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Zoning Evaluation Division

**PROFFERS**

**PINEY RUN ELM INVESTMENTS LC**

**RZ 2014-LE-010**

**June 19, 2015**

Pursuant to Section 15.2-2303(a), Code of Virginia, 1950, as amended, Piney Run Elm Investments LC (hereinafter referred to as the "Applicant"), for the owners, itself, and its successors and assigns in RZ 2014-LE-010, filed on property identified as Fairfax County Tax Map reference 100-1 ((1)) 9B pt., 19, 20, 23A, 24 and 25 (hereinafter referred to as the "Application Property"), hereby proffers to the following, provided that the Fairfax County Board of Supervisors (hereinafter referred to the "Board") approves a rezoning of the Application Property, containing approximately 47.4 acres, from the R-1 District to the R-1 District, in conjunction with a Generalized Development Plan/Special Exception Amendment Plat (hereinafter referred to as the "GDP/SEA Plat") for an age-restricted community and accessory uses. If accepted, these proffers shall supersede and replace any previous proffers approved on the Application Property.

1. GENERALIZED DEVELOPMENT PLAN/SPECIAL EXCEPTION AMENDMENT PLAT (GDP/SEA PLAT)

   A. Subject to the provisions of Section 18-204 of the Fairfax County Zoning Ordinance (hereinafter referred to as the "Zoning Ordinance") development of the Application Property shall be in substantial conformance with the GDP/SEA Plat, entitled "Piney Run," containing sixteen (16) sheets prepared by Dewberry, dated March 5, 2014 as revised through May 15, 2015.

   B. Pursuant to Section 18-204 of the Zoning Ordinance, minor modifications from the GDP/SEA Plat may be permitted as determined by the Zoning Administrator. The Applicant reserves the right to make minor modifications to the building footprints shown on the GDP/SEA Plat, and make other modifications provided that such modifications are in substantial conformance with the GDP/SEA Plat as determined by the Zoning Administrator and do not increase the number of dwelling units, decrease required setbacks to the periphery, increase the building height shown on the GDP/SEA Plat, or decrease open space.

2. TRANSPORTATION

   A. The private streets shown on the GDP/SEA Plat shall be constructed of materials with a depth of pavement consistent with the Public Facilities Manual ("PFM") standards for public streets. Purchasers shall be advised of the requirement to maintain the private streets, including curb and gutter, and pedestrian facilities, including the estimated costs, prior to entering into a contract of sale. The requirement to maintain the street as constructed and the estimated maintenance

costs shall be included in the owners' association documents prepared for the Application Property.

B. The Applicant shall grant a public access easement over the private streets as shown on the GDP/SEA Plat. Said easement shall be in a form as reviewed and approved by the Fairfax County Attorney's office, and recorded among the Fairfax County land records.

C. Subject to Virginia Department of Transportation (VDOT) and Department of Public Works and Environmental Services (DPWES) approval, the Applicant shall dedicate at no cost and convey in fee simple with no encumbrance to the Board right-of-way measuring between forty-four (44) feet and fifty-four (54) feet from Telegraph Road to the turnaround north of the Resource Protection Area (RPA) and designated on the GDP/SEA Plat as "Public Street." Dedication shall be made at time of final site plan approval.

D. Subject to VDOT and DPWES approval, the Applicant shall construct improvements within the dedicated right-of-way consisting of a public street, with curb/gutter, turn lanes, and sidewalks as shown on the GDP/SEA Plat. Said improvements shall be constructed and open to traffic from Telegraph Road to the first private street connection, but not necessarily accepted by VDOT, prior to the issuance of the first Residential Use Permit (RUP) on the Application Property. Said improvements shall be constructed and open to traffic from the first private street connection to the turnaround north of the RPA as shown on the GDP/SEA Plat, but not necessarily accepted by VDOT, prior to the issuance of the first RUP for that portion of the Application Property located north of the RPA.

E. Subject to VDOT and DPWES approval, the Applicant shall replace an existing bridge with a bridge constructed to HL 93 Loading using AASHTO LRFD Bridge Design Specifications within the dedicated right-of-way as shown on the GDP/SEA Plat in accordance with the following:

(i) The approval of the bridge design shall be pursued concurrently with site plan approval;

(ii) The bridge shall be constructed and open to traffic, but not necessarily accepted by VDOT for public maintenance, prior to the issuance of the first RUP or Non-RUP for that portion of the Application Property located north of the bridge;

(iii) At time of site plan approval, the Applicant shall submit to DPWES a construction traffic management plan certified by a professional engineer registered with the Commonwealth of Virginia identifying the type of

construction vehicles that will be using the existing bridge and/or temporary stream crossing described herein;

(iv) Prior to commencement of construction on that portion of the Application Property located north of the bridge, the Applicant shall submit documentation prepared by a professional engineer registered with the Commonwealth of Virginia certifying that the existing bridge will support emergency vehicles and construction vehicles, as identifed in the construction management plan, and may be safely used during construction on the Application Property. As an alternative, the Applicant may construct a temporary stream crossing for emergency and construction vehicles or designate an alternative vehicular route, as approved by DPWES, to access that portion of the Application Property located north of the bridge; and

(v) The limits of disturbance associated with the bridge construction and possible temporary stream crossing is shown on the GDP/SEA Plat.

