

PROFFERS
CHRISTOPHER MANAGEMENT, INC./ENGLESIDE BAPTIST CHURCH

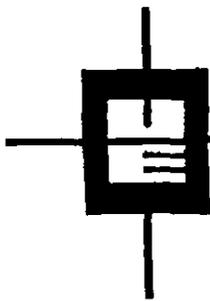
RZ 2002-MV-020, FDP 2002-MV-020
November 5, 2002

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 parcel under consideration and shown on the Fairfax County Tax Maps as Tax Map Reference Nos. 108-1((1)) 27A, 27B and 108-3((1))-26 (hereinafter referred to as the "Property") will be in accordance with the following conditions if, and only if, said Rezoning request for the R-3 and PDH-3 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agree that these proffers shall be binding on the future development of the Property unless modified, waived or rescinded in the future by the Board of Supervisors of Fairfax County, Virginia, in accordance with applicable County and State statutory procedures.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. Notwithstanding the existence of a prior approved rezoning for the Application Property, in the event that this application is approved, all previous proffers for the Application Property are hereby deemed null and void and of no further effect on the Application Property.

2. Subject to the proffers and the provisions of Article 16 and 18 of the Zoning Ordinance, under which minor modifications to an approved development plan



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October 9, 2001

**Legal Description
On The Properties Of
Ninety Two Thirty Three Richmond Highway LP
Parcels 27A and 27B
And
Engleside Baptist Church
Parcel 16
Mount Vernon District
Fairfax County, Virginia**

Beginning at a point on the southerly right of way line of the Richmond- Washington Highway U.S. No. 1, a variable width right of way; said point being on the westerly line of the property of The Episcopal Church of Pohick thence departing said point and running with the westerly line of The Episcopal Church of Pohick S 11°20'30" E a distance of 1239.83 feet to a point; thence S 11°56'10" E a distance of 21.17 feet to a point said point being in the northerly line of the property of the Fairfax County Board of Supervisors; thence running with the northerly line of the property of the Fairfax County Board of Supervisors S 65°54'20" W a distance of 644.62 feet to a point; said point being the southeast corner of the property of EQR-Woodside Vistas, Inc.; thence running with the easterly line of EQR-Woodside Vistas, Inc. N 36°49'40" W a distance of 1176.26 feet to a point on the southerly Right of way line of Richmond-Washington Highway U.S. No. 1, a variable width right of way; thence with said right of way line the following courses

with a curve turning to the right with an arc length of 225.03', with a radius of 1573.57', with a chord bearing of N 58°33'00" E, and a chord length of 224.84' to a point;

thence N 62°38'49" E a distance of 455.62 feet to a point ;

thence N 62°44'08" E a distance of 504.93 feet to a point ;

which is the point of beginning, having an area of 1093666 square feet, 25.10 acres

are permitted, the development shall be in substantial conformance with the Conceptual Development Plan/Final Development Plan/Generalized Development Plan/Special Exception Plan (the "Plan"), containing 12 sheets prepared by Urban Engineering, dated September 2001, and revised through September 25, 2002.

3. Notwithstanding Proffer No. 2 above, it shall be understood that the Applicant has the right to request individual proffer condition amendments to the portions zoned R-3 or PDH-3. The Applicant further has the option to request a Final Development Plan Amendment (FDPA) for elements other than CDP elements (herein defined as the location of access, the maximum density/intensity, the general orientation of development, the amounts of open space, the configuration of the limits of clearing and grading, and the peripheral setbacks for the portion zoned PDH-3), for all or a portion of the CDP/FDP in accordance with the provisions set forth in Section 16-402 of the Zoning Ordinance. It shall further be understood that the R-3 and PDH-3 areas may be developed independently of one another, to include the filing of individual site/subdivision plans on all or a portion of each area.

II. PDH-3 AREA

1. The approved development for the portion of the Property zoned PDH-3 shall consist of a maximum of thirty-seven (37) single-family detached residential units.

2. In conjunction with the appropriate subdivision review processes, and to the extent required by the Zoning Ordinance, all common areas within the PDH-3 zone shall be under common ownership as required by Section 2-700 of the Zoning Ordinance.

3. In the event any stormwater pond is ultimately used by both the Church and the approved residential development, agreements for joint maintenance shall be provided to an extent and form deemed necessary by DPWES. Any potential obligation for joint maintenance of stormwater facilities shall be disclosed in the HOA documents.

