



# County of Fairfax, Virginia

*To protect and enrich the quality of life for the people, neighborhoods and diverse communities of Fairfax County*

October 15, 2007

Mark C. Looney, Esquire  
Cooley, Woodward, Kronish LLP  
One Freedom Square  
Reston Town Center  
11951 Freedom Drive  
Reston, VA 20190

RE: **Planned Residential Community Application PRC A-936  
(Concurrent with Proffered Condition Amendment Application PCA A-936-02)  
(Concurrent with Development Plan Amendment Application DPA A-936-04)**

Dear Mr. Looney:

At a regular meeting of the Board of Supervisors held on October 15, 2007, the Board approved Planned Residential Community Application PRC A-936 in the name of 2222 Colts Neck Road L.L.C. The Board's action approved the PRC Plan associated with Proffered Condition Amendment Application PCA A-936-02 and Development Plan Amendment Application DPA A-936-04 to permit residential development (independent living facility) and remove church use from approved development plan and associated modifications to proffers and site design at a density of 49.0 dwelling units per acre (du/ac). The subject property is located on the west side of Colts Neck road, east side of Reston Parkway, and approximately 1,600 feet north of its intersection with Glade Road, on approximately 4.33 acres of land zoned PRC [Tax Map 26-1 ((13)) 1] in the Hunter Mill District, subject to the development conditions dated October 3, 2007.

**The Board also:**

- Modified the trail requirement along Colts Neck Road in favor of the approved Department of Public Works and Environmental Services Capital Project sidewalk proposed along the west side of Colts Neck Road, from South Lakes Drive to the south end of the subject property.
- Modified the Additional Standards for Independent Living Facilities maximum building height standard to permit a maximum building height up to 55 feet, as shown on the PCA/DPA and PRC Plan.
- Approved the requested Public Facilities Manual Waiver (2352-WPFM-002-1) to allow underground stormwater detention in a residential development subject to the development conditions dated August 16, 2007, and contained in Appendix B.

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If you have questions regarding this Planned Residential Community Application, they should be directed to the Zoning Evaluation Division in the Department of Planning and Zoning at 703-324-1290. The mailing address for the Zoning Evaluation Division is Suite 801, 12055 Government Center Parkway, Fairfax, Virginia 22035.

Sincerely,

Handwritten signature of Nancy Vehrs in black ink, with the initials "NV/dms" written below it.

Nancy Vehrs  
Clerk to the Board of Supervisors  
NV/dms

Cc: Chairman Gerald E. Connolly  
Supervisor Catherine Hudgins, Hunter Mill District  
Janet Coldsmith, Director, Real Estate Division. Dept. of Tax Administration  
Regina Coyle, Director, Zoning Evaluation Division, DPZ  
Diane Johnson-Quinn, Deputy Zoning Administrator, Dept. of Planning and Zoning  
Thomas Conry, Dept. Manager. – GIS - Mapping/Overlay  
Angela K. Rodeheaver, Section Chief, Transportation. Planning Division  
Ellen Gallagher, Capital Projects and Operations Div., Dept. of Transportation  
Audrey Clark, Director – Building Plan Review, DPWES  
Ken Williams, Plans & Document Control, ESRD, DPWES  
Department of Highways-VDOT  
Sandy Stallman, Park Planning Branch Manager, FCPA  
Charlene Fuhrman-Schulz, Development Officer, DHCD/Design Development Division  
District Planning Commissioner  
Barbara J. Lippa, Executive Director, Planning Commission  
Jose Comayagua, Director, Facilities Management  
Gary Chevalier, Office of Capital Facilities/Fairfax County Public Schools  
Karyn Moreland, Chief Capital Projects Sections, Dept. of Transportation

# COLTS NECK ROAD

## Proffer Statement

May 3, 2007  
Revised June 28, 2007  
Revised July 27, 2007  
Revised August 23, 2007  
Revised September 14, 2007  
Revised September 19, 2007  
Revised September 24, 2007  
Revised October 1, 2007  
Revised October 2, 2007  
Revised October 10, 2007  
Revised October 15, 2007

DPA A-936-4/ PCA A-936-2

Pursuant to Section 15.2-2303(A), Code of Virginia (1950, as amended) and Sect. 18-204 of the Zoning Ordinance of Fairfax County (1978, as amended), the property owner and contract purchaser, for themselves and their successors and/or assigns (hereinafter collectively referred to as the "Applicant"), hereby proffer that the development of the parcel under consideration and shown on the Fairfax County Tax Maps as Tax Map 26-1((13)) Parcel 1 (the "Property") shall be in accordance with the following conditions if, and only if, Development Plan Amendment DPA A-936-4 and Proffered Condition Amendment PCA A-936-2 (collectively, the "Application") are granted. If approved, these proffers ("Proffers") supersede all previous proffers applicable to the Property. In the event that this Application is denied, these Proffers shall be immediately null and void and of no further force or effect.

