

**PROFFERS**  
**“Briarwood Trace” Rezoning**

**RZ/FDP 2002-PR-008**

**September 16, 2002**

Pursuant to Section 15.2-2303(a) of the Code of Virginia, 1950, as amended, the property owners and Applicant in this rezoning proffer that the development of the parcels under consideration and shown on the Fairfax County Tax Maps as Tax Map Reference Nos. 48-2 ((7)) (33) 1, 2, 3, 7A, 9A, 10; (34) 1, 3, 5, 9, 11, 14, 16, A, B; (35) 2, 3, 4; and (36) 1, 2, 3, 4, 5, 5A, 5B, 9, 36A, 36B, a portion of public right-of-way for Hideaway Road and Swanee Lane to be vacated and/or abandoned, and existing private streets known as Topaz Street and Hideaway Road (hereinafter referred to as the "Property") will be in accordance with the following conditions if, and only if, said Rezoning request for the PDH-3 and PDH-5 Zoning Districts is granted. In the event said application request is denied, these proffers shall be null and void. The Owners and the Applicant ("Applicant"), for themselves, their successors and assigns, agree that these proffers shall be binding on the future development of the Property unless modified, waived or rescinded in the future by the Board of Supervisors of Fairfax County, Virginia, in accordance with applicable County and State statutory procedures. The proffered conditions are:

I. GENERAL

1. 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 Development Plan/Final Development Plan (CDP/FDP), containing 13 sheets prepared by Urban Engineering & Associates, Inc., dated December, 2001 and revised through August 26, 2002.

Notwithstanding the above, it shall be understood that the Applicant has the right to request a Final Development Plan Amendment (FDPA) for elements other than CDP elements for all or a portion of the CDP/FDP in accordance with the provisions set forth in Section 16-402 of the Zoning Ordinance. For the purpose of this Proffer, CDP elements shall include the overall number and type of units and the general location and orientation of streets, open space and tree save areas. It shall further be understood that the Property may be developed in phases subject to market conditions.

2. Lot Yield and Orientation of Units. The development shall consist of a maximum of eighty-six (86) single family detached residential units (inclusive of the required ADUs) that are generally contained within two land units identified as Land Unit A, consisting of approximately 13.85 acres and sixty-two (62) residential units; and Land Unit B, consisting of approximately 9.6 acres and twenty-four (24) residential units. Unit Types shown on the CDP/FDP are conceptual and subject to change provided that any such changes shall conform to the "Lot typical" shown on the CDP/FDP and the requirements of these proffers. The general orientation of the front and rear of the units shall be as shown on the CDP/FDP, i.e. units 1-9, 40-46, and 51-61 shall be rear load units. In addition, notwithstanding the Lot typical shown on the CDP/FDP, Units 12-23 shall have rear setbacks and Unit 1 shall have a front setback from Swanee Lane Extended that are consistent with that shown on the CDP/FDP (25' for Lot 1) and Units

24 and 25 shall have a minimum front setback consistent with Units 32 and 33 as referred on the “Land Bay A Option 2” lot typical.

3. Dedication to HOA. Prior to subdivision plan approval, a single homeowners association (HOA) shall be established for the entire property. In conjunction with the appropriate subdivision review processes, private streets and common areas and amenities not otherwise conveyed or dedicated to the County and/or VDOT (i.e. right-of-way shown as to be dedicated for future widening of I-66) shall be dedicated to the homeowners association. A public access easement in a form approved by the County Attorney shall be placed on the streets, sidewalks, and trails within the approved development.

4. Garage Conversion. Any conversion of garages that will preclude the parking of vehicles within the garage is prohibited. A covenant setting forth this restriction shall be disclosed in the HOA documents and 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 homeowners’ association (HOA), which shall be established, and the Board of Supervisors. Prospective purchasers shall be advised of this use restriction, in writing, prior to entering into a contract of sale.

5. Pavement Section. All private streets shall be constructed pursuant to PFM pavement section standards as to the thickness appropriate for public subdivision streets based on level of vehicular traffic consistent with the development shown on the CDP/FDP. The HOA dues and budget shall include annual assessments to be deposited into an escrow account for private street maintenance. At the time of establishment of the HOA, the Applicant shall deposit the sum of \$150.00 per approved unit into the escrow

account for private street maintenance. All prospective purchasers shall be advised of the existence of private streets and all other associated maintenance obligations required by these Proffers prior to entering into a contract of sale.

6. Right of Way Vacation. Notwithstanding the submission for processing of any applications, plans or plats in furtherance of the development of the Application Property, the Applicant acknowledges that no such application, plan or plat shall be approved by Fairfax County until or unless the vacation of right-of-way proposed as part of the Application Property is approved by the Board of Supervisors and is final. In the event that such vacation is not approved by the Board of Supervisors, or in the event that Board's approval is overturned by a court of competent jurisdiction, any development of the Application property under the PDH-3 or PDH-5 District shall require a proffered condition amendment and the Applicant acknowledges that such amendment may result in a loss of density. The Applicant hereby waives any right to claim or assert a taking or any other cause of action that otherwise may have arisen out of a Board decision to deny in whole or in part the right-of-way vacation.

7. Escalation. All monetary contributions required by these proffers except Proffer 1 in the section entitled "Recreation" shall be adjusted upward or downward, based on changes to the Construction Cost Index published in the Engineering News Record occurring subsequent to the date of rezoning approval and up to the date of payment.

8. Phasing of Streets. The system of new streets generally located within the area to be zoned PDH-5 shall be constructed during the first phase of the approved

development and prior to the issuance of a Residential Use Permit (“RUP”) for any dwelling unit. This shall not preclude the construction and use of a model home.