F. The Applicant shall construct a fourteen (14) foot private drive within a twenty (20) foot privately owned strip of land from the public street north of the RPA to the western property line as shown on the GDP/SEA Plat. The Applicant shall install a gate at the terminus of the public street as shown on the GDP/SEA Plat to preclude public access.

G. The Applicant shall construct sidewalks, a minimum of five (5) feet in width with ADA curb ramps and curb and gutter, along the internal street network, as shown on the GDP/SEA Plat to connect the residential buildings to Telegraph Road, prior to the issuance of the first RUP for each phase of road construction. These improvements shall be designed to meet VDOT and/or PFM standards.

H. At time of site plan approval, the Applicant shall contribute two hundred thousand dollars ($200,000.00) to Fairfax County for the installation of a trail along Telegraph Road from Hayfield Road to South Kings Highway and for other transportation improvements in the vicinity of the Application Property, as determined by Fairfax County.

I. Subject to VDOT and DPWES approval, the Applicant shall install curb, gutter and trail improvements within those areas where existing driveway connections to Telegraph Road are removed as shown on the GDP/SEA Plat.

J. A covenant shall be recorded which provides that garages shall only be used for a purpose that will not interfere with the intended purpose of garages (e.g., parking of vehicles). The covenant shall be recorded among the land records of Fairfax County in a form approved by the County Attorney prior to the sale of any lots and shall run to the benefit of the owners associations established for the community and the

Board. Purchasers shall be advised in writing of the use restriction prior to entering into a contract of sale.

K. All two car garages for single family attached and single family detached dwelling units located on the Application Property shall have a minimum interior width of eighteen (18) feet to be counted as two parking spaces. If this minimum dimension is not provided, the Applicant shall count the garage as one parking space to meet minimum parking requirments as established by the Zoning Ordinance at time of site plan approval.

3. TRANSPORTATION DEMAND MANAGEMENT STRATEGIES

The Applicant shall implement the following transportation demand management (TDM) strategies to reduce vehicle trips from the Application Property during the AM and PM peak hours. The TDM strategies shall be implemented prior to issuance of the first RUP for the Application Property. Strategies shall include the following:

A. Prior to the issuance of the first RUP, the Applicant shall escrow a sum of $35,000.00 with the owners associations established for the Application Property to be used for the establishment of TDM strategies, enhancing/providing multi-modal facilities within and proximate to the Application Property, and/or for providing on-site private street maintenance.

B. The Applicant shall pre-wire all dwelling units with high capacity data/network connections in addition to standard phone lines.

C. The Applicant shall establish and maintain a concierge service whereby residents can arrange services such as dry cleaning, pharmacy, grocery and package deliveries. Residents shall not be charged any additional fees for utilizing concierge services other that what may be included in homeowners' or condominium association dues and/or fees.

D. The Applicant shall provide SmarTrip cards to each resident on a one time basis at settlement for the initial purchase of dwellings on the Application Property. The Applicant shall provide, for a period of one year, SmarTrip cards to each employee at the time of initial employment. SmarTrip cards for each resident shall include a pre-paid value of (Seventy-Five) Dollars ($75.00). SmarTrip cards for each employee shall include a pre-paid value of One Hundred Twenty-Five Dollars ($125.00).

E. The Applicant shall provide Metro maps, schedules and forms, including routes and stop locations, ridesharing and other relevant transit option information available to residents and employees in a common area; such as a central lobby or community room.

F. The Applicant shall contribute the amount of Forty Thousand Dollars ($40,000.00) to Fairfax County at time of site plan approval for the installation of bus shelters along Telegraph Road in the vicinity of the Application Property.

G. The Applicant shall employ or appoint a TDM Program Manager (TPM) for the Application Property. If not previously appointed, the TPM shall be appointed prior to the issuance of the first RUP. The TPM duties may be performed by the property manager retained by the owners associations established for this community. The TPM shall notify FCDOT in writing within ten (10) days of the appointment of the TPM, and within ten (10) days of any change in the appointment.

4. STORMWATER MANAGEMENT/BEST MANAGEMENT PRACTICES

A. The Applicant shall implement a Stormwater Management (SWM) and Best Management Practices (BMPs) Plan on the Application Property which emphasizes Low Impact Development (LID) practices to control the quantity and quality of stormwater runoff from the Application Property. The SWM/BMP Plan shall conform to Chapter 124 (SWM Ordinance) of the 1976 Code of the County of Fairfax, Virginia and Public Facilities Manual (PFM) Amendment, 117-14-PFM, both adopted January 28, 2014. Standard and/or Manufactured LID/BMP practices used for the SWM/BMP Plan shall be in conformance with applicable practices and specifications listed on the Virginia Stormwater Clearinghouse Website, and in accordance with all applicable requirements of the PFM Amendment. LID/BMP facilities anticipated for the development program are shown in the GDP/SEA Plat, which includes a wet pond, 2 bioretention facilities, 3 underground sand filters, permeable pavement and 3 areas of reforestation. The number, design, and type of facilities may be modified by the Applicant at time of site plan subject to the approval of DPWES.

B. The proposed SWM wet pond, including its perimeter, and/or the bioretention facilities or other low impact development techniques shall be landscaped to the maximum extent possible as determined by Urban Forestry Management, DPWES (UFM), pursuant to the policy adopted by the Board, using native or other appropriate hydrophilic vegetation species. It is understood that no trees or other woody vegetation will be permitted on the embankments of the wet pond or bioretention facilities in accordance with the PFM. The landscaping plan for the SWM facility shall be submitted with the first site plan for review and approval by UFM.

