICIENCY

All homes constructed on the Property shall meet the thermal standards of the CABO Model Energy Program for energy efficient homes, or its equivalent, as determined by DPWES, for either electric or gas energy systems.

4. TREE PRESERVATION

The Applicant shall preserve those trees identified to be preserved on the CDP/FDP as follows:

- a. Tree Preservation: The Applicant shall retain an arborist certified by the International Society of Arboriculture or other professional acceptable to Urban Forestry Division to prepare a tree preservation plan to be reviewed by the Urban Forestry Division as part of the first subdivision plan submission. The tree preservation plan shall consist of a tree survey that includes the location, species, size, crown spread and condition rating percentage of all trees 12 inches or greater in diameter 10 feet to either side of the proposed limits of clearing and grading as shown on the approved 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 provided. Activities may include, but are not limited to, crown pruning, root pruning, mulching and fertilization.
- b. Tree Preservation Walk-Through: 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, representative(s) of contiguous outlots A through F, and the developer's consultant to determine where minor adjustments to the clearing limits can be made to increase the survivability of the White Pine and Norway Spruce trees at the edge of the limits of clearing and grading and trees within outlots A through F. Trees that are not likely to survive construction due to their species and/or their proximity to disturbance will also be identified at this time, and the Applicant shall be given the option of removing them as part of the clearing operation. Owners of outlots A through F will also be offered

removal of any suspect trees within the outlots that may not survive construction on the Application Property. 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.

- c. Root Pruning: Prior to the commencement of any clearing, grading, or other demolition activities the limits of clearing and grading adjacent to all tree save areas depicted on the CDP/FDP shall be root pruned to a depth of 18 inches with a trencher or vibratory plow. The developer's certified arborist shall verify in writing that the root pruning has been taken place.
- d. Tree Preservation Fencing: All areas of tree save depicted on the CDP/FDP shall be protected by tree protection fence in the form of four foot high, 14-gauge welded wire attached to 6-foot steel posts driven 18 inches into the ground and placed no further than 10-feet apart. This fence type shall be shown on the Phase I and II erosion and sediment control sheets. The tree protection fencing shall be made clearly visible to all construction personnel, and shall be installed immediately after root pruning has taken place and prior to any clearing and grading activities on the site, including the demolition of any existing structures. The installation of the tree protection fence shall be performed under the supervision of a certified arborist. Prior to the commencement of any clearing, grading, or demolition activities, the developer's certified arborist shall verify in writing that the tree protection fence has been properly installed.
- e. Mulching: Immediately after the Phase I erosion and sediment controls have been installed, all areas of tree save shall be mulched 10 feet inside the limits of clearing and grading with 4-inches of shredded hardwood bark mulch or equivalent.
- f. Tree Transplantation: The Applicant shall provide a transplantation plan as part of the first and all subsequent submissions of the subdivision plan. The transplantation plan shall include the two American holly trees at the rear of proposed Lots 3 and 4 if these trees cannot be preserved in place. A professional acceptable to the Urban Forestry Division shall prepare the transplantation plan. The following are the components of a transplanting plan: identification of the existing locations of the plants to be transplanted; an assessment of the condition and survival potential of the plants; the proposed transplant locations; the timing of transplanting in the development process; the proposed time of year of the transplanting; the transplant methods to be used, including tree spade size if one is used; the

relocation site preparation materials and methods; the initial care after transplanting, including mulching and water specification to be conducted; and the long-term care measures including the installation of tree protection fencing and watering.

- g. Tree Protection/Replacement: Should any off-site trees adjacent to the limits of clearing and grading, become dead or die, or become hazardous as a result of said clearing and grading as determined by the Urban Forestry Division representative, these trees shall be removed and replaced by the developer within 60 days of receipt of permission from the Property owner. In the event trees are removed within or adjacent to the Sutton Road right-of-way to achieve stormwater outfall connection, then the Applicant shall plant new trees in the disturbed areas, subject to the Urban Forester and VDOT approvals. In the event VDOT denies replanting with the right-of-way or easement areas, the Applicant shall request private homeowners' permission to replant within the adjacent private lots. If both VDOT and private homeowners deny replanting permission, the Applicant shall be relieved of this proffer replanting commitment.

5. LANDSCAPE PLAN:

- a. Applicant shall install landscaping as shown on Sheet 4 of the CDP/FDP. The landscaping materials shall consist of a mix of evergreen, shade and ornamental trees, and shall be consistent with the quality and quantity as shown on Sheet 4 of the CDP/FDP and reviewed and approved by the Urban Forester.
- b. The trees shown on the landscape plan along the southern property lines of Lots 7 through 11 shall consist of a mix of evergreen, shade and ornamental trees, shall be 6 ft. to 8 ft. in height, and shall be spaced 20 feet on center at planting. The trees will be chosen in consultation with the Urban Forestry Division and the owners of outlots A through F.
- c. The trees shown on the landscape plan on the southern side of the SWM pond shown on Sheet 4 of the CDP/FDP shall consist of a mix of evergreen, shade and ornamental trees, shall be 6 ft. to 8 ft. in height, and shall be spaced 10 feet on center at planting. The trees will be chosen in consultation with the Urban Forestry Division and the owners of outlots E through F.