4. Any conversion of garages that will preclude the parking of vehicles within the garage is prohibited. A covenant setting forth this restriction shall be recorded among the land records of Fairfax County in a form approved by the County Attorney prior to the recordation of the Deed of Subdivision and shall run to the benefit of homeowners' association (HOA), which shall be established, and the Board of Supervisors. This requirement shall be incorporated in the HOA documents and prospective purchasers shall be advised of this use restriction at the time of entering into a contract of sale.

5. Prior to entering into a contract of sale, prospective purchasers shall be notified in writing of the proximity of the residential community to the Lower Potomac Sewage Treatment Plant located adjacent to the Property on Fairfax County Tax Map 108-3 ((1)) 23. Such notification shall also be included in the information brochure and within HOA documents in a clearly identifiable form.

6. The architecture of the approved units shall be in substantial conformance with the conceptual renderings shown on Sheet 10 of the Plan. It shall be further understood that final approval of the residential architecture is further subject to review and approval by the Architectural Review Board (ARB). This proffer shall not preclude implementation of the requirements imposed by the ARB, provided that the requirements

of the ARB are in substantial conformance with the elevations shown on the Plans. The required ARB approval shall occur prior to the issuance of building permits.

7. The Applicant reserves the right to install an individual entrance feature(s) in a location approved by the ARB. Such entrance features shall incorporate a design and style that is complimentary to the approved units.

8. The rear architecture of those units abutting Richmond Highway shall be in substantial conformance with the illustrative renderings contained in the Plans, subject to final review and approval by the ARB. At a minimum, the rear of those units abutting Richmond Highway shall incorporate a pattern of architectural detailing consistent with the front façade and incorporate windows, window treatments, and decorative elements (such as shutters and/or standing seam metal accents above bay type windows) of a type and material that is consistent and compatible with that used on the front façade.

9. A contribution of \$2,000.00 per unit shall be made to the Board for a specific fund designated for schools in the Mount Vernon District impacted by proposed development. The required contribution will be paid prior to the issuance of the first Residential Use Permit.

10. All units shall be served by two (2) car garages.

11. All units shall have driveways that are a minimum of eighteen (18) feet as measured from the inside of the sidewalk to the entrance to the garage.

12. The right-of-way for the public street shown on the Plan as terminating at the northern property line shall be dedicated to the Board of Supervisors, at no cost and in fee simple on demand or at the time of Subdivision Plan approval for the PDH-3 portion, whichever first occurs. The existence and configuration of the dedicated right-of-way

and the permitted nature of a future public street connection shall be disclosed in the HOA documents and in writing to all purchasers. It shall be understood that the portions of the right-of-way between the principal east-west road and the northern property line shall be paved and constructed to the northern property line to the extent approved by DPWES. To provide additional notice of the potential future street connection, the area of the dedicated right-of-way shall be clearly marked with a sign identifying the area as "future permitted public street connection" or similar.

13. No temporary signs (including "popsicle" style paper or cardboard signs) which are prohibited by Article 12 of the Zoning Ordinance, and no signs which are prohibited by Chapter 7 of Title 33.1 or Chapter 8 of Title 46.2 of the Code of Virginia shall be placed on or off-site by the Applicant or at the Applicant's direction to assist in the initial marketing and sale of homes on the subject Property. Furthermore, the Applicant shall direct its agents and employees involved in marketing and/or sale of residential units on the subject Property to adhere to this proffer.

III. R-3 AREA

1. The use and development of the R-3 zoned area shall be limited to a church and school and those accessory uses authorized by the Zoning Ordinance and/or these proffers. This proffer shall not preclude a future proffer condition amendment application for any use authorized under the governing R-3 zoning.

2. The church shall have a maximum of 700 seats.

3. The private school of general education shall have a maximum daily enrollment of 300 students.

4. The design and architecture of the church shall be in substantial conformance with the conceptual renderings shown on Sheet 10A of the Plan. The four (4) units identified as "Pastoral Housing" on the Plan shall be designed with a type of quality and general proportion of materials that are similar to that used on the church structure, as determined by DPWES. It shall be further understood that final approval of the church architecture is subject to review and approval by the Architectural Review Board (ARB). This proffer shall not preclude implementation of the requirements of the ARB, provided such requirements are in substantial conformance with the layout and elevations on the Plan. Final ARB approval shall be obtained prior to the issuance of a building permit for any of the approved development on the R-3 zoned land.