C. Should the U.S. Environmental Protection Agency, or its designee, issue new stormwater management regulations affecting the Application Property, the Applicant shall have the right to accommodate necessary changes to its SWM/BMP facility designs without the requirement to amend the GDP/SEA Plat and/or these proffers or gain approval of an administrative modification to the GDP/SEA Plat

and/or these proffers, provided the facility designs substantially conform with the GDP/SEA Plat.

D. At time of site plan approval, the Applicant, in coordination with DPWES, the Army Corps of Engineers (COE), and the Virginia Department of Environmental Quality (DEQ), shall prepare and implement a riparian buffer restoration plan of approximately three (3) acres for that portion of Piney Run that crosses the Application Property which is located between the RPA to the south and the 100-year floodplain to the north. Said restoration shall include a monitoring program in accordance with COE and DEQ requirements, be consistent with the requirements of the Chesapeake Bay Preservation Ordinance, and generally in conformance with the riparian buffer restoration limits shown on Sheet 5 of the GDP/SEA Plat.

5. TREE PRESERVATION, LANDSCAPING, AND OPEN SPACE

The Applicant shall submit a tree preservation plan and narrative as part of the first and all subsequent site submissions as follows:

A. Tree Preservation Plan. The tree preservation plan and narrative shall be prepared by a professional with experience in the preparation of tree preservation plans, such as a certified arborist or landscape architect, and shall be subject to the review and approval of the UFM. 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 10 inches in diameter and greater (measured at 4 ½ feet from the base of the trunk or as otherwise allowed in the latest edition of the Guide for Plant Appraisal published by the International Society of Arboriculture) located with 25 feet to either side of the limits of clearing and grading shown on the GDP/SEA Plat. The tree preservation plan shall provide for the preservation of those areas shown for tree preservation, those areas outside of the limits of clearing and grading shown on the GDP/SEA Plat, and those additional areas in which trees can be preserved as a result of final engineering. The tree preservation plan and narrative shall include all items specified in PFM 12-0507 and 12-0509.

B. 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 walk-through meeting. During the tree preservation walk-through meeting, the Applicant's certified arborist or landscape architect shall walk the limits of clearing and grading with a UFM representative and a representative of the Lee District Land Use and Transportation Advisory Committee to determine where adjustments to the clearing limits can be made to increase the area of tree preservation and/or to increase the survivability of trees at the edge of the limits of clearing and grading, and such adjustment shall be implemented. Trees that are identified specifically by UFM in writing as dead or dying may be removed as part of the clearing operation. Any tree that is so

designated shall be removed using a chain saw and such removal shall be accomplished in a manner that avoids damage to surrounding trees and associated understory vegetation. If a stump must be removed, this shall be done using a stump grinding machine in a manner causing as little disturbance as possible to the adjacent trees and associated understory vegetation and soil conditions.

C. Limits of Clearing and Grading. The Applicant shall conform strictly to the limits of clearing and grading as shown on the GDP/SEA Plat, subject to allowances specified in the proffered conditions and for the installation of utilities and/or trails as determined necessary by the Director of DPWES, as described herein. If it is determined necessary to install utilities and/or trails in areas protected by the limits of clearing and grading as shown on the GDP/SEA Plat, they shall be located in the least disruptive manner necessary as determined by UFM. A replanting plan shall be developed and implemented, subject to approval by UFM, for any areas protected by the limits of clearing and grading that must be disturbed for such trails or utilities.

D. Tree Protection Fencing All trees shown to be preserved on the tree preservation plan shall be protected by a tree protection fence. Tree protection fencing in the form of four (4) foot high, fourteen (14) gauge welded wire attached to six (6) foot steel posts driven eighteen (18) inches into the ground and placed no further than ten (10) feet apart or, super silt fence to the extent that required trenching for super silt fence does not sever or wound compression roots which can lead to structural failure and/or uprooting or trees shall be erected on the limits of clearing and grading as shown on the demolition, and phase I and II erosion and sediment control sheets, as may be modified by the "Root Pruning" proffer below.

All tree protection fencing shall be installed after the tree preservation walk-through meeting but prior to any clearing and grading activities, including the demolition of any existing structures. The installation of all tree protection fence types shall be performed under the supervision of a certified arborist, and accomplished in a manner that does not harm existing vegetation that is to be preserved. Three days prior to the commencement of any clearing, grading, or demolition activities, but subsequent to the installation of the tree protection devices, UFM, the Lee District Supervisor, and representative of the Lee District Land Use and Transportation Advisory Committee shall be notified and given the opportunity to inspect the site to ensure that all tree protection devices have been correctly installed. If it is determined that the fencing has not been installed correctly, no grading or construction activities shall occur until the fencing is installed correctly, as determined by UFM.

E. Root Pruning. The Applicant shall root prune, as needed to comply with the tree preservation requirements of these proffers. All treatment shall be clearly identified, labeled, and detailed on the erosion and sediment control sheets and demolition plan sheets of the site plan submission. The details for these treatments shall be reviewed

and approved by UFM, accomplished in a manner that protects affected and adjacent vegetation to be preserved, and a manner that protects affected and adjacent vegetation to be preserved, and may include, but not be limited to, the following:

- Root pruning shall be done with a trencher or vibratory plow to a depth of 18 inches.
- Root pruning shall take place prior to any clearing and grading, or demolition of structures.
- Root pruning shall be conducted with the supervision of a certified arborist.
- An UFM representative shall be informed when all root pruning and tree protection fence installation is complete.