6. RECREATIONAL FACILITIES

- a. A gazebo and playground equipment or a picnic area shall be constructed in the location shown on Sheet 4 of the CDP/FDP.

- b. At the time of subdivision plan approval, pursuant to Section 6-110 of the Zoning Ordinance, the Applicant shall contribute any difference between the value of the facilities in subparagraph a. and the sum of \$955.00 per approved dwelling unit for the total number of new dwelling units on the record plat, to the Fairfax County Park Authority for use on recreational facilities in nearby Nottoway Park.

7. TRANSPORTATION

- a. At time of subdivision plan approval, or upon demand by Fairfax County, whichever occurs first, right-of-way along the Application Property's Route 123 frontage measured 60 feet from centerline plus a 15-foot wide ancillary easement as shown on the CDP/FDP, shall be dedicated and conveyed in fee simple to the Board.
- b. The Applicant shall dedicate and convey in fee simple to the Board necessary right-of-way and construct road improvements to provide a 26-foot wide half section to provide a dedicated right turn only lane along the Application Property's Sutton Road frontage prior to the issuance of the first Residential Use Permit (RUP).
- c. At time of subdivision plan approval, the Applicant shall dedicate and convey in fee simple to the Board right-of-way for the internal public street and escrow funds as determined by DPWES for future removal by other to remove portions of the temporary cul-de-sac and seed/sod scarified areas at such time as the public street is connected to the contiguous parcels.
- d. All prospective purchasers shall be notified in writing prior to contract of sale and within the Homeowners Association documents that the public street may be connected and extended into the contiguous parcels in the future. A sign shall be installed at the end of the street informing the public that it is a temporary cul-de-sac.
- e. Prior to bond release on the project, the Applicant shall construct a bus shelter along Route 123 in a location determined by Fairfax County Department of Transportation. The Homeowners Association shall accept responsibility for trash removal from the bus shelter if the bus shelter is constructed along the Application Property's Route 123 frontage. Notice of this responsibility shall be disclosed in the HOA documents.
- f. At time of subdivision plan approval, the Applicant shall make a prorata contribution as determined by DPWES to traffic signalization at the intersection of Sutton Road and Courthouse Road.

- g. Applicant shall connect unlinked portions of the existing sidewalk along the Application Property's Route 123 frontage.
- h. The Applicant shall construct a 5-foot wide sidewalk along the Application Property's Sutton Road frontage as shown on the CDP/FDP except for that section of the sidewalk which extends southward from the entrance road to the common property boundary of Tax Map 48-1 ((1)) 144A. In lieu of construction, the Applicant shall escrow funds in an amount as determined by DPWES for this 25-foot long segment of the sidewalk.
- i. If, prior to final bond release for the Application Property, rezoning application(s) have been filed on all of Tax Map 48-1 ((1)) 60, 61, 61A and 38-3 ((1)) 26, 27, 28, then the Applicant shall escrow funds, as determined by DPWES, for 40% of the cost to vacate and remove the stub street pavement and realign the curb and gutter on Flint Hill Road at its intersection with White Cedar Court in conformance with the vacation, not to exceed \$20,000.00.

8. STORMWATER MANAGEMENT POND/LANDSCAPING

- a. In order to restore a natural appearance to the proposed stormwater management pond and create a wetland habitat, the Landscape Plan submitted as part of the first submission of the Subdivision Plan shall show the maximum feasible amount of landscaping that will be allowed in the planting areas of the pond, in keeping with the planting policies of Fairfax County and the Applicant shall install said landscaping in accordance with said Plan, subject to Urban Forestry approval. The design and implementation of this pond shall be in conformance with the Letter to Industry from Michelle Brickner dated October 2, 2001.
- b. To minimize the visual impact of the stormwater management pond on the adjacent homes in Vienna Oaks subdivision, the Applicant shall pursue alternate road access to the stormwater management pond to minimize the amount of pavement, and plant a mixture of hardwoods and evergreens within five feet of the rear property line of the stormwater management pond area, subject to the approval of DPWES.
- c. If necessary, the Applicant shall seek a PFM modification to ensure that a 5-foot strip is available for landscaping. If the PFM modification is denied, the Applicant shall ask the owners of adjoining outlots E and F permission to plant trees within outlots E and F.

9. CONSERVATION EASEMENT

- a. At the time of subdivision plan approval, the Applicant shall place a conservation easement within the 10-foot wide open space area behind Lots 7 through 11 and other open space areas identified during the subdivision plan process to satisfy required Best Management Practices (BMP) Standards. The conservation easement will run to the benefit of Fairfax County in a form as approved by the County Attorney and shall prohibit disturbance of the open space area except for planting the proposed trees as shown on Sheet 4 of the CDP/FDP and removal of dead or dying vegetation.
- b. There shall be established a 5 foot to 10 foot open space between the southern berm of the SWM dry pond and adjacent property.
- c. Applicant shall plant trees within the conservation easement as shown on the CDP/FDP in conformance with DPWES policy under Chapter 118 of the Code of Fairfax County.
- d. Applicant shall disclose in all purchase documents and within the HOA documents that individual lot owners may not disturb, clear or store materials within any conservation easement areas.