9. Access to Parcel 13. Parcel 13 (TM #48-2((7))(34)13 shall be provided with access to a public street throughout the construction process via an all weather access road in a form and location approved by the Director, DPWES, following the construction of the new private roads shown on the CDP/FDP, Parcel 13 shall be provided with access to the new private road system. If, for any reason, the Applicant is unable to remove and reconfigure Topaz Street as generally shown on the CDP/FDP, a proffer condition amendment shall be required and such amendment may result in a loss of density.

10. Future Inclusion of Parcel 13 in HOA Documents. The appropriate homeowners association documents shall be structured so as to allow the future inclusion of Parcel 13 (TM# 48-2-((7))(34)-13) into the established homeowners association in the event such parcel is ever rezoned in the future to allow a type of development generally consistent with that approved in this rezoning.

11. Use of Existing Units for ADU Purposes. Notwithstanding that shown on the CDP/FDP, the Applicant reserves the right to relocate any of the existing dwellings within the assembled property to any one of the approved lots to fulfill the applicable Affordable Dwelling Unit (ADU) requirements. Any such units shall conform to all house size and configuration requirements established by the ADU Board. Units 47 and 18 are existing units, that the Applicant intends to retain to fulfill a portion of the ADU requirement. In the event Units 47 and 18 are not accepted by the County for use as part of the ADU program, these Units shall not be required to be retained, and the lots will be

redeveloped with new units having a design, size and architecture that is consistent with the adjacent approved development and the architecture and lot typicals shown on the CDP/FDP, as determined by DPZ. If the existing units are not retained, other units within the approved development shall be designed as ADUs to meet the ADU requirement. The ADU units shall be located as shown on the CDP/FDP and shall not be subject to the "lot typicals" on the CDP/FDP.

12. Length of Driveways. All driveways serving the approved residential units shall be a minimum of 18 feet in length without overhanging into the sidewalk from the inside of the sidewalk to the edge of the entrance to the garage. Driveways for market rate units shall be of a width that can accommodate two (2) cars.

13. Interim Use of Existing Units. The Applicant reserves the right to retain the existing dwellings, on an interim basis, within newly subdivided lots created pursuant to this approved rezoning. In the event any of the existing dwellings are retained on an interim basis (not to exceed three (3) years from subdivision plan approval for the section of the approved development within which the unit is retained), the location and configuration of the dwelling on the lot shall not be required to conform to the lot configuration or lot typical described on the CDP/FDP.

14. Signs. No temporary signs (including "popsicle" 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 Subject Property. Furthermore, the Applicant

shall direct its agents and employees involved in marketing and sale of residential units on the Subject Property to adhere to this proffer.

15. Administrative Review. Concurrent with their submission to the Department of Public Works and Environmental Services, each subdivision plan shall be submitted to the Providence District Planning Commissioner for the purpose of administrative review and comment.

16. School Contributions. Prior to approval of the final subdivision plan for the approved development, the Applicant shall provide documentation to DPWES that the Applicant has donated the sum of \$1,100 per dwelling unit, for each new market rate dwelling unit approved on the final subdivision plan above the twenty-one (21) of existing units on the Property at the time of rezoning, or a total of \$67,100.00 (61 new market rate units multiplied by \$1,100) to Fairhill Elementary School. These funds are to be applied towards the purchase of Wireless Networking and Mobile Lab Units in support of Fairhill's Technology Project. At the time the funds are received, other equivalent or more advanced technologies may be substituted, at the discretion of the principal, for the actual purchases that will be made and installed through the Fairfax County Public School System.

17. Disclosure of 200' Setback and Adjacent Park Site. Prior to entering a contract of sale, the Applicant shall disclose in writing to all prospective purchasers of lots 24 through 39 that these lots are adjacent to the 200' building restriction line and that, as a result, construction of building additions which create additional living space are not permitted within the 200' setback pursuant to these proffered conditions. This

proffer shall not preclude decks or patios. This requirement shall also be incorporated as a covenant within the homeowners association documents and the deeds of these lots.

In the event the land area located north of Lots 24 through 39 is dedicated for public park purposes pursuant to Proffer II2 below, the existence of such a public park site shall also be disclosed in writing to all prospective purchasers.

18. Delineation of 200' Setback. The 200-foot setback from Interstate 66 required by Section 2-414 of the Zoning Ordinance shall be as generally shown on the CDP/FDP.

19. Construction hours. Construction shall only occur between the hours of 7:00 a.m. and 7:00 p.m. Monday through Friday and 8:00 a.m. and 5:00 p.m. on Saturday. Prior to the start of construction, the name and phone number of the construction superintendent shall be provided to the President of the Briarwood Citizens Association and the Providence District Supervisor.

20. Retaining Walls. The Applicant reserves the right to install retaining walls at the rear of Lots 24 through 39 and in other areas of the site, to include the general periphery of existing Lot 13, as necessitated by final site grades and the requirement to honor the limits of clearing and grading shown on the CDP/FDP. The materials and design of such retaining walls shall be of low maintenance masonry type material and be consistent with and complimentary to the materials used in the design and construction of the approved units, or those materials used in other landscaping or amenity areas of the property, as determined by DPWES. Railings at the top of the retaining wall shall be allowed as may be required by Fairfax County. No such wall shall be greater than six (6) feet in height. If additional height is required, the wall shall be constructed in segments

within a terraced and landscaped design. Any such landscaping on a terraced retaining wall shall be approved by the Urban Forestry Division. Any retaining walls installed pursuant to this proffer shall be maintained by the homeowners association.