### GENERAL

1. Development Plan. The Property shall be developed in substantial conformance with the Development Plan Amendment ("DPA") and Proffered Condition Amendment ("PCA") Plat dated March 2007, and revised through September 14, 2007, prepared by Urban, Ltd. and consisting of eleven (11) sheets ("Development Plan").
2. Minor Modifications. Minor modifications to the Development Plan may be permitted when necessitated by sound engineering or that may become necessary as part of final site engineering, pursuant to Section 16-203(13) of the Zoning Ordinance, as determined by the Zoning Administrator.
3. Proposed Development. The development proposed with this Application shall include a minimum of One Hundred and Eighty (180) residential units and a maximum total of Two Hundred and Ten (210) residential units ("Residential Building"), and associated facilities and structures (collectively, the "Proposed Development"). The Proposed Development may include the following uses, subject to the limitations identified on the Development Plan:

i. Principal Use: High Density Residential/Independent Living Facilities

ii. Secondary Uses:

- Accessory uses, accessory service uses and home occupations as permitted by Article 10 of the Zoning Ordinance;
- Bank teller machines; and,
- Quasi-public parks and related facilities.

A. Cellar Space. The Applicant reserves the right to utilize cellar space constructed as part of the Proposed Development for resident amenities (including, but not limited to, fitness centers and storage) and for Secondary Uses; provided, however, that the Applicant shall be required to provide parking for the Cellar Space in accordance with the requirements of Article 11 of the Zoning Ordinance, as qualified by these Proffers. The Cellar Space in the Proposed Development shall not contain residential units.

B. Eligibility. The residential units established on the Property shall be occupied by at least one person sixty-two (62) years of age or older ("Independent Adult"). All other residents must reside with an Independent Adult, and be a spouse, a cohabitant, an occupant's child eighteen (18) years of age or older, or provide primary physical or economic support to the Independent Adult. Notwithstanding this limitation: (1) a person hired to provide live-in, long term or terminal health care to an Independent Adult for compensation may also occupy a residential unit during any time such person is actually providing such care; or (2) if, after occupying a residential unit, the Independent Adult, who is the owner and occupant, is compelled by law or court order to take custody of a child under eighteen (18) years of age, the Independent Adult and any such child shall be allowed to continue to occupy the residential unit.

i. Guests. Guests under the age of 62 are permitted for periods of time not to exceed sixty (60) days total for each such guest in any calendar year.

ii. Successor Owners. If title to any unit shall become vested in any person under the age of 62 by reason of descent, distribution, foreclosure or operation of law, the age restriction covenant shall not result in a forfeiture or reversion of title, but rather, such person thus taking title shall not be permitted to reside in such lot or unit until he shall have attained the age of 62 or otherwise satisfies the requirements as set forth herein. Notwithstanding, a surviving spouse, or a surviving spouse with one or more dependants who do not meet the age restrictions, shall be allowed to occupy a dwelling unit consistent with the Federal Fair Housing Act and the Virginia Fair Housing Law, as may be amended.

4. Maximum Building Heights. Building heights for the Residential Buildings shall not exceed fifty-five feet (55') and shall be measured in accordance with the provisions of the Fairfax County Zoning Ordinance. Notwithstanding the foregoing, however, nothing shall preclude the Applicant from constructing the Residential Building to a lower building height.

provided the building footprints remain in substantial conformance with those shown on the Development Plan.

5. Affordable Units. In order to preserve and expand the housing options available in the County to residents with a median household income below or near the Washington, D.C. Standard Metropolitan Statistical Area median household income ("AMI"), twenty percent (20%) of total number of residential units actually constructed on the Property shall be sold/rented to persons who have a median household income of not more than eighty percent (80%) of AMI, established in two income tiers, and as more particularly set forth in this Proffer 5.

A. Definitions. The following terms used in these Proffers shall be defined as follows, unless specifically modified:

i. Market-Rate Units. Dwelling units approved on the Property to be sold/rented that are not subject to either the price restrictions of Part 8 of Article 2 of the Fairfax County Zoning Ordinance or these Proffers.

ii. Affordable Housing. Dwelling units on the Property to be sold/rented that are to be made available through the Fairfax County Redevelopment and Housing Authority ("FCRHA") on either a for-sale or rental basis whereby seventy-five percent (75%) of the total twenty percent (20%) of Affordable Housing units shall be sold/rented to persons with an income of seventy percent (70%) of AMI or below and the remaining twenty-five percent (25%) of Affordable Housing units shall be sold/rented to persons with an income of eighty percent (80%) of AMI or below. The percentage of Affordable Housing units offered for sale/rental will be the same as the percentage of Market-Rate Units offered for sale/rental. Whenever the calculation of the required Affordable Housing units results in a fractional unit of 0.5 or less, then the number shall be rounded down to the next whole number and any fractional unit greater than 0.5 shall be rounded up to the next whole number, provided that the total percentage of Affordable Housing units shall not be less than twenty percent (20%).