F. Site Monitoring. During any clearing or tree/vegetation/structure removal on the Application Property, a representative of the Applicant shall be present to monitor the process and ensure that the activities are conducted as proffered and as approved by UFM. The Applicant shall retain the services of a certified arborist or landscape architect to monitor all construction work and tree preservation efforts in order to ensure conformance with all tree preservation proffers and UFM approvals. The monitoring schedule shall be described and detailed in the landscaping and tree preservation plan, and reviewed and approved by UFM.

G. Use of Native Species. The Applicant shall exclusively use native and non-invasive species for landscaping and other plantings on the Application Property. The Applicant shall provide planting lists showing species and location of plantings.

6. PRESERVATION AREA

A. The Applicant shall create an approximately 22 acre preservation area on the north and east side of the Application Property as shown on the GDP/SEA Plat that shall be open to the public through the recordation of a public access easement. The Applicant shall coordinate with the Audubon Society of Northern Virginia (the "Audubon Society") to remove invasive grasses from approximately two (2) acres of open pasture. Applicant shall improve the soil quality and replant the two (2) acres as a natural wildflower meadow. The Applicant may install structures to enhance the preservation area, which may include bridges over streams and brooks, park benches, gazebos and/or pavilions, recreation amenities, and informative nature signs. These structures shall be installed in a manner that minimizes disturbance of the preservation area, as approved by UFM. The acreage and public access associated with the preservation area, the riparian buffer area, and the natural wildflower meadow may be modified to accommodate existing and potential future dam improvement projects by Fairfax County to the existing dam located adjacent to the Application Property to the north.

B. The Applicant shall construct pedestrian trails, as shown on the GDP/SEA Plat within the preservation area of the Application Property between Telegraph Road and the Kingstowne Park property identified as Fairfax County Tax Map reference 91-3 ((1)) 63A. A connection from the open space to the existing Kingstowne Park trail system may be provided, subject to any necessary approvals from the Board of Supervisors at no cost, exclusive of administrative costs. Improvements shall be constructed as follows:

(i) The Applicant shall repair or replace an existing wooden pedestrian bridge that crosses over the RPA.

(ii) The pedestrian trails shall be either five (5) feet wide or eight (8) feet wide, as shown on the GDP/SEA Plat, and shall be improved with materials that may include stone-dust, asphalt, or a combination thereof, subject to the approval of DPWES. Final location of the pedestrian trails shall be determined at the time of site plan approval and shall be subject to the approval of UFM and the trails planner.

(iii) The Applicant shall record a public ingress-egress easement over the pedestrian trails. Said easement shall be in a form as reviewed and approved by the Fairfax County Attorney's Office, and recorded among the Fairfax County land records.

C. Subsequent to the construction of any structures, installation of any public improvements, and recordation of easements, but prior to final bond release, the Applicant shall record an open space easement on the preservation area to benefit the Northern Virginia Conservation Trust (NVCT), subject to terms as mutually agreed to by the Applicant and NVCT. Said easement shall provide for the preservation in perpetuity of approximately 22 acres of open space that includes structures, improvements, and pedestrian trails as described herein and as shown on the GDP/SEA Plat. Said easement shall provide for the maintenance of the improvements and the open space, including the removal of dead, dying or diseased trees and invasive vegetation, and replanting of vegetation as necessary. Said easement shall require the owners associations established for the Application Property to maintain the trails, to ensure pedestrian safety, and those structures described in Proffer 6.a. The Applicant shall escrow the sum of ten thousand dollars ($10,000.00) with the owners associations for future maintenance of these improvements. Should the NVCT decline to accept the easement as described above, the owners associations established for the Application Property shall maintain the preservation area, which shall be designated as open space on the site plan. The preservation area shall not be utilized to support or be a part of future land use applications on the Application Property.

D. At time of site plan approval, or upon request, the Applicant shall grant a storm drainage easement(s), in a form as reviewed and approved by the County Attorney's Office, to Fairfax County to accommodate future improvements by Fairfax County to an existing dam located adjacent to the Application Property to the north. The easement(s) shall cover that portion of the state regulated dam and spillway system that may be located on the Application Property to a downstream limit that extends twenty-five (25) feet beyond the toe and abutment contacts of the dam embankment and end of the spillway stilling basin. Consistent with the terms of the easement(s), no buildings or other large structures shall be constructed within the easement(s) so as not to impact its ability to safely convey the required spillway design flood. The width of the storm drainage easement(s) shall be equal to the width of the spillway basin and shall extend to a point 100 feet downstream beyond the end of the spillway stilling basis or to the 100-year floodplain, whichever is reached first. Said easement(s) shall be recorded among the Fairfax County land records. The limits of the aforementioned easement(s) shall be in general conformance to the areas shown on the attached graphic labeled as Exhibit 1, subject to minor modifications at final engineering. Trails may be permitted within the easement areas(s).

7. RECREATION

The Applicant shall provide the following active and passive recreation amenities as described on Sheets 6 and 6A of the GDP/SEA Plat:

A. A community clubhouse that will include a community room, a fitness room that will be a minimum of 800 square feet and include exercise equipment, and a yoga/pilates area.

B. Active outdoor recreation areas that will include facilities such as pickleball courts, horseshoe pits and shuffleboard.