21. Undergrounding of Certain Existing Utilities. To the extent permitted by the applicable utility providers, the Applicant shall use its best and most reasonable efforts to relocate the existing overhead utilities to underground locations along the existing portion of Swanee Lane between Nutley Street and the application property and the portion of Hideaway Road parallel to the northeastern boundary of Land Bay B. In the event the applicable utility providers fail to grant the Applicant permission to relocate the existing utilities to underground locations, or if necessary easements or permission cannot be obtained without cost to the Applicant, the Applicant shall have no further obligations under this proffer. Documentation of failed attempts to acquire the necessary easements or permission shall be provided to DPWES.

22. Rear Yard Fences. The fencing of yards associated with any rear load units (i.e. Units 1-9, 40-46 and 51-61) shall be as shown on the lot typical described on the CDP/FDP (Land Bay A Option 1). In addition to that shown on the lot typical, the four foot high fencing may extend to the side lot line, street line and edge of the driveway. The six foot high fencing shall not extend closer to the street line than the area reserved for decks on the lot typical. This restriction shall be incorporated as a covenant within the applicable HOA documents.

23. Extension of Curb and Gutter. Any extension of curb and gutter along those portions of Swanee Lane outside the Application property and outside the dedicated

right-of-way shall be subject to the Applicant receiving the necessary permission from the affected land owner.

24. Piping of Utilities. To the extent permitted by DPWES, and supported by final engineering, the new storm drainage infrastructure adjacent to off-site parcel 48-2-((7))(3)-6 shall be designed in the form of an underground pipe as opposed to the existing open ditch.

## II. RECREATION

1. Construction of Facilities. At the time of subdivision plan review, the Applicant shall demonstrate that the value of any proposed recreational amenities, including those proposed to be installed in the area conveyed to the County pursuant to Proffer II2 below, have a value equivalent to \$955.00 per unit as required by Article 6 of the Zoning Ordinance. This required contribution shall not include any roadway or parking improvements that may occur within potential recreation areas. To the extent that an agreement is reached with the Fairfax County Park Authority to construct and dedicate a public park pursuant to proffer II2 below, the required \$955.00 per unit shall be used toward facilities within the dedicated park. In the event agreement is not reached to dedicate the park, or in the event that facilities within the park do not have sufficient value, the Applicant reserves the right to install active or passive recreational facilities, as generally shown on the CDP/FDP to include but not be limited to multi-purpose court(s), tot lots, fitness courses, gazebos, playgrounds and similar facilities, in open space areas shown on the CDP/FDP that are to be retained by the HOA, provided that the installation of such facilities shall conform to the tree preservation requirements of these proffers and to the provisions of Article 6. In the event it is demonstrated that the proposed on-site

facilities do not have sufficient value, the Applicant shall have the option to contribute necessary funds to the Fairfax County Park Authority for off-site recreational purposes at the Hideaway and/or Villa Lee Park located in the Briarwood community. Recreational facilities required by this Proffer II1 and Proffer II2 below may be located within designated tree save areas provided that such facilities are field located in consultation with the Urban Forestry Division in a manner that does not require removal of mature trees.

2. Park Dedication. At the time of the submission of the first subdivision plan approval for the portion of the property zoned PDH-5, the Applicant shall make a written proposal to the Fairfax County Board of Supervisors to dedicate to the Fairfax County Park Authority for park purposes, in fee simple and at no cost, the open space areas and associated recreational facilities, to be constructed by the Applicant, between the northern property line and units 24 through 39. The Applicant's proposal shall include a commitment to develop and construct: one (1) multi-purpose court; one (1) playground; a picnic pavilion; benches at the playground and multi purpose court, and an open play area consisting of a grassed area as generally shown on the CDP/FDP. The Applicant shall further commit that all recreational facilities be constructed to standards contained in the PFM. In the event the proposed park dedication is accepted by the County, the existence of the Park site shall be disclosed in the HOA documents. In the event that an agreement cannot be reached concerning the construction of facilities and dedication of the same for park purposes prior to the issuance of the first residential use permit. The open space areas located north of Units 24-39 shall then be conveyed to the homeowners association and preserved as active and passive recreation generally in

accordance with the approved CDP/FDP. In the event that said open space areas are conveyed to the HOA, the appropriate HOA documents shall stipulate that the residents of the adjacent Briarwood community [(generally known as Tax Map Reference 48-2-((7))((13))((15)); 48-4-((3))((8)))] shall have access to recreational facilities in the open space that were offered to the Park Authority pursuant to this proffer. This commitment shall be appropriately reflected in the homeowner's association documents governing the new residential development. The exact type and location of facilities shown on the CDP/FDP may be changed subject to compliance with the requirements of these proffered conditions. The location and configuration of the access to the Park site from Nutley Street shall be field located at subdivision plan review to maximize opportunities for tree preservation.

### III. ENVIRONMENTAL

1. Stormwater Management. Stormwater management shall be provided in accordance with the PFM as determined by DPWES. In order to restore a natural appearance to the proposed stormwater management ponds and create a potential wetland habitat, or similar innovative approach approved by DPWES, a Landscape Plan submitted as part of the first submission of the subdivision plan. The Plan shall show a restrictive planting easement for the ponds and extensive landscaping in all areas outside the restrictive planting easement to the maximum feasible amount in keeping with the planting policies of Fairfax County.

2. Location and Final Design of Ponds. The location and configuration of the stormwater management facilities shown on the CDP/FDP are conceptual and subject to change based on final engineering and Proffer 3 of this section below. The

necessary ponds shall be located within the areas reserved for the same on the CDP/FDP. In the event that the final design and engineering indicates that the applicable water quality/quantity requirements require less land area than that shown on the CDP/FDP, those areas not required in connection with the stormwater ponds or associated grading shall be examined jointly by the Applicant, the Urban Forestry Division for feasibility as additional tree preservation areas or adding additional depth to rear yards of Units 12-16 and 19-23. If found to be viable for tree preservation purposes, these areas shall be protected in accordance with the requirements of these proffers. If such areas not used for stormwater management and are not deemed appropriate for tree preservation by the Applicant, the Urban Forestry Division, then such areas shall be landscaped with a type and amount of landscaping that is generally consistent with the landscape concepts generally described on the CDP/FDP.