5. The four (4) attached units identified as "Pastoral" housing on the Plans shall only be occupied by church employees.

6. At time of site plan review, pedestrian walkways connecting the parking area to the church building shall be provided in the form of sidewalks or demarcated walkways.

IV. TRANSPORTATION

1. In the event that the development of the Property precedes the commencement of construction of VDOT Project No. 0001-029, F2V, PE, 101, C501, RW-201 (herein "the VDOT Project"), the Applicant shall construct the left and right turn lanes into the Property entrance as generally shown on the Plan. Such turn lanes shall be of a design and configuration acceptable to VDOT and DPWES.

2. In the event construction of the VDOT Project has commenced, along the Property frontage, prior to the commencement of construction or land disturbing activity associated with the approved development, the Applicant shall remain responsible for providing left and right turn lanes into the site entrance of a size and configuration acceptable to VDOT and for DPWES. In the event the necessary turn lanes are constructed by VDOT as part of the implementation of a revised version of the plans for the VDOT Project, the Applicant shall reimburse VDOT for the actual cost difference attributable to VDOT's construction of the left and right turn lanes into the site entrance. If permitted, such reimbursement shall be calculated on a "unit price basis" and be approved by VDOT and/or DPWES.

3. Left and right turn access from Richmond Highway shall be installed prior to any construction or development related activities associated with delivering building materials or removing or hauling soil or materials to or from the site. No site or subdivision plan shall be approved until the Applicant has demonstrated to the satisfaction of VDOT and/or DPWES that the VDOT Project, in a current or amended form, provides for the full left and right turn access (not limited to right in/right out access) required by these Proffers.

4. In order to provide additional funds for the future widening of Richmond Highway along the Property frontage, the Applicant shall escrow the sum of \$145.00 per linear foot of Property frontage. The escrow shall be calculated based on the frontage of Land Bay I in connection with the PDH-3 subdivision plan and the frontage of Land Bay II in connection with the R-3 site plan associated with the actual construction of the Church and related facilities. The entire required escrow for each Land Bay, as

calculated above, shall be paid prior to the appropriate site or subdivision plan approval for any of the approved development on either Land Bay I or Land Bay II. The escrow for the R-3 portion shall not be required at the time of subdivision plan approval for the PDH-3 portion of the Property.

5. At the time of first site or subdivision plan approval, or on demand, whichever first occurs, the Applicant shall convey to the Board in fee simple, at no cost, any ancillary right-of-way or easements needed to facilitate the VDOT Project and/or the acceleration lane referenced in Proffer IV-8 below. Any right-of-way or ancillary easements required by this Proffered Condition shall be in substantial conformance with the Plan.

6. At the time of first site or subdivision plan approval, the Applicant shall provide, or, if permitted by County DOT, escrow funds in an amount determined by DPWES, for a bus shelter in a location acceptable to the Fairfax County Department of Transportation that is also in substantial conformance with the Plan. This Proffer Condition shall not obligate the Applicant to construct additional "pull off" lanes. If a shelter is constructed on the Property, the HOA established for the PDH-3 portion of the Property shall maintain and periodically remove trash from the shelter.

7. In the event all or a portion of the approved development precedes the VDOT Project for widening Richmond Highway, at the time of each site or subdivision plan submittal, the Applicant shall prepare and submit to VDOT, a traffic signal warrant analysis for a signal at the site entrance. If warranted, the required signal shall be installed at the site entrance prior to the issuance of any RUP or Non-RUP for the development shown on the site or subdivision plan. In the event the VDOT project

precedes, or is occurring concurrent with any of the approved development, if warranted, the signal shall be installed prior to the issuance of any RUP or Non-RUP, or on demand by VDOT and/or Fairfax County, at any subsequent time upon a determination by VDOT that signal warrants are met. If for any reason, it has been determined by VDOT that signal warrants are not met prior to the release of bonds for any individual phase of the approved development, funds for the future construction of the signal shall be placed in escrow, in a pro-rata basis, in an amount determined by DPWES prior to bond release.

8. Subject to VDOT approval, the Applicant shall, at the time of subdivision plan review, provide an acceleration lane from the site entrance to northbound Route 1 within the public right-of-way or that additional right-of-way dedicated pursuant to Proffer IV-5 above.