C. Walking trails with fitness stations.

D. Multipurpose lawn areas suitable for bocce ball, croquet, lawn billiards and similar games.

E. Outdoor landscaped patios/terraces that will include an outdoor kitchen, fireplace, benches, tables, and chairs.

The final location of outdoor recreation areas and facilities shall be determinated at time of site plan and may be modified from that shown on the GDP/SEA Plat to accommodate existing and potential future dam improvement projects by Fairfax County to the existing dam located adjacent to the Application Property to the north. Said relocation shall not necessitate an amendment to these proffers or the GDP/SEA Plat.

8. PARKS

Prior to the issuance of the first building permit, the Applicant shall make a contribution in the amount of One Hundred Thousand Dollars ($100,000.00) to the Fairfax County Park Authority for recreational facilities located in the vicinity of the Application Property.

9. PUBLIC IMPROVEMENT

A. Subject to the approval of DPWES and the Corps, the Applicant shall diligently process any required plans and/or permits prepared in accordance with sound engineering practices and all applicable regulations, which shall include providing appropriate responses to normal review comments provided by DPWES and/or the Corps in the plan and/or permit review process, and subsequently construct a sanitary sewer line to serve existing dwellings located in the Piney Run subdivision to the east of the Application Property, identified as Fairfax County Tax Map reference 100-1 ((3)) 1 through 8. The location of the proposed sanitary sewer easement shall be coordinated with the Lee District Supervisor, a representative of the Lee District Land Use and Transportation Advisory Committee, and NVCT. The Applicant shall not be obligated to either construct, or pay costs associated with, sanitary sewer connections to individual dwelling units within the Piney Run subdivision. If the sanitary sewer line is approved and constructed, the Applicant shall revegetate, to the extent feasible, in coordination with UFM, the disturbed area with seedlings of native plant species.

B. Should the plans and/or permits necessary to construct the sanitary sewer line be disapproved by DPWES and/or the Corps, despite the Applicant's diligent efforts to submit and process plans and/or permits prepared in accordance with sound engineering practices and all applicable regulations, the Applicant's obligation to construct said public improvement shall be null and void.

10. HERITAGE RESOURCES

The Applicant shall conduct a Phase I archaeological study of the Application Property and submit it to the Cultural Resource Protection Section of the Fairfax County Park Authority (FCCRPS) for review and approval, prior to final site plan approval. If warranted by the Phase I study, the Applicant shall undertake Phase II and Phase III archaeological studies for FCCRPS review and approval prior to any land-disturbing activities on the Application Property.

11. AFFORDABLE HOUSING

In accordance with Section 9-306(2) of the Zoning Ordinance, 15% of all constructed dwelling units shall be Affordable Dwelling Units (ADUs). The ADUs shall be administered in accordance with the provisions of Part 8 of Article 2 of the Zoning Ordinance, except as

may be modified by the ADU Advisory Board. Within the Applicant's discretion, all of the ADUs may be provided within the multi-family portion of the community.

12. DESIGN

A. Each multi-family independent living unit shall meet the definition of a dwelling unit per the Zoning Ordinance and shall include a kitchen.

B. The multi-family buildings shall conform to HUD's Fair Housing Accessibility Guidelines. Public and common use portions of the multi-family buildings will be readily accessible to and useable by persons with handicaps. All doors within multi-family units will be sufficiently wide to allow passage by persons with wheelchairs. All multi-family dwellings shall contain the following universal design features:

(i) An accessible route into the dwelling;

(ii) Light switches, electrical outlets, thermostats, and other environmental controls in accessible locations;

(iii) Reinforcements in bathroom walls to allow the installation of grab bars; and

(iv) Kitchens and bathrooms that allow an individual in a wheelchair to maneuver about the space.

C. The community clubhouse located on the Application Property and all open space improvements shall be constucted in accordance with the Americans with Disabilities Act (ADA).

D. The single family attached units shall be designed to accommodate the installation of an elevator within the unit as an option for the initial purchaser.

E. For the single family attached and detached units, the following universal design features shall be provided as standard features:

(i) Front entrance doors that are a minimum of 36" wide;

(ii) Light switches, electrical outlets, thermostats, and other environmental controls in accessible locations;

(iii) Reinforcements in bathroom walls to allow for the installation of grab bars;

(iv) Elevated (comfort height) toilets; and

(v) Lever door handles on all hinged doors.

F. To prevent lighting from adversely impacting adjacent properties, exterior building lighting shall be shielded in a manner which prevents light spillage. Exclusive of public street lighting requirements, all exterior lighting fixtures shall be equipped with "cut-off" luminaries and all parking lot lighting shall also be a maximum of fourteen (14) feet in height. All lighting standards shall comply with Zoning Ordinance Article 14, Part 9, Outdoor Lighting Standards.

13. OWNERS ASSOCIATION

A. Formation of Condominium Owner Association and Homeowners Association.

(i) Prior to the issuance of the first RUP for the multi-family dwelling units located on the Application Property, the Applicant shall establish a Condominium Owners Association (COA), as necessary for each phase of owner-occupied condominium units in accordance with Virginia law.

(ii) Prior to the recordation of a subdivision plat for the Application Property, a Homeowners Association (HOA) shall be established for the single family attached and detached dwelling units.

B. Maintenance Obligations

(i) The COA and the HOA shall own, manage, and maintain open space, including the common tree save areas and all other community owned land and improvements, such as private streets, pedestrian bridges, retaining walls and acoustical walls located in common areas.