3. Landscaping. Landscaping shall be provided in substantial conformance with the landscaping concepts shown on the CDP/FDP. If, during the process of subdivision plan review, any new landscaping shown on the CDP/FDP cannot be installed in order to locate utility lines, trails, etc., as determined necessary by the Urban Forestry Division, then an area of additional landscaping consisting of trees and/or plant material of a type and size generally consistent with that displaced, shall be substituted at an alternate location on the Property, subject to approval by the Urban Forestry Division. If it is necessary to install utilities outside the limits of clearing shown on the CDP/FDP, they shall be located in the least disruptive manner necessary, as determined by the Urban Forestry Division.

4. Limits of Clearing. Except as qualified by Proffer 3 above, the limits of clearing and grading shown on the CDP/FDP and required pursuant to these proffers shall be strictly adhered to and be considered maximum limits.

5. Tree Preservation. The Applicant shall submit a tree preservation plan as part of the first and all subsequent subdivision plan submissions. Preservation plans shall be prepared by a professional with experience in the preparation of tree preservation plans such as a certified arborist or landscape architect for the review and approval of the Urban Forestry Division.

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 greater than twelve (12) inches in diameter and greater than ten (10) feet to either side of the limits of clearing and grading shown on the CDP/FDP for those areas generally protected by the limits of clearing and grading shown on the CDP/FDP. The condition analysis rating shall be prepared using methods outlined in the latest edition of The Guide for Plant Appraisal, published by the International Society of Arboriculture. Specific tree preservation activities that will maximize the survivability of trees identified to be preserved, such as crown pruning, root pruning, mulching, fertilization and others as necessary shall be included in the plan.

6. Tree Preservation Walk-Through. The Applicant shall retain the services of a certified arborist or landscape architect and 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's certified arborist or landscape architect shall walk the limits of clearing and grading with an Urban Forestry

Division representative and invite a representative of the Briarwood Association to the same, 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 not likely to survive construction due to their species and/or proximity of disturbance will also be identified at this time and the Applicant shall also be given the option of removing them as part of the clearing operation. Any tree designated for removal at the edge of the limits of clearing and grading or within 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 adjacent trees.

7. Tree Protection Fencing. 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 six foot steel post driven 18 inches into the ground and placed no further than ten feet apart shall be erected at the limits of clearing and grading as shown on the demolition and phase 1 and 2 erosion and sediment control sheets for the tree save and protection areas generally delineated on the CDP/FDP. All tree protection fencing shall be installed prior to any clearing and grading activities, including the demolition of any existing structures within or adjacent to tree save areas. The installation of all tree protection fencing shall be performed under the supervision of a certified arborist. Three days prior to the commencement of any clearing, grading or demolition activities, the Urban Forestry Division shall be notified and given the opportunity to inspect the site to ensure that all tree protection devices have been correctly installed.

8. Tree Transplanting. The Applicant shall provide a transplanting plan as part of the first and all subsequent site or subdivision plan submissions for review and approval by the Urban Forestry Division. The plan shall be prepared by a professional with experience in the preparation of tree transplanting plans such as a certified arborist or landscape architect. The plan shall generally address the following items:

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

9. Demolition of Existing Structures. The demolition of existing features and structures shall be conducted in a manner that minimizes the impact on individual trees and groups of trees that are shown to be preserved on the CDP/FDP, as determined by the Urban Forestry Division. Methods to preserve existing trees may include, but are not limited to, the use of supersilt fencing, root pruning, mulching, wire-welded tree protection fence, and other similar means.

10. Trail Design and Installation. In order to minimize site disturbance, the trails generally identified on the CDP/FDP shall be field located in consultation with the Urban Forestry Division prior to the first submission of the appropriate site and/or subdivision plan. Once the trail is located in the field, it shall be shown on the appropriate site and/or subdivision plan with the limits of clearing and grading reflecting

only that required for access and construction. Tree protection fencing consistent with that required by Proffer 7 above shall be used to protect any trees in the area during construction.

11. Tree Replacement. If any trees within the area designated to be preserved are dead, dying or hazardous and such condition is shown to have been proximately caused by the Applicant's construction activities within a two (2) year time period after bond release, the Applicant will remove said trees and provide appropriate replacement trees in terms of species, size and quantity as determined by the Urban Forestry Division pursuant to Section 12-403 of the Public Facilities Manual.

12. Phase I Environmental Survey. Prior to subdivision approval, the Applicant shall submit a Phase I investigation of the property to DPWES for review and approval in coordination with the Fire & 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 with 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. If warranted by the results of the Phase I investigation, as determined by DPWES in coordination with the reviewing agencies, a Phase II monitoring program shall be pursued in order to determine if soil, surface water or ground water contaminants are present on the property and/or have migrated from the property.

13. Noise Attenuation. The Applicant shall provide the following noise attenuation measures:

A. In order to reduce the maximum interior noise to a level of approximately 45 dBA Ldn, the Applicant proffers that all residential units located within 300 feet of the existing right-of-way for Interstate 66 and potentially impacted by highway noise having levels between 65 and 70 Ldn, shall have the following acoustical attributes:

- (a) Exterior walls shall have a laboratory sound transmission class (STC) rating of at least 39;
- (b) Doors and windows shall have a laboratory STC rating of at least 28. If glazing constitutes more than 20% of any façade, they shall have the same laboratory STC rating as walls; and
- (c) Measures to seal and caulk between surfaces shall follow methods approved by the American Society for Testing and Materials to minimize sound transmission.