B. Administration of Affordable Housing. Affordable Housing units shall be generally administered pursuant to the Affordable Dwelling Unit ("ADU") Ordinance (Part 8 of Article 2 of the Fairfax County Zoning Ordinance). The following specific provisions of the Zoning Ordinance shall apply to administration of the Affordable Housing units set forth in this Proffer 5: Sections 2-805, 2-807, 2-808, 2-809, 2-810, 2-811, 2-812, 2-813, 2-817, and 2-818, including the recordation of the appropriate restrictive covenants in the land records of Fairfax County, except where such provisions directly conflict with this Proffer. Where this Proffer conflicts with the ADU administrative sections of the Zoning Ordinance, these Proffers shall control.

C. Designation of Affordable Housing on Plans and Plats. Approved site plans, record subdivision plats and building plans shall designate the specific lots or units that are the Affordable Housing units and shall indicate the square footage and bedroom count of such units. If there is to be any change in the location of an Affordable Housing unit after the original approval of a subdivision and prior to the issuance of a Residential Use Permit ("RUP") for the units, the Applicant shall file an amended record subdivision plat for the property. If there is to be any change in the location of an Affordable Housing unit after the original approval of a site

plan, the Applicant shall submit a written request to the Fairfax County Zoning Administrator to request a change in the designation of the Affordable Housing unit prior to the issuance of a Residential Use Permit for the newly designated unit. As appropriate, the Zoning Administrator shall facilitate the modification of the previously approved site plan to reflect the change in location of the Affordable Housing unit and shall notify the Applicant and appropriate County agencies of such change.

Affordable Housing units provided pursuant to this Proffer that are included on approved site plans, recorded subdivision plats and/or building plans shall be deemed features shown for purposes of Section 15.2-2232 of Va. Code Ann. and, as such, shall not require further approvals pursuant thereto in the event the Board shall acquire or lease such units.

In the event the Proposed Development is phased and all of the Affordable Housing units are not provided in the first phase, the site plan and/or record subdivision plat for the first phase and all subsequent phases shall contain a notation identifying in which phase(s) the Affordable Housing units will be or have been provided and a total of all Affordable Housing units for which such site plan(s) and/or record subdivision plat(s) have been approved.

Under any instance whereby the location of the designated Affordable Housing unit is to be changed or the unit is converted from a rental to a condominium or condominium to rental after the approval of the original site plan and/or subdivision, the owner/developer shall facilitate the change to the site plan and/or record subdivision plat, as set forth above.

D. Phasing. The establishment of Affordable Housing may occur in phases, concurrent with the phasing of development/construction of the Proposed Development, and in one or more buildings so long as the minimum percentage of Affordable Housing is not reduced.

E. Unit Size and Features. A minimum of thirty-five percent (35%) of the Affordable Housing units shall be two bedroom units, which may be provided with or without loft or den space. Such two bedroom units shall be a minimum size of 750 square feet of gross floor area. The remainder of the Affordable Housing units may be provided as efficiency and/or one bedroom units, as determined by the Applicant. Efficiency units shall be a minimum size of 450 square feet of gross floor area and one bedroom units shall be a minimum of 600 square feet of gross floor area. A minimum of ten (10) of the Affordable Housing units required under this Proffer shall be designed and constructed as handicapped-accessible units and, at least three (3) such units shall be two bedroom units.

F. Alternative Administration. Notwithstanding the foregoing, the Applicant reserves the right to enter into a separate binding written agreement with the appropriate Fairfax County agency as to the terms and conditions of the administration of the Affordable Housing units following approval of this Application. Such an agreement shall be on terms mutually acceptable to both the Applicant and Fairfax County and may occur after the approval of this Application. Neither the Board of Supervisors nor Fairfax County shall be obligated to execute such an agreement. If such an agreement is executed by all applicable parties, then the Affordable Housing units shall be administered solely in accordance with such an agreement and the provisions of this Proffer shall become null and void. Such an agreement and any modifications thereto shall be recorded in the land records of Fairfax County.