(ii) Maintenance obligiations may be shared by the COA and HOA pursuant to a shared maintenance agreement.

(iii) Purchasers of individual condominium units and individual single family attached and detached units shall be advised prior to entering into a contract of sale, and in the COA and/or HOA documents, that the COA and/or HOA shall be responsible for those obligations listed in these proffers and the restrictions placed on the use of open space/buffer areas, including the preservation area described in Proffer 6.a.

14. SUSTAINABLE DESIGN

A. In order to promote energy conservation and green building techniques, the Applicant shall select one of the following programs, within its sole discretion at time of site plan submission, to be implemented in the construction of the single-family attached and detached dwelling units on the Application Property:

(i) Certification in accordance with the Earthcraft House Program, or its equivalent, as demonstrated through documentation provided to DPWES and DPZ prior to the issuance of a RUP;

(ii) Certification in accordance with the 2012 National Green Building Standard (NGBS) using the ENERGY STAR® Qualified Homes path for energy performance, as demonstrated through documentation submitted to DPWES and the Environment and Development Review Branch of DPZ from a home energy rater certified through Home Innovation Research Labs that demonstrates that the dwelling unit has attained the certification prior to the issuance of the RUP for each dwelling unit/building.

B. In order to promote energy conservation and green building techniques, the following measures shall be taken in conjunction with the construction of the multi-family buildings on the Application Property:

(i) The Applicant shall, at the time of site plan review and building plan review, provide a certification statement from a LEED-AP who is also a professional engineer or licensed architect confirming that the green building elements listed below shall be incorporated into the design and construction of the buildings.

(ii) Green building elements for inclusion in the multi-family buildings:

a. The Applicant shall include a LEED®-accredited professional as a member of the design team. The LEED-accredited professional will work with the team to incorporate sustainable design elements and innovative technologies into the project. At the time of site plan submission, the applicant will provide documentation to the EDRB demonstrating compliance with the commitment to engage such a professional.

b. The Applicant shall provide secure bicycle racks and/or storage within each garage for a minimum of five (5) bicycles, and an outside bicycle rack for each multi-family building and the community clubhouse. Bicycle racks for residents and visitors shall be located with (fifty) 50 feet of a building entrance. Prior to site plan approval, the Applicant shall provide the type, location and number of bicycle racks to be provided to FCDOT for review. The Applicant shall provide proof of installation and plan location.

c. The Applicant shall provide preferred parking for low-emissions vehicles parking for two (2) spaces in each multi-family building. The location of the spaces shall be labeled on the site plan and the spaces

shall be demarked with Reserved for Low-Emissions Vehicle Parking sign. The Applicant shall provide proof of installation and plan location.

d. The Applicant shall install a roofing membrane with a Solar Reflectance Index (SRI) appropriate to the slope of the roof (i.e. for a low-sloped roof (≤2:12) equal to or greater than 78 for a minimum of 75% of the total roof area, and for a high-sloped roof (>2:12) equal to or greater than 29). The Applicant shall provide proof of installation, roof area calculations and manufacturers' product data.

e. The buildings shall not have any chlorofluorocarbon (CFC) based refrigerants in any of the building systems, or not use refrigerants. The Applicant shall provide manufacturer's specification sheets for any refrigerant installed in the building

f. The Applicant shall provide an area for the separation, collection and storage of glass, paper, metal, plastic and cardboard generated by both residents and employees. There shall be a dedicated area on the Application Property for the storage of the recycled materials. The Applicant shall provide proof of installation, installation locations and a copy of the Applicant's recycling hauling contract.

g. The Applicant shall have a construction waste management plan that consists of hiring a waste removal and diversion company to process all construction waste at a recycling center. The Applicant shall provide a copy of the waste removal contract as proof of compliance.

h. The Applicant shall use low-emitting materials for all adhesives, sealants, paints, coatings, flooring systems, composite wood, and agrifiber products.

i. The Applicant shall provide natural lighting through the use of windows and/or skylights to a minimum of 65% of the spaces. Areas excluded are the mechanical room and storage. The Applicant shall provide proof of installation, installation locations on the architectural plans and installation area calculation indicating 65% of the building area.

j. The Applicant shall install only LED or fluorescent lamps in all interior building lighting fixtures.

k. The Applicant shall install Energy Star appliances and equipment for all refrigerators, dishwashers, water heaters, computers, monitors,

televisions, vending machines, water coolers, and other appliances and office equipment (if available). The Applicant shall provide proof of installation, installation locations, and manufacturers' product data, including the Energy Star energy guide.

15. NOISE ATTENUATION

At the time of building plan review, the Applicant shall submit a refined acoustical analysis for that portion of the Application Property impacted by traffic noise from Telegraph Road having levels in excess of 65 dBA Ldn. If the noise study concludes that specific dwelling units will be affected by noise levels that require mitigation, then the refined acoustical analysis will incorporate findings from a building analysis based on the building plans to determine what noise attenuation measures may be needed. Such study shall be submitted to the Environment and Development Review Branch of DPZ and DPWES for review. Based on the findings of that report, the Applicant shall provide the building materials required to achieve the following noise attenuation measures, unless otherwise modified by the findings of the building analysis.