V. ENVIRONMENTAL

1. In order to restore a natural appearance to the proposed stormwater management ponds, a landscape plan shall be submitted as part of the first submission of any site or subdivision plan. The landscape plan shall show the restrictive planting easement for the pond, and extensive landscaping in all areas outside of that restrictive planting easement to the maximum extent feasible in accordance with the planting policies of Fairfax County.

2. The location and configuration of the stormwater management facilities shown on the Plan is subject to minor modifications based on final engineering; however, in no event shall any permitted reconfiguration of the stormwater management ponds diminish the landscaping or tree preservation areas identified on the Plan. 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 Plan, those areas not required in connection with the stormwater pond or its associated grading shall be examined jointly by the Applicant and the County Urban Forester for feasibility as additional tree preservation areas. If found to be viable for tree preservation purposes by the Urban Forestry Division, 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 and the County Urban Forester, 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 Plan as approved by the Urban Forestry Division.

3. The Applicant shall submit a tree preservation plan as part of the first and all subsequent site or subdivision plan submissions. The preservation plan shall be prepared by a professional with experience in the preparation of tree preservation plans, such as a certified arborist or landscape architect. The plan shall be reviewed and approved by the Urban Forestry Division and implemented as approved.

The tree preservation plan shall consist of the tree survey previously submitted by the Applicant and dated 5/6/2002, and shall address preservation issues with respect to the proposed design and engineering of the site. Additionally, the tree survey shall include detailed information regarding specific preservation practices for trees that may have been impacted by previous logging activity, and include recommendations for preservation or removal of trees that are either unhealthy and/or damaged beyond repair. The condition analysis ratings 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 survivability of trees identified to be preserved, such as crown pruning, mulching, fertilization and others as necessary, shall be included. The tree preservation plan shall also include recommendations for the management of stump sprouted trees within preservation areas, and the removal of downed wood and/or debris from the areas.

4. All trees shown to be preserved on the tree preservation plan shall be protected by tree protection fencing. Tree protection fencing consisting of a four (4) foot high, fourteen (14) gauge welded wire fence, attached to six (6) foot steel posts, which are driven eighteen (18) inches into the ground and placed no further than ten (10) feet apart, shall be erected at the limits of clearing and grading as shown on the subdivision plan's Phase I and II erosion and sediment control sheets in all areas. All tree protection fencing shall be installed prior to any clearing and grading activities, including demolition of any existing structures. 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 assure that all tree protection devices have been correctly installed.

5. The Applicant shall retain the services of a certified arborist 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 shall walk the limits of clearing and grading with an Urban Forestry Division representative to determine where minor adjustments to the clearing limits can

be made to increase the survivability of trees at the edge of the limits of clearing and grading.

6. The limits of clearing and grading shown on the Plan shall be maximum limits and be strictly adhered to. Landscaping shall be provided in substantial conformance with the landscaping concepts shown on the Plan. Any adjustment of the limits of clearing and grading permitted pursuant to this Proffered Condition shall be subject to review and approval by the Urban Forestry Division.

7. At the time of site plan review and approval for the Church, the Applicant shall prepare a reforestation plan in substantial conformance with the Plan shown on Sheet 7 to re-vegetate those areas within those tree save areas located directly south of the parking area serving the church. The reforestation plan shall be submitted concurrently with the first and all subsequent site plans for the R-3 zoned area and shall be subject to review and approval by the Urban Forestry Division. The reforestation plan shall propose an appropriate selection of species based on existing and proposed site conditions to attempt to restore the area to a native forest cover type. The reforestation plan shall include, but not be limited to, the following:

- Plant list detailing species, sizes and stock type of trees to be planted;
- Soil fertilization, if needed;
- Mulching specifications;
- Methods of installation;
- Maintenance;
- Mortality threshold;
- Monitoring;

- Replacement schedule;
- As part of the reforestation plan, all portions of the site in the R-3 zoned area shall be evaluated for the removal and/or treatment of non-native, invasive vegetation. If it is determined that this vegetation is in need of removal, appropriate and accepted practices will be included in the reforestation plan.

8. The limits of clearing and grading shall not preclude the use of the protected area for passive recreation provided any such activities shall not result in the removal of any trees or erection of any structures or fences protected by the limits of clearing or otherwise conflict with the requirements of these proffers.