6. Parking.

A. Zoning Ordinance Requirements. Parking shall be provided in accordance with the parking requirements of Article 11 of the Fairfax County Zoning Ordinance, as determined by the Department of Public Works & Environmental Services ("DPWES"). The Applicant reserves the right to provide more parking than that shown on the Development Plan and required by the Fairfax County Zoning Ordinance, provided that the minimum open space tabulation set forth on Sheet 1 of the Development Plan is not reduced, and the parking design is otherwise in substantial conformance with the Development Plan.

i. Parallel Parking Spaces At Entrance. The Applicant reserves the right to establish surface parking spaces along the driveway of the Proposed Development, as shown on the Development Plan (the "Parallel Spaces"). The Parallel Spaces may be part of or in addition to the total number of required parking spaces to be provided with the Proposed Development. If the Parallel Spaces are not provided, the Applicant shall, instead, landscape the area consistent with the quantity and quality of those plantings shown on the Landscape Plan, as defined in these Proffers.

### ARCHITECTURAL DESIGNS AND SITE AMENITIES

7. Building Design and Materials. The general architectural design of the Proposed Development shall be provided as shown on Sheet 10 of the Development Plan (the "Conceptual Elevation"). The Conceptual Elevation is conceptual in nature and may be modified by the Applicant as part of Reston Association Design Review Board ("RADRB") and final engineering and building design, provided that such modifications are in substantial conformance with the Development Plan and these Proffers. Subject to RADRB approval, building materials for the Proposed Development, as generally reflected on the Conceptual Elevation, shall be selected from among the following: wood, siding, hardi-plank, brick, masonry/stone, aluminum, glass, steel, split-face block and pre-cast panels, provided that final architectural details and accents may include other materials. Subject to RADRB approval, building colors shall include the following:

Base Brick:	Glen-Gery	Courtland Modular Extruded Series
Mortar:	SGS	20X DK. Buff
Trim Paint:	Benjamin Moore	2142-60, November Rain
Siding:	James Hardie	Smooth, 4 in. exposure
Siding Paint:	Benjamin Moore	2137-50, Sea Haze
Roofing:	Owens Corning	Oakridge PRO 30 Shingle, Onyx Black

However, the Applicant may modify the building colors if directed to do so by the RADRB provided that such modifications are in substantial conformance with the Development Plan and these Proffers. Balconies and other architectural details may be provided so long as such features do not extend more than eight feet (8') beyond the building footprints shown on the Development Plan, and provided that the streetscape features and landscaping are maintained.

8. Noise Attenuation. As part of its initial site plan submission for the Proposed Development, the Applicant shall submit to the Fairfax County Department of Planning and Zoning ("DPZ") an Environmental Noise Measurement and Noise Impact Assessment ("Noise Study") detailing projected noise impacts on the Proposed Development, if any, and proposed mitigation techniques for any such impacts based on the standards set forth below. Based on the Noise Study, the Applicant shall include information on its site plan and subsequent building permit applications detailing the specific noise mitigation techniques to be employed, which shall be reviewed and approved by DPZ.

A. Noise Levels within Residential Units.

i. Greater than 75 dBA Ldn. No space in any building that shall be occupied by a residential unit shall be located in any area impacted by noise at a level of 75 dBA Ldn or greater. In the event the Noise Study demonstrates that portions of any building for which residential units are proposed would be impacted by noise at a level of 75 dBA Ldn or greater, then the Applicant shall (a) adjust the use of the impacted portions of such building, or (b) step back the top floors of such building such that no residential units are located in the impacted area. In such event, the Applicant shall demonstrate to DPZ that its selection of mitigation techniques otherwise complies with the provisions of this Proffer.

ii. 70 dBA Ldn to 75 dBA Ldn. In order to reduce interior noise to a level of no more than 45 dBA Ldn for residential units that are projected to be impacted by noise greater than 70 dBA Ldn (but not more than 75 dBA Ldn), the Applicant shall construct such units using the following acoustical measures:

1. Exterior walls shall have a laboratory sound transmission class ("STC") rating of at least 45;
2. Doors and glazing shall have a laboratory STC rating of at least 37 unless glazing constitutes more than 20% of any façade exposed to noise levels of Ldn 70 dBA or above;
3. If glazing constitutes more than 20% of an exposed façade, then the glazing shall have a laboratory STC rating of at least 45; and
4. All surfaces shall be sealed and caulked in accordance with methods approved by the American Society for Testing and Materials ("ASTM") to minimize sound transmission.

iii. 65 dBA Ldn to 70 dBA Ldn. In order to reduce interior noise to a level of no more than 45 dBA Ldn for residential units that are projected to be impacted by noise projected greater than 65 dBA Ldn (but not more than 70 dBA Ldn), the Applicant shall construct such units using the following acoustical measures:

1. Exterior walls shall have a laboratory STC rating of at least 39.

2. Doors and glazing shall have a laboratory STC rating of at least 28 unless glazing constitutes more than 20% of any façade exposed to noise levels of Ldn 70 dBA or above;

3. If glazing constitutes more than 20% of an exposed façade, then the glazing shall have a laboratory STC rating of at least 39; and

4. All surfaces shall be sealed and caulked in accordance with methods approved by the ASTM to minimize sound transmission.