B. In order to reduce the maximum exterior noise level of 65 dBA Ldn, the Applicant proffers that all residential units and the active recreation areas identified on the CDP/FDP as a multi-purpose court, picnic pavilion, open play area, and playground located within 300 feet of the existing right-of-way for Interstate 66 and/or otherwise impacted by highway noise having levels between 65 and 70 Ldn, shall be screened from highway noise by the existing noise barrier and/or the extensions or additions to the same in the area generally parallel to the right-of-way of I-66 and between the application property and Tax Map 48-2-((7))-37-43A as more fully described below.

C. Prior to the first subdivision plan approval for the portion of the site zoned PDH-5, the Applicant shall have a refined acoustical analysis performed to verify or amend the noise levels and impact areas set forth above, to revise interior noise attenuation measures as prescribed above and/or to confirm the need for changes or additions to the required exterior noise mitigation. If required by the refined acoustical analysis, additional exterior mitigation measures shall be in the form of: (1) increasing the height of the existing noise wall through a vertical extension of the wall or a replacement of individual section(s); (2) a further extension of the existing VDOT wall to the east, parallel to Interstate 66, and/or to the south, along the north/south property line between the site and Tax Map 48-2-((7))-(37)-43A; and (3) a possible extension of the noise wall in the area parallel to the ramps that provide access from Nutley Street to I-66. With the exception of the possible extension of the sound barrier along the common property line with Tax Map 48-2-((7))-(37)-43A, any extension or addition to the existing noise barrier shall be within the VDOT right-of-way. In the event the Applicant elects to raise the vertical height of the existing noise barrier, the height shall not be greater than ten (10) feet above the existing height of any portion of the existing barrier. Any barrier constructed along the lot line shared with Parcel 43A shall not exceed eight (8) feet in height and shall be architecturally solid with no gaps or openings. The existence of and maintenance obligations associated with this barrier shall be disclosed in the HOA documents. Any additional barrier requested pursuant to these proffers shall be installed prior to the issuance of the first Residential Use Permit for any unit in the area zoned PDH-5. In the event the refined acoustical analysis demonstrates to the satisfaction of DPZ and DPWES that noise is mitigated in all rear yards and active recreation areas with

the exception of the trail running east/west through the eastern half of the tree save area north of Units 33-39, the trail may be removed and east/west pedestrian access provided via the sidewalk located adjacent to the front yards of Units 33-39. The refined acoustical analysis and revisions or additions to noise attenuation measures is subject to the approval of DPWES and the Department of Planning and Zoning. The refined acoustical analysis shall also be forwarded to the Providence District Planning Commissioner at the time of filing with the County.

#### IV. ARCHITECTURE/DESIGN

1. Architecture. The architecture and design of the approved units shall be in substantial conformance with the illustrative architectural renderings attached to the CDP/FDP as Sheets 11 and 12, or of generally comparable quality, as determined by DPWES. The ADU units identified as Units 10 and 11 shall be designed with an architecture that is compatible with the market rate units, as generally shown on Sheets 11 and 12 of the CDP/FDP, as determined by DPWES.

2. Continuation of certain landscaping and design amenities. To the extent permitted within the existing public right-of-way by Fairfax County and/or VDOT, the Applicant shall extend the street light concept from the new community into the established community along Swanee Lane to its intersection with Nutley Street and along both sides of Hideaway Road in the areas generally parallel to the application Property boundary. The Applicant shall file for and diligently pursue the necessary approvals. In the event it is determined by DPWES or VDOT that there is insufficient existing right-of-way or VDOT and/or Fairfax County fail to approve the necessary permits, the Applicant shall have no further obligation for off-site street lighting.

3. Additional Landscape Buffer. At the time of site/subdivision plan review, and in addition to those trees shown to be preserved on the CDP/FDP, the Applicant shall provide supplemental landscaping along the southeastern boundary of Lots 1 and 11 to ensure that year round screening is provided along the boundary with existing and adjacent Lot 6. The final design, size and location of the required landscaping shall be reviewed and approved by the Urban Forestry Division.

4. Design of Street Furniture. The benches and sitting areas generally described on the CDP/FDP shall be of a consistent and unified design throughout the community as shown on the CDP/FDP.

5. Building Materials. Exterior materials used on the facade shall include brick, stone, and similar masonry type materials, wood siding, vinyl siding, standing seam metal, cementitious siding (i.e. "Hardi Plank" or similar), and materials of comparable type and quality as determined by DPWES in consultation with the Providence District Planning Commissioner and based on data and information provided by the Applicant. Any vinyl siding used for the approved units shall be "Wolverine Millenium", "Carolina Beaded" or similar brands selected by the Applicant of comparable quality as determined by DPWES in consultation with the Providence District Planning Commissioner based on specifications provided by the Applicant. In order to provide additional design amenities for the sides of those units visible from the existing development, the rear of Units 48, 49, 63, 64, 84, 85, and 86, the rear of Units 58-61, the southwestern side of Units 1 and 11 and 65, the southeast side of Units 77, 80 and 83, the west side of Units 24, 33 and 16, the eastern side of Units 39 and 32, the north side of Units 9, 40, 57 and 58 and the sides of those units facing Suteki Drive shall, at a

minimum, be designed with architecture, materials and design elements, such as window types and treatments, of an amount, proportion, and quality equivalent to that used on the fronts of the units. The front façade of Units 1, 2, 73, 74, 75, 76 and 77 and the northeastern side of Unit 62 that faces Hideaway Road, shall incorporate an architecture whereby a substantial portion of the front façade (beyond 65%) is designed using brick, stone or similar material.