A. In order to reduce interior noise to a level of approximately 45 dBA Ldn, residential dwellings anticipated to be impacted by traffic noise from Telegraph Road having levels projected to be between 65-70 dBA Ldn, shall have the following acoustical treatments measures:

(i) Exterior walls shall have a laboratory Sound Transmission Classification (STC) rating of at least 39.

(ii) Doors, windows 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 between 65 and 70 dBA Ldn. If doors, windows and other glazed areas constitute more than 20% of any facade impacted by noise, they shall have the same laboratory STC ratings specified for exterior walls.

(iii) Adequate measures to seal and caulk between surfaces shall be provided in accordance with methods approved by the American Society for Testing and Materials ("ASTM") to minimize sound transmission.

B. In order to reduce interior noise to a level of approximately 45 dBA Ldn, residential dwellings anticipated to be impacted by traffic noise from Telegraph Road having levels projected to be between 70-75 dBA Ldn, shall have the following acoustical treatment measures.

(i) Exterior walls shall have a laboratory Sound Transmission Class (STC) rating of at least 45.

(ii) Doors, windows 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 above 70 dBA Ldn. If doors, windows and other glazed areas constitute more than 20% of any façade impacted by noise, they shall have the same laboratory STC rating specified by exterior walls.

(iii) Adequate measures to seal and caulk between surfaces shall be provided in accordance with methods approved by the American Society for Testing and materials ("ASTM") to minimize sound transmission.

C. For private patios and outdoor recreation areas anticipated to be impacted by traffic noise from Telegraph Road in excess of 65 dBA Ldn, the Applicant shall construct acoustical walls to mitigate exterior noise levels. Acoustical walls shall be constructed of masonry materials and/or concrete and will be solid to the ground except as needed for positive drainage. The location and heights of acoustical walls shall be determined at the time of site plan. Acoustical walls located in common areas shall be maintained by the HOA.

D. The Applicant reserves the right to pursue other methods of mitigating highway noise impacts that can be demonstrated prior to the filing of a building permit through an independent noise study as reviewed and approved by DPWES and the DPZ, provided that these methods will be effective in reducing interior noise levels to approximately 45 dBA Ldn and exterior noise within outdoor recreation areas to approximately 65 dBA Ldn.

16. GEOTECHNICAL

Prior to site plan approval, the Applicant shall submit a geotechnical study for the Application Property prepared in accordance with the provisions of the Public Facilities Manual to the Geotechnical Review Board through DPWES. The Applicant shall incorporate appropriate engineering practices as recommended by the Geotechnical Review Board and DPWES to alleviate potential structural and land stability problems, to the satisfaction of DPWES. The recommendations of the Geotechnical Review Board shall be implemented.

17. SIGNS

No temporary signs (including "Popsicle" style paper or cardboard signs) which are prohibited by Article 12 of the Zoning Ordinance, and no signs which are prohibited by Chapter 7 of Title 33.1 or Chapter 8 of Title 46.2 of the Code of Virginia, shall be placed on or off-site to assist in the initial sale of residences on the Application Property. Furthermore, the agents and employees involved in the marketing and sale of the residential units on the Application Property shall be directed to adhere to this proffer.

18. SUCCESSORS AND ASSIGNS

These proffers will bind and inure to the benefit of the Applicant and its successors and assigns.

19. COUNTERPARTS

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

20. MISCELLANEOUS

A. The community shall conform with the U.S. Department of Housing and Urban Development's *Housing for Older Persons Act of 1995* as implemented at 24 CFR Part 100 which generally provides that each dwelling shall have an occupant that is 55 years or older and that no one under the age of 19 may be a permanent resident. This restriction regarding occupancy shall be included in the homeowners' association documents prepared for the Application Property.

B. The construction of the residential dwelling units on the Application Property may be phased.

C. The Applicant reserves the right to install additional retaining walls on the Application Property to facilitate construction and to accommodate Fairfax County public improvement projects. The additional retaining walls, if any, shall have a maximum height of five (5) feet unless required to accommodate existing and potential future dam improvement projects by Fairfax County to the existing dam located adjacent to the Application Property to the north. Retaining walls shall be subject to the approval of DPWES and shall not reduce open space as shown on the GDP/SEA Plat.

D. The individual sections/buildings within the Application Property may be subject to Proffered Condition Amendments without joinder and/or consent of other property owners of the other sections/buildings.



**[SIGNATURES BEGIN ON THE FOLLOWING PAGE]**

APPLICANT/CONTRACT PURCHASER OF
TAX MAP 100-1 ((1)) 9B pt., 19, 20, 23A, 24, 25

PINEY RUN ELM INVESTMENTS LC

By: James L. Perry
Its: Manager

[SIGNATURES CONTINUE ON NEXT PAGE]

TITLE OWNER OF
TAX MAP 100-1 ((1)) 19

Glenn S. Ovrevik

[SIGNATURES CONTINUE ON NEXT PAGE]

TITLE OWNERS OF
TAX MAP 100-1 ((1)) 20

Herman W. Lutz, Trustee

Herman W. Lutz, Trustee

Julia S. Lutz, Trustee

Julia S. Lutz, Trustee

[SIGNATURES CONTINUE ON NEXT PAGE]

TITLE OWNER OF
TAX MAP 100-1 ((1)) 23A, 24, 25

PINEY RUN HILLTOP, LLC

By: Hilltop Sand and Gravel Company, Inc., its sole member

By: Michael C. Gailliot
Its: President

[SIGNATURES CONTINUE ON NEXT PAGE]