9. Pedestrian Connection Through the Proposed Development. The Applicant shall construct a pedestrian connection through the Proposed Development to the abutting Hunters Crossing condominium development (Fairfax County Tax Map 26-1 ((13)) Parcel 2A) ("Hunters Crossing"), as more particularly shown on the Development Plan (the "Pedestrian Connection"). The exact location of the Pedestrian Connection shall be determined as part of site plan approval for the Proposed Development in consultation with DPWES and representatives of Hunters Crossing. The Pedestrian Connection shall be completed and available for use prior to the issuance of the first RUP for the Proposed Development.

10. Retaining Wall. The area between the Residential Building and the retaining wall located on the north and west sides of the Residential Building, as shown on Sheet 3 of the Development Plan (the "Retaining Wall"), except for the outdoor patio located outside the proposed Wellness Center described in Proffer 20 herein, shall not be used as amenity space or be directly accessible from individual units. The Retaining Wall shall be constructed with materials selected from among the following, as approved by the RADRB: brick, stone, concrete and split block.

11. On-Site Pedestrian Trail Along Colts Neck Road. The Applicant shall construct a pedestrian trail along the Property's frontage on Colts Neck Road, as more particularly shown on the Development Plan (the "Pedestrian Trail"). The Pedestrian Trail shall be an asphalt trail with a minimum width of eight feet (8') and shall be built at a slope of no more than eight percent (8%). The Applicant shall install a sign at both ends of the Pedestrian Trail notifying users that the Pedestrian Trail is not ADA accessible. The Pedestrian Trail shall be completed and available for use prior to the issuance of the first RUP for the Proposed Development. The Pedestrian Trail shall be in addition to, and not in lieu of, the Sidewalk required in Proffer 12 below.

12. Off-Site Sidewalk Along Colts Neck Road. Pursuant to DPWES Project Number 064258, the Applicant shall provide a contribution to Fairfax County for construction of a four foot (4') sidewalk along the Property's frontage on Colts Neck Road (the "Sidewalk"), in an amount not to exceed Eight Thousand Dollars (\$8,000.00). Such contribution shall be made prior to site plan approval for the Proposed Development. In the event the Sidewalk is damaged during construction of the Proposed Development, the Applicant will repair and restore it to its original condition.

13. Pedestrian Access to Hunters Woods Village Center. Pursuant to DPWES Project Number 064258, a pedestrian crosswalk across Colts Neck Road to the Hunters Woods Village Center (the "Crosswalk") is proposed by Fairfax County. In the event the Crosswalk is not

constructed by Fairfax County prior to the issuance of the first RUP for the Proposed Development, the Applicant shall construct the Crosswalk in the vicinity of the Property in a location to be mutually agreed to by the Applicant and FCDOT as part of site plan approval for the Proposed Development. If approved by VDOT, the Crosswalk shall be completed and available for use prior to final bond release for the Proposed Development.

14. Open Space. The overall minimum open space for the Property shall be forty-two percent (42%) or 1.83 acres, as shown on the Development Plan.

15. Lighting. On-site lighting shall be provided in conformance with Article 14 of the Fairfax County Zoning Ordinance. Parking lot or exterior building lighting located on the Property shall be directed inward and/or downward and designed with fully shielded fixtures in order to minimize glare onto adjacent properties. Building mounted security lighting shall utilize full cut-off fixtures with shielding such that the lamp surface is not directly visible. Lighting in the Snakeden Stream Valley shall be provided as shown on the Development Plan, subject to RADR approval.

16. Signage. Signage for the Property and the Proposed Development shall be provided in accordance with the requirements of Article 12 of the Zoning Ordinance or pursuant to a Comprehensive Sign Plan approved by the DRB and the Planning Commission.

17. Bus Shelter. Subject to approval by FCDOT and, as applicable, VDOT, the Applicant shall install a bus shelter on or near the Property (the "Bus Shelter"), in a location to be determined and mutually agreed upon by the Applicant and FCDOT as part of site plan approval for the Proposed Development. The Bus Shelter shall be installed prior to the issuance of the first RUP for the Proposed Development; provided, however, that, if agreement cannot be reached as to the location of the Bus Shelter, then, in lieu of constructing the Bus Shelter, the Applicant shall escrow funds with FCDOT in an amount to be determined by DPWES and VDOT and posted by the Applicant prior to the issuance of the first RUP for the Proposed Development. The design and materials of the Bus Shelter shall be of similar size and quality to those of a typical bus shelter installed elsewhere in Fairfax County, as determined by FCDOT, and shall include benches and trash receptacles.