## V. TRANSPORTATION

1. Traffic Signal. Prior to approval of the final bond release for the approved development, the Applicant shall provide a traffic signal and walklight at the intersection of Route 29, Hunter Road and Ellenwood Drive. The Applicant's obligation shall be subject to the following requirements: (1) the funds allocated for such a signal pursuant to approved RZ 2001-PR-050 shall be in escrow and available for dispersal by the County and to the Applicant to be used toward the Applicant's construction of the signal; (2) the warrant study required by approved RZ 2001-PR-050 shall be complete and be approved by VDOT; (3) it shall be shown that installation of the signal does not require the acquisition of additional right-of-way or realignment of the existing roads.

In the event any of the conditions enumerated above are not met prior to bond release, the Applicant shall escrow the sum of \$65,000 for the future installation of such a signal or other area wide improvements benefiting the Property.

2. Pedestrian Signals. Prior to the approval of the final subdivision plan, the Applicant shall use its best and most reasonable efforts to obtain the approvals and construct a "countdown pedestrian signal" or similar pedestrian crossing signal at the intersection of Nutley Street and Hermosa Drive and the intersection of Nutley Street and

Swanee Lane. The installation of such pedestrian signals shall be subject to review and approval by DPWES and/or VDOT. If, for any reason, VDOT or the County refuse to issue the approvals necessary to construct such pedestrian signals in the location identified by this proffered condition, or in the event the installation of any pedestrian signal requires additional infrastructure or alterations to existing traffic signal infrastructure at the identified intersections beyond that associated with the pedestrian signal itself (i.e. signal lights, wiring and mounting equipment or devices) and any associated re-timing of the existing signal, funds equivalent to the value of the equipment associated with the required pedestrian signal itself, as defined above, shall be contributed toward pedestrian improvements to improve pedestrian access from the Subject Property to the Vienna Metro Station. If applicable, the amount of such contribution shall be approved by DPWES based on the unit price schedule for such improvements.

3. Suteki Road Right-of-Way. At the time of site or subdivision plan approval, the right-of-way for existing Suteki Road, in the configuration generally shown on the CDP/FDP, shall be dedicated to the Board of Supervisors in fee simple. Subject to approval by VDOT and/or DPWES, Suteki Drive shall remain in the “ditch section” that generally exists at the time of approval of this rezoning (approximate pavement width of 22 feet as generally shown on the CDP/FDP)..

4. Hideaway Road Configuration. Subject to approval by VDOT and/or DPWES, the portions of Hideaway Road that form the northeast boundary of the PDH-5 area shall remain in general “ditch section” geometry that exists as of the date of this rezoning and generally shown on the CDP/FDP.

5. Pedestrian Access Improvements. Concurrent with the development of the PDH-5 portion of the Property, the Applicant shall relocate the existing sidewalk located generally south of the intersection of Swanee Lane and Nutley Street as shown on the CDP/FDP. The Applicant shall also use its best efforts to correct the drainage problems that cause the existing sidewalk to periodically flood as approved by DPWES. The Applicant's obligations shall be subject to the ability to complete the necessary work within the existing right-of-way and obtaining all necessary permission and/or approvals, which shall be pursued in good faith.

6. Dedication of Right-of-Way. The Applicant shall dedicate to the Board of Supervisors, in fee simple, on demand, or at the time of final subdivision plan approval for the last section of the approved development, whichever first occurs, 56 feet of right-of-way along the northern boundary of the application property as generally shown on the CDP/FDP. This dedication of right-of-way shall not affect the delineation of the 200' setback shown on the CDP/FDP. The configuration of this dedicated right-of-way shall not preclude the reservation of easements or similar rights as may be needed to accommodate the installation and maintenance of the potential noise barrier located adjacent to Parcel 43A in accordance with Proffer III(13)(c). Any noise mitigation device installed within any such easements and not located within the existing VDOT right-of-way shall be permanently maintained by the HOA and if determined necessary by the County Attorney, pursuant to maintenance agreements reviewed and approved by the County Attorney's Office.

7. Sidewalk Along Swanee Lane. Prior to the approval of the final bond release for the approved development, the Applicant shall use its best and most

reasonable efforts to provide a sidewalk extension along Swanee Lane from the southern boundary of the Property to Nutley Street. The Applicant's obligation shall be subject to the following: (1) Installation of the sidewalk shall occur within the existing right of way or within permanent or temporary grading and construction easements adjacent to the right of way that are obtained at no cost by the Applicant. The Applicant agrees to diligently pursue any necessary permanent or temporary easements. Failed attempts to acquire necessary easements shall also be documented. (2) Installation of the sidewalk shall require no significant re-grading of the areas within or adjacent to the right-of-way nor any rebuilding, reconstruction or alteration of existing Swanee Lane. If any of the above described conditions are not met, or if the necessary permits, approvals, or easements cannot be obtained in accordance with the conditions described herein, the Applicant shall have no further obligation.

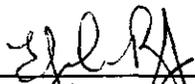
8. Traffic Calming. To the extent permitted by VDOT and DPWES, the Applicant shall install "speed humps" or "traffic tables" on the portions of Suteki Drive within the Application Property and/or portions of Swanee Lane or Swanee Lane extended. Such "speed humps" or "traffic tables" shall be constructed of asphalt or similar material.

**{ the rest of this page has been intentionally left blank }**

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

Contract Purchaser:

CHRISTOPHER MANAGEMENT, INC.