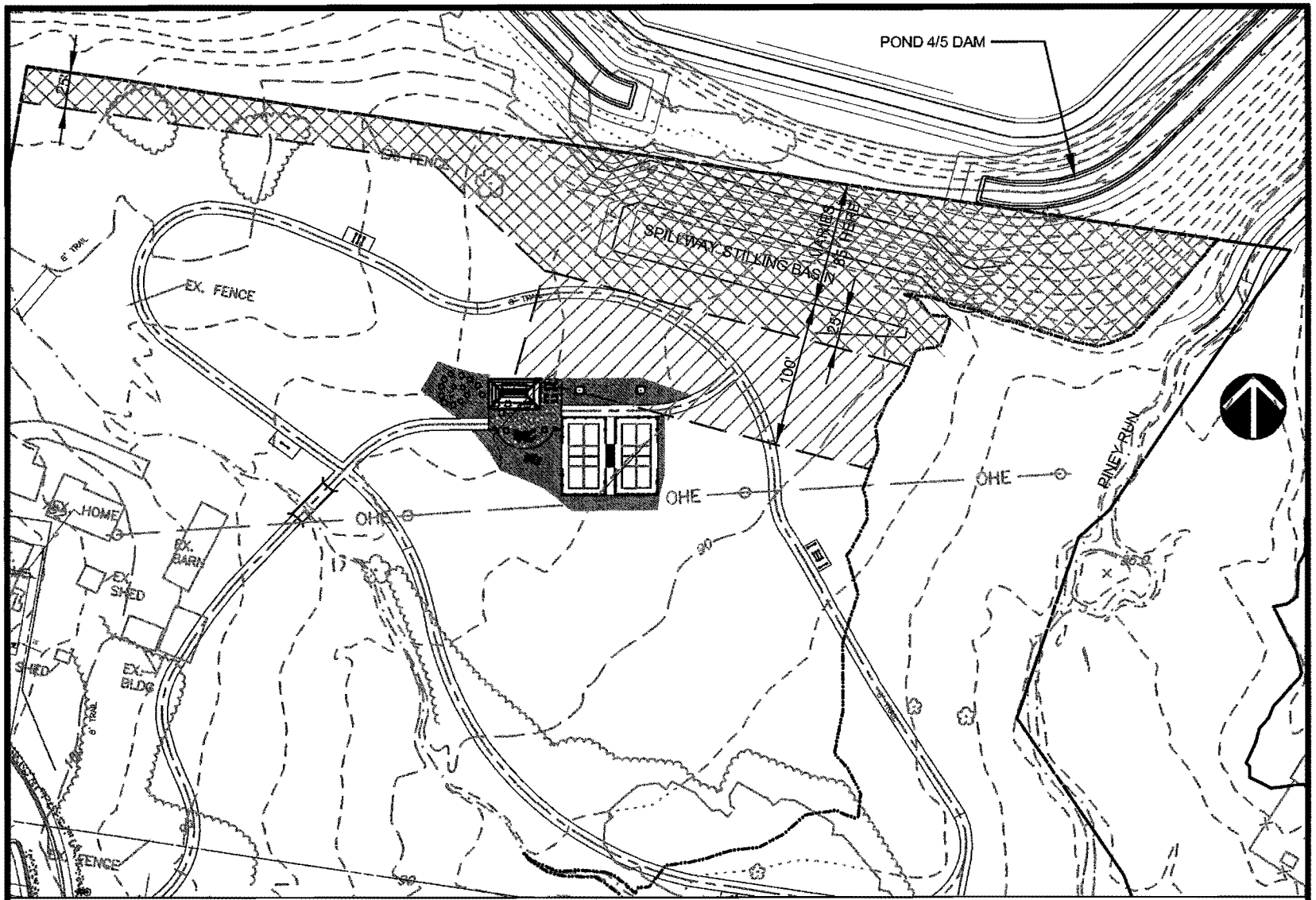
TITLE OWNER OF
TAX MAP 100-1 ((1)) 9B

HILLTOP SAND & GRAVEL COMPANY, INC.

By: Michael C. Gaillot
Its: President

[SIGNATURES END]

EXHIBIT 1




APPROXIMATE AREA TO BE RESERVED FOR MAINTAINING PROPOSED DAM AND EMERGENCY SPILLWAY

APPROXIMATE MINIMUM AREA TO BE RESERVED TO RESTRICT DEVELOPMENT IMMEDIATELY DOWNSTREAM OF THE PROPOSED EMERGENCY SPILLWAY PER PFM SECTION 6-1602.7.

100-YR FLOODPLAIN

0' 100' 200'

NOTE:
ALL EASEMENTS SHOWN HEREON ARE BASED ON PRELIMINARY ENGINEERING AND ALIGNMENT OF POND 4/5 DAM PROPOSED AT KINGSTOWNE PARK. FINAL EASEMENT LOCATIONS ARE SUBJECT TO FINAL ENGINEERING AND ALIGNMENT OF POND 4/5 DAM, WHICH WILL BE COORDINATED BETWEEN THE APPLICANT AND FAIRFAX COUNTY AT FINAL SITE PLAN OF THE KINGSTOWNE DAM PROJECT.

Dewberry®

| | |
|---|---|
| POND 4/5 DAM EASEMENT | SHEET 1 OF 1 |
| 6-22-15 | ELM STREET DEVELOPMENT<br>PINEY RUN |