18. Shuttle. Within 90 days following issuance of the first RUP for the Proposed Development, the Applicant shall make available on demand to all residents use of a shuttle service between the hours of 7 a.m. and 7 p.m. seven days a week, from the Property to transit facilities, medical facilities and shopping centers within a three (3) mile radius.

19. Bicycle Racks. The Applicant shall install at least five (5) bicycle racks in the Proposed Development (collectively, the "Bike Racks"). The Bike Racks shall be located in areas under cover or otherwise protected from weather elements and shall collectively accommodate parking for at least twenty-five (25) bicycles. The Bike Racks shall be installed prior to the issuance of the first RUP for the Proposed Development.

#### RESIDENT AMENITIES

20. Active Amenities

A. Indoor Wellness Center. To meet the indoor recreational needs of the future residents of the Proposed Development, the Applicant shall construct an indoor wellness center (the "Wellness Center") with equipment such as stationary bikes, treadmills, weight machines and free weights. The Wellness Center shall be completed prior to the issuance of the first RUP for the Proposed Development.

B. Outdoor Fitness Stations. To accommodate future residents with certain disabilities that make it difficult to use traditional exercise devices, the Applicant shall construct a minimum of three (3) outdoor fitness stations to be located along the edges of the Property, as generally shown on Sheet 6 of the Development Plan ("Life Trail"). The Life Trail shall be completed (a) prior to issuance of the final RUP for the Proposed Development or (b) within ninety (90) days of completion of the Snakeden Stream Restoration, as more particularly described in Proffer 23 herein, whichever is later, but in no event later than final bond release for the Proposed Development.

21. Passive Amenities

A. Reading Room/Library. Prior to the issuance of the first RUP for the Proposed Development, the Applicant shall construct a reading room/library in the Residential Building available for use by residents.

B. Garden Plots. The Applicant shall install garden plots in the general locations shown on Sheet 5 of the Development Plan (the "Garden Plots"). The Applicant shall provide a pedestrian connection to the Garden Plots so as to permit access from the Residential Building. Additional details concerning the elements of the Garden Plots shall be included on the Landscape Plan to be submitted pursuant to Proffer 24 herein.

C. Plaza. The Applicant shall construct a private plaza (the "Plaza") to be located on the top deck of the parking structure between the Residential Building wings, as more particularly shown on Sheet 3 of the Development Plan. The Plaza shall include landscaping (if possible), hardscape areas (such as concrete walkways with brick pavers, stonework, etc.), outdoor gaming tables (checkers/chess, etc.), benches, seating areas and similar passive recreation amenities. The Plaza shall be functionally complete (benches, landscaping and lighting installed) and open for use (subject to minor adjustments and punch-list items) prior to the issuance of the first RUP for the Proposed Development.

## **STORM WATER MANAGEMENT/ENVIRONMENTAL FEATURES**

22. Storm Water Management. Storm Water Management ("SWM") and Best Management Practices ("BMP") are currently provided for the Property by Lake Audobon, an existing SWM/BMP facility that provides SWM/BMP for the entire drainage shed in which the Property sits. In addition to these facilities, however, the Applicant shall provide as part of the Proposed Development storm water velocity reduction measures, such as check dams, minimum pipe slopes, and/or velocity reducing channel linings to slow the rate of discharge of runoff from the Property (the "SWM Facilities"). The specific SWM Facilities to be implemented shall be

Proposed Development shall be identified on the site plan for the Proposed Development submitted to DPWES.

A. Best Management Practices. Even though Lake Audobon exceeds the BMP requirements for entire watershed, the Applicant nevertheless shall incorporate BMPs into the Proposed Development in order to improve water quality associated with stormwater runoff from the Property. The site plan(s) for the Proposed Development shall demonstrate that, using structural and non-structural BMPs such as natural open space, sand filters, storm filters, Filterra devices or a combination thereof, phosphorous runoff from the Property will be reduced on-site by forty percent (40%).