By:   
Name: F. JOHN REGAN JR.  
Title: EXECUTIVE VICE PRESIDENT

Title Owner of a Portion of the Right-of-Way  
of Hideway Road and Suteki Drive which  
are to be vacated

FAIRFAX COUNTY BOARD OF SUPERVISORS  
A body corporate and politic

By:           A H Griffin            
Name: Anthony H. Griffin  
Title: *County Executive*

Property Owners – Tax Map #48-2-((7))-33-1&2  
and Tax Map #48-2-((7))-34-1

*James D. Clark P&A*  
*for Dale D. Clark*

Dale D. Clark

*James D. Clark, P&A*  
*for Ruth E. Clark*

Ruth E. Clark

Property Owner -- Tax Map #48-2-((7))-33-2

*James D. Clark, PFA*  
*Sgt Jill C. LaFrance*

Jill C. LaFrance

Property Owners – Tax Map #48-2-((7))(33)-7A

*Morris L. Sinor*

\_\_\_\_\_  
Morris L. Sinor

*Cynthia A. Sinor*

\_\_\_\_\_  
Cynthia A. Sinor

Property Owner – Tax Map #48-2-((7))(33)-9A &

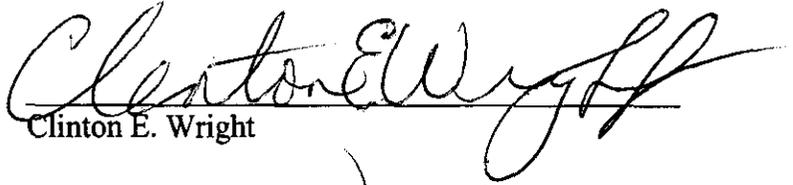
14

  
\_\_\_\_\_  
John E. Walter

Property Owner – Tax Map #48-2-((7))(34)-14

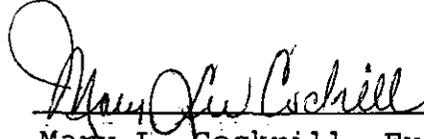
  
\_\_\_\_\_  
John E. Walter

Property Owners – Tax Map #48-2-((7))-33-10

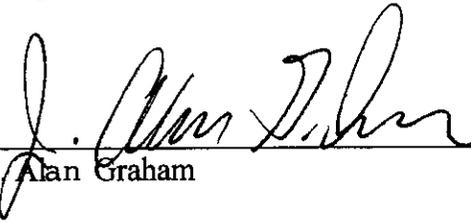
  
Clinton E. Wright

  
Sakuko S. Wright

Property Owner - Tax Map #48-2-((7))(34))A  
THE ESTATE OF JAMES W. GRAHAM

  
\_\_\_\_\_  
Mary L. Cockrill, Executor

Property Owner – Tax Map #48-2-((7))(34))B

  
\_\_\_\_\_  
J. Alan Graham

  
\_\_\_\_\_  
Deborah L. Graham

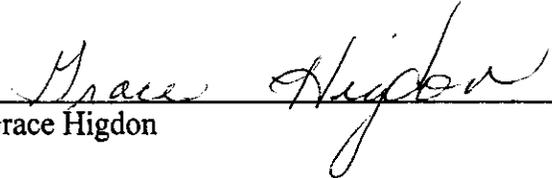
Property Owner – Tax Map #48-2-((7))-34-1

James D. Clark  
James D. Clark

James D. Clark, Pof A  
Sgt Jayne E. Clark  
Jayne E. Clark

James D. Clark, Pof A  
Sgt Alan E. Clark  
Alan E. Clark

Property Owner – Tax Map #48-2-((7))(34)-3

  
\_\_\_\_\_  
Grace Higdon

  
\_\_\_\_\_  
Michael Pendleton

Property Owners – Tax Map #48-2-((7))-34-3

*Ruth Wellborn*  
\_\_\_\_\_  
Ruth Wellborn

\_\_\_\_\_  
Michael W. Pendleton

\_\_\_\_\_  
Grace Higdon

Property Owners – Tax Map #48-2-((7))-34-5

Grosvenor Joint Venture Group III

By: James D. Clark, Trustee  
James D. Clark, Trustee

Property Owner – Tax Map #48-2-((7))(34)-9

Yu Sei Yien Chang  
Yu Sei Yien Chang

Ming E. Chang  
Ming E. Chang

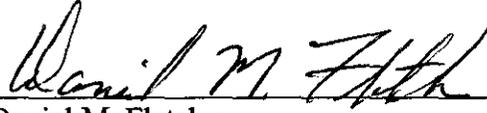
Property Owners – Tax Map #48-2-((7))-34-11

Briarwood Trace Associates, L.L.C.

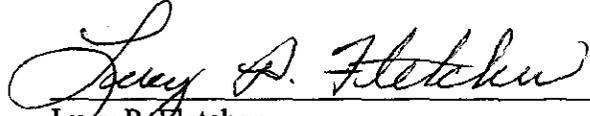
A handwritten signature in black ink, appearing to read 'E. J. Regan', written over a horizontal line.

E. John Regan, Executive Vice President

Property Owners -- Tax Map #48-2-((7))(34)-16

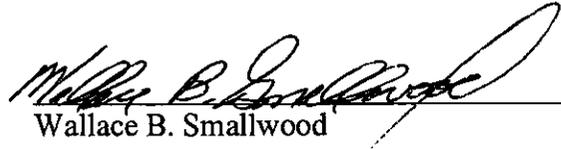
A handwritten signature in cursive script, reading "Daniel M. Fletcher".

Daniel M. Fletcher

A handwritten signature in cursive script, reading "Lucy P. Fletcher".