10. HOMEOWNERS ASSOCIATION

The Applicant shall establish a Homeowner's Association for the proposed development to own, manage, and maintain the open space areas and all other community owned land and improvements.

11. HOUSING TRUST FUND

At the time of subdivision plan approval, the Applicant shall contribute to the Fairfax County Housing Trust Fund a sum equal to one-half of one percent (.5%) of the projected sales price of new homes to be built on-site, as determined by the Department of Housing and Community Development and DPWES in consultation with the Applicant to assist the County in its goal to provide affordable dwellings elsewhere in the County.

12. ARCHITECTURE

- a. The building elevations for the proposed dwelling units shall be generally in character with the illustrative elevation shown on Sheet 3 of the CDP/FDP, as determined by DPWES. The exterior facades of the new

homes constructed on the site shall consist of brick, stone, and siding, or a combination thereof.

- b. The rear facades of units on Lots 1 through 6 facing Route 123 shall consist of the same building materials and shall have a consistent pattern and percentage of building materials as the front facades on each of these units. The rear facades shall consist of a minimum of 50% brick and glass.
- c. No second floor decks shall be permitted on the rear of Lots 1 through 6. No decks higher than 2 feet above grade shall be permitted on the rear of Lots 7 through 9. Decks on Lots 10 and 11 shall be limited to finished grade level at the rear of the home. All prospective purchasers shall be notified of this restriction in writing, prior to purchase, and such restriction shall be placed in each of the lot's deeds among the land records of Fairfax County and in the HOA documents in a form as approved by the County Attorney.
- d. A solid 6-foot high wooden fence shall be constructed along the rear of Lots 7 through 9 and along the rear of the pocket park which abuts Lot 7.
- e. The rear facades of all homes shall not have any second story operable French doors which would otherwise be used for deck access.

13. NOISE ATTENUATION

- 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 (approximately 180 feet from centerline of Route 123), the Applicant 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 facade exposed to noise levels of 45 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.
 - 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.

19. SUBDIVISION PLANS

Applicant shall deliver a copy of each submission of the subdivision plan to the Providence District Supervisor and Planning Commissioner for review and comment.

20. TEMPORARY GRAVEL PARKING LOT

At time of base paving of the proposed public street, or sooner at Applicant's option, the Applicant shall deliver and spread gravel (not to exceed 30 tons) for temporary parking lot purposes at Madison High School. The gravel shall be placed in coordination with the Principal of the High School.

21. COUNTERPARTS

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

[SIGNATURES BEGIN ON FOLLOWING PAGE]

- b. In order to reduce exterior noise levels below 65 dBA Ldn in Lots 1 through 6, an acoustical wall, earthen-berm, or combination thereof shall be provided as referenced in Paragraph 12 below. The acoustical wall shall be architecturally solid from the ground up with no gaps or openings. The structure must be of sufficient height to adequately shield the impact area from the source of the noise.

14. DECORATIVE WALL

An acoustical masonry wall with or without a berm to a total height of 6 feet shall be constructed along the Route 123 frontage and part of the Sutton Road frontage as shown on the CDP/FDP.

15. DRIVEWAYS/REAR YARDS

- a. All driveways shall be a minimum of 18-feet in length measured from the garage door to the closest edge of sidewalk.
- b. Lots 1 through 6 shall have a minimum 20-foot rear yard. The rear of homes on Lots 7 through 11 shall be at least 30 feet from the Application Property's southern property line.

16. SIGNS

No temporary signs (including "Popsicle" style paper or cardboard signs), which are prohibited by Article 12 of the Zoning Ordinance or Chapter 7 of Title 33.1, or Chapter 8 of Title 46.2 of the Code of Virginia, 1950 as amended, 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 Application Property. The Applicant shall direct its agents and employees involved in marketing and/or home sales for the Application Property to adhere to this proffer.

17. STORMWATER OUTFALL

Stormwater outfall shall be converted to off site facilities in an alignment in substantial conformance with the outfall exhibit shown on Sheet 5 of the CDP, and as approved by DPWES. The Applicant shall minimize off-site tree removal and provide appropriate replanting in disturbed areas as approved by the Urban Forester when connecting to off-site facilities.

18. LIGHTING

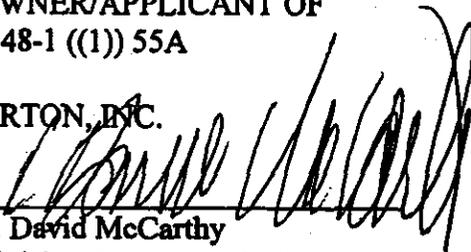
Streetlights installed along the public street shall include full cut-off, no glare fixtures.

Proffers
RZ 2001-PR-054

TITLE OWNER/APPLICANT OF
Tax Map 48-1 ((1)) 55A

D. R. HORTON, INC.

BY


C. David McCarthy
Division President, Virginia

(END OF SIGNATURES)