B. Maintenance Responsibility.

i. Regular Maintenance of SWM Facilities. Prior to site plan approval for the Proposed Development, the Applicant shall execute an agreement with the County in a form satisfactory to the County Attorney (the "SWM Agreement") providing for the perpetual maintenance of the onsite SWM Facilities and LIDs. The SWM Agreement shall require the Applicant (or its successors/assigns) to contract with one or more maintenance/management companies to perform regular routine maintenance of the onsite SWM Facilities and LIDs and to provide a maintenance report annually to the Fairfax County Maintenance and Storm water Management Division of DPWES. The association documents for the Residential Building(s), as applicable, shall specify the maintenance responsibilities of the owners under the SWM Agreement.

ii. County Agreement. The SWM Agreement shall address the following issues to the satisfaction of DPWES: (a) future replacement of the onsite SWM Facilities and LIDs, when and as warranted; (b) requirement for liability insurance in an amount reasonably acceptable to DPWES; and (c) easements for County inspection and emergency maintenance to ensure that the onsite SWM Facilities are maintained by the Applicant in good working order.

23. Snakeden Stream Restoration. As part of the submission of the initial site plan for the Proposed Development, the Applicant shall cooperate with the RA and/or Northern Virginia Stream Restoration, LLC (the "NVSR") to submit to DPWES Stream Restoration Plan number 0365-PI-002-2, prepared by Wetlands Studies and Solutions, Inc., for the restoration and enhancement of the Snakeden Stream Valley (the "Stream Restoration Plan") abutting the Property. The Stream Restoration Plan shall include landscaping and stabilization of Snakeden Stream. Within forty-five (45) days of approval of the PRC Plan application, the Applicant shall diligently pursue agreement to grant temporary construction and ancillary easements to the RA or its designee, to permit implementation by RA of the Stream Restoration Plan simultaneously with the Applicant's site construction. As part of the granting of such easements, the Applicant shall diligently pursue commitments from the RA and the NVSR that implementation of the Stream Restoration Plan shall be timed to coincide with the Applicant's construction of the Proposed Development. If either (a) the Applicant has not applied for site plan approval within twelve (12) months after PRC Plan approval, or (b) the Applicant thereafter fails to diligently

pursue site plan approval, the implementation of the Stream Restoration Plan may nonetheless commence.

A. Limits of Clearing and Environmental Quality Corridor Restoration. The Applicant shall strictly adhere to the Limits of Clearing ("LOC") shown on the Development Plan and the Stream Restoration Plan, as defined in Proffer 23 herein, and shall not further encroach upon the Environmental Quality Corridor ("EQC") except to the extent shown on Sheets 3 and 4 of the Development Plan and as shown on Sheets 12 and 18 of the Stream Restoration Plan and such encroachment as may be approved by site plan. However, minor adjustment of the LOC as part of site plan approval based on final design and engineering and the location of proposed utilities may be permitted pursuant to Section 16-203 and Section 18-204 of the Zoning Ordinance. The Applicant shall use its best efforts to mitigate adverse impacts, such as sedimentation, excessive clearing of vegetation and erosion on the portion of the EQC that is to remain undisturbed with the construction of the Proposed Development. To the extent adverse impacts on the undisturbed portion of the EQC are not mitigated, the Applicant shall restore such portion of the EQC by, among other things, providing an additional ground level of vegetation in accordance with the Stream Restoration Plan. The Director of DPWES shall review and approve all plans for work within the EQC pursuant to the policy for protection of the EQC.

As part of its site plan, the Applicant shall provide management practices for the protection of understory plant materials, leaf litter and soil conditions found in areas to be left undisturbed, subject to the approval of the Urban Forest Management Division ("UFM"). The Applicant shall actively monitor the site to ensure that inappropriate activities such as the storage of construction materials, dumping of construction debris, and traffic by construction equipment and personnel do not occur within these areas. The Applicant shall restore understory plant materials, leaf litter and soil conditions to the satisfaction of UFM if these are found to be damaged, removed or altered in manner not allowed in writing by UFM.

If it becomes necessary to install utilities determined necessary by DPWES within areas to be left undisturbed, they shall be located and installed in the least disruptive manner possible as determined by UFM in coordination with the Environmental and Site Review Division, Department of Public Works and Environmental Services ("DPWES.") In addition, the Applicant shall develop and implement a replanting plan for the portions of protected areas disturbed for utility installation taking into account planting restrictions imposed by utility easement agreements.

Any work occurring in or adjacent to the areas to be left undisturbed, such as root pruning, installation of tree protection fencing and silt control devices, removal of trash, or plant debris, or extraction of trees designated to be removed shall be performed in a manner that minimizes damage to any tree, shrub, herbaceous, or vine plant species that grows in the lower canopy environment; and minimizes impacts to the existing top soil and leaf litter layers that provide nourishment and protection to that vegetation, all as approved by UFM. The use of power equipment in these areas shall be limited to small hand-operated equipment such as chainsaws. Any work that requires the use of larger motorized equipment such as, but not limited to, tree transplanting spades, skid loaders, tractors, trucks, stump-grinders, or any accessory or

attachment connected to such equipment shall not occur unless reviewed and approved in writing by UFM.