Lucy P. Fletcher

Property Owner – Tax Map #48-2-((7))(35)-2, 3

  
Wallace B. Smallwood

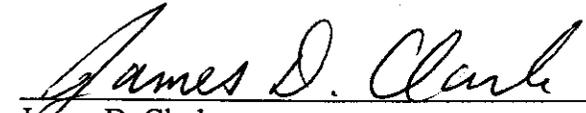
Property Owners – Tax Map #48-2-((7))-35-4

Grosvenor Joint Venture Group

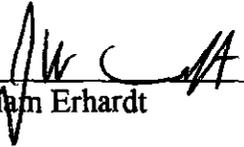
By: Alexandra Monk, Trustee  
Alexandra Monk, Trustee

By James D. Clark (By A)

Property Owner – Tax Map #48-2-((7))-36-1

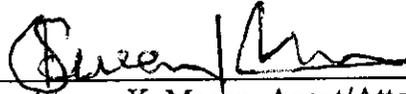
  
James D. Clark

Property Owner – Tax Map #48-2-(97)-36-3

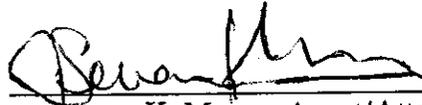
  
\_\_\_\_\_  
J. William Erhardt

Property Owners – Tax Map #48-2-((7))-36-2

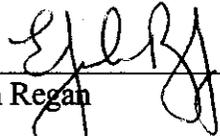
Ronald K. Mason

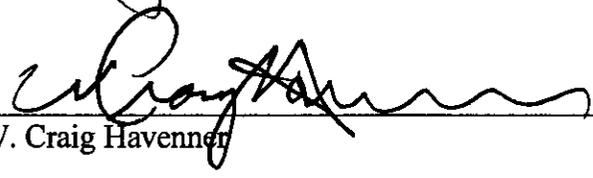
By:  AGENT/ATTORNEY IN FACT FOR RONALD K. MASON  
Steven K. Mason, Agent/Attorney-in-Fact  
for Ronald K. Mason

Sheila R. Mason

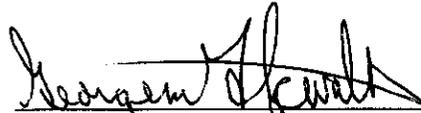
By:  AGENT/ATTORNEY IN FACT FOR SHEILA R. MASON  
Steven K. Mason, Agent/Attorney-in-fact  
for Sheila R. Mason

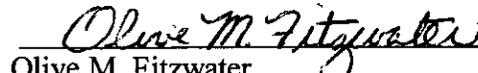
Property Owner – Tax Map #48-2-((7))-36-4

  
\_\_\_\_\_  
E. John Regan

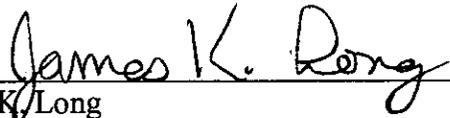
  
\_\_\_\_\_  
W. Craig Havenner

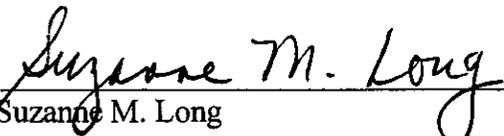
Property Owner – Tax Map #48-2-((7))(36)-5

  
George M. Fitzwater

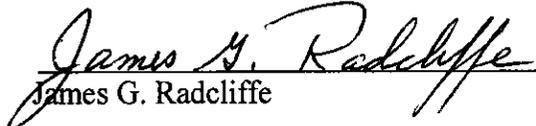
  
Olive M. Fitzwater

Property Owner – Tax Map #48-2-((7))(36)-36A,  
48-2-((7))(36)-5A,  
and 48-2-((7))(36)-5B

  
\_\_\_\_\_  
James K. Long

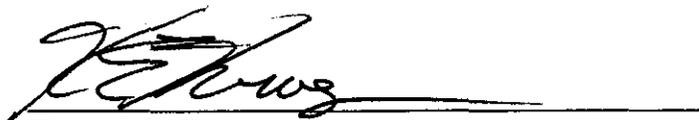
  
\_\_\_\_\_  
Suzanne M. Long

Property Owner – Tax Map #48-2-((7))(36)-9

  
James G. Radcliffe

  
Lucille B. Radcliffe

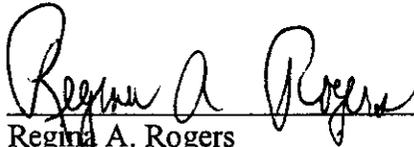
Property Owner: Tax Map #48-2-((7))(33)-3

A handwritten signature in black ink, appearing to read 'K. Krogmann', is written over a horizontal line.

Kenneth E. Krogmann

Property Owners – Tax Map # 48-2-((7))(36)-36B

  
\_\_\_\_\_  
George A. Rogers

  
\_\_\_\_\_  
Regina A. Rogers

\\REA\112771.26



**PROPOSED FINAL DEVELOPMENT PLAN CONDITIONS**

**FDP 2002-PR-008**

**August 28, 2002**

If it is the intent of the Planning Commission to approve Final Development Plan Application FDP 2002-PR-008 for Tax Map Parcels 48-2 ((7)) (33) 1, 2, 3, 7A, 9A, and 10; 48-2 ((7)) (34) A, B, 1, 3, 5, 9, 11, 14, and 16; 48-2 ((7)) (35) 2, 3 and 4; 48-2 ((7)) (36) 1-5, 5A, 5B, 9, 36A and 36B; staff recommends that the Planning Commission condition the approval by requiring conformance with the following development conditions.

1. A single row of evergreen trees shall be provided along the western property line of proposed Lot 24, where it abuts Tax Map Parcel 48-2 ((7))(34)7 to the east, in order to provide screening for Parcel 7.