9. Along the northern property line, the Applicant reserves the right to enter the limits of clearing and grading for the sole purpose of installing the fencing and barrier generally shown parallel to the northern lot line. In order to maximize the preservation of existing vegetation, the location and configuration of the fence and the means to access the area of the fence installation shall be field located in consultation with the Urban Forestry Branch. To the extent possible, the fence shall be installed using hand tools and equipment; however, the requirements of this proffer shall not preclude the use of equipment necessary for the limited purpose of installing the brick piers required for the portions of the fence located generally west of the interparcel access to the Pohick Church property. Similarly, this proffer shall not preclude the installation of all or a portion of a fence on the Pohick Church property, subject to the Applicant receiving permission from the Pohick Church.

VI. NOISE MITIGATION

1. In order to reduce interior noise to a level of approximately DNL 45 dBA, the residential units, on the portion of the Property zoned PDH-3, within a highway noise impact zone of DNL 65-70 dBA shall employ the following acoustical treatment measures:

- Exterior walls shall have a laboratory sound transmission class (STC) rating of at least 39.
- Doors and glazing shall have a laboratory STC rating of at least 28 unless glazing constitutes more than 20 percent of any façade exposed to noise levels of DNL 65 dBA or above. If glazing constitutes more than 20 percent of an exposed façade, then the glazing shall have an STC rating of at least 39.
- All surfaces shall be sealed and caulked in accordance with methods approved by the American Society of Testing and Materials (ASTM) to minimize sound transmission.

2. All lots affected by highway noise above DNL 65 dBA shall be identified on the Subdivision Plan. At the time of Subdivision Plan approval, the Applicant shall demonstrate, through a noise study approved by DPWES, in coordination with the Environmental and Design Review Branch, and DPWES, that exterior noise levels for unscreened common and private outdoor recreation areas in the PDH-3 development are reduced below DNL 65 dBA through the use of noise attenuation structures such as acoustical fencing, walls, earthen-berms, or combination thereof. If acoustical fencing or walls are used, they shall be architecturally solid from the ground up with no gaps or

openings. The structure (fence or wall) must be of sufficient height, that does not exceed twelve (12) feet, and is within the maximum limitations permitted by the Zoning Ordinance to adequately shield the impact area from the source of the noise.

VII. RECREATION

1. At the time of subdivision plan review, the Applicant shall demonstrate that the value of any proposed recreational amenities have a value equivalent to \$955.00 per unit as required by Article 6 of the Zoning Ordinance. In the event it is demonstrated that the proposed facilities do not have sufficient value, the Applicant shall have the option to: (1) provide additional on-site recreational amenities within the open space areas shown on the Plan, if it is determined that the location at such would be in substantial conformance with the FDP; or (2) contribute necessary funds to the Fairfax County Park Authority for off-site recreational purposes in locations within Mount Vernon District that an reasonably be expected to serve the future residents of the approved development, in accordance with Section 16-404 of the Ordinance.

VIII. OTHER

1. All monetary contributions required by these proffers, except that associated with Proffer #1 of 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.

2. Any retaining walls shall be constructed with low maintenance masonry type materials, such as brick, stone or veneer of similar quality. Hand rails and guard rails at the top of the retaining walls shall be provided as may be required by DPWES.

IX. ARCHEOLOGICAL

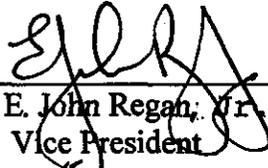
1. Prior to site or subdivision plan approval, the three areas identified in the January 5, 2002 memorandum from Mike Johnson to Barbara A. Byron shall be the subject of a Phase I archeological survey conducted in substantial conformance with the methodology identified in the January 5, 2002 memorandum. If warranted by the initial Phase I survey, subsequent Phase II and/or Phase III evolution and recovery shall occur with the scope of work of such potential Phase II and Phase III analyses being subject to review and approval by County Archeological Services.

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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: E. John Regan, Jr.

Title: Vice President

EXECUTIVE

TRC

TRUSTEES OF ENGLSIDE BAPTIST CHURCH

By: Allen R. Demetri Trustee
Name: Allen R. Demetri
Title: Chairman, Board of Trustees

By: Watson H. Morgan Trustee
Name: Watson H. Morgan, Trustee

By: David O. Zimmerman TRUSTEE
Name: David O. Zimmerman, Trustee

9233 RICHMOND HIGHWAY LIMITED
PARTNERSHIP

By: *G. Thomas Collins Jr*
Name: G. Thomas Collins, Jr.
Its: *General Partner*

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