24. Landscape Plan.

A. Detailed Landscape Plan. As part of the initial site plan submission for the Proposed Development, the Applicant shall submit to the Urban Forest Management Division of DPWES for review and approval and to representatives of the abutting Hunters Crossing condominium development ("Hunters Crossing") for review and comment, a detailed landscape plan ("Landscape Plan") illustrating the plantings and other features to be provided with the Proposed Development. The Landscape Plan shall be consistent with the quality and quantity of plantings and materials shown on Sheets 4 and 5 of the Development Plan, including additional plantings on Hunters Crossing, and shall include preservation of existing trees where possible, and new plantings, including deciduous trees, evergreen trees, shrubs, bushes and similar underplantings to replace or supplement any trees that are removed as part of clearing and grading the portion of the Property to be redeveloped. The Landscape Plan shall also include a twenty (20') foot landscape buffer along the southern boundary of the Property (the "Landscape Buffer") as shown on Sheets 4 and 5 of the Development Plan. New plantings along the Property's frontage on Colts Neck Road and within the Landscape Buffer shall consist primarily of shrubs, bushes and native deciduous tree species, including a complement of 6-8 three-inch (3") caliper trees, planted in mulched beds designed to encourage the generation of associated plant communities. The Landscape Plan shall also include the placement of all new public and/or private utilities and the relocation of existing public and/or private utilities. Adjustments to the type and location of vegetation shall be permitted in consultation with DPZ and the Urban Forest Management Division of DPWES if determined to be in substantial conformance with the Development Plan.

B. Tree Survey and Preservation Plan. The Applicant's landscape architect or arborist, in consultation with the Urban Forest Management Division, shall identify as part of the Landscape Plan individual trees the Applicant proposes for preservation and those trees it plans to remove (the "Tree Preservation Plan"). The Tree Preservation Plan shall be made part of and submitted for approval with the Landscape Plan. The Applicant shall save those trees identified in the Tree Preservation Plan as intended to be saved. All trees shown to be preserved on the Tree Preservation Plan and site plan shall be protected by 14-gauge welded wire fencing, a minimum of four (4) feet in height, attached to steel posts spaced no farther than ten (10) feet apart. The fencing shall be erected at the proposed LOC prior to commencement of any clearing or grading on the relevant portion(s) of the Property and shall be made clearly visible to construction personnel. In the event that, during construction of the Proposed Development, any of the trees to remain die or are damaged, the Applicant shall, subject to Urban Forest Management Division approval, replant two (2) new trees for every one (1) tree to remain that does not survive construction. Such replacement trees shall be a minimum 3.0"- 3.5" caliper (or 8' evergreen, provided that no more than fifty percent (50%) of the replacement trees shall be evergreens) and selected, to the extent possible and as approved by the Urban Forest Management Division, from among the native species of trees utilized by the Applicant as part of its Landscape Plan. In addition to replacing any Tree to Remain that is removed or irreparably damaged during construction, the Applicant also shall pay a penalty of \$750 per such tree.

## MISCELLANEOUS

25. Nature House Contribution. The Applicant shall make a one-time contribution of One Hundred and Sixty-One Thousand, Three Hundred Dollars (\$161,300) to the Friends of Reston for use in developing the Reston Nature House, which will be owned and maintained by the Reston Association. Such contribution shall be made prior to the issuance of the first RUP for the Proposed Development.
26. Advance Density Credit. Advanced density credit is reserved consistent with the provisions of the Fairfax County Zoning Ordinance, for all eligible dedications described herein or as may be required by Fairfax County or VDOT pursuant to the PFM, at the time of site plan approval for the Property.
27. Successors and Assigns. These Proffers will bind and inure to the benefit of the Applicant and his successors and assigns. Each reference to "Applicant" in this proffer statement shall include within its meaning and shall be binding upon Applicant's successor(s) in interest and/or developer(s) of the site or any portion of the site.
28. 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.

[SIGNATURE PAGES FOLLOW]

National Capital Presbytery, Inc.  
Owner of Tax Map # 26-1((13))1

By: 

Name: Stephen C. Robertson

Title: President of National Capital Presbytery, Inc.

2222 Colts Neck Road, L.L.C.  
Contract Purchaser of Tax Map # 26-1((13))1

By: Atlantic Realty Companies, Inc., its Manager

By: Adam B. Schulman

Name: Adam B. Schulman

Title: Vice-President of Atlantic Realty Companies, Inc.