PROFFERS - RZ 2009-PR-022
James M. Hollingsworth
2818 Cedar Lane, Vienna, VA 22180
November 26, 2013

Pursuant to Section 15.2-2303(A) of the 1950 Code of Virginia, as amended, the Applicant, for himself and his successors or assigns (herein collectively referred to as the "Applicant") in this rezoning application filed on property identified on the Fairfax County Tax Map 49-1 ((4)), Parcel 16A (hereinafter referred to as the "Application Property"), agrees to the following proffers, provided that the Fairfax County Board of Supervisors (hereinafter referred to as the "Board") approves the rezoning of the Application Property from the R-1 zoning district to the R-4 district.

1. Development Plan

a. Subject to the provisions of Section 18-204 of the Fairfax County Zoning Ordinance ("the Ordinance"), development of the portion of the Application Property identified on the Fairfax County Tax Map 49-1 ((4)), Parcel 16A shall be in substantial conformance with the Generalized Development Plan ("GDP") containing 10 sheets and prepared by J2 Engineers, dated November 22, 2011 and revised through August 21, 2013.

b. Pursuant to Paragraph 2 of Section 18-204 of the Zoning Ordinance, minor modifications to the GDP may be permitted as determined by the Zoning Administrator and shall be in substantial conformance with the GDP. These modifications may include the locations of utilities, minor adjustment of property lines, and the general location and size of dwellings on the proposed lots provided that the total area of open space is not decreased from that shown hereon, the building setbacks outlined on the GDP are honored, and the general location of the site's access, and limits of clearing and grading are adhered to.

2. Homeowners Association

The applicant shall establish a Homeowner's Association (HOA) for the proposed development to own, manage and maintain the area in the easement for the shared portion on the driveway (noted per easement), eight (8) foot asphalt trail, and tree save areas noted in the Tree Preservation Area and maintain all other community land and improvements. Restrictions placed on the use of the open space/buffer areas, tree preservation easement, minimum setbacks and the maintenance responsibilities of the bioretention facilities and Homeowner's Association shall be disclosed to all prospective homeowners in a disclosure memorandum recorded in the Land Records prior to entering into a contract of sale and included in the HOA documents.

3. Garages

A minimum of two parking spaces shall be provided within the garage of each dwelling unit. 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 sale of any lots, and shall run to the benefit of the Board of Supervisors and this restriction shall be included in the subdivision documents. All sales literature and information to prospective purchasers shall notify purchasers of this restriction prior to or simultaneous with entering into a contract of sale for a lot on the property.

4. Architecture:

The houses constructed on the property shall be single-family detached residences similar in style and presentation to the houses shown on page 2A of the Generalized Development Plan dated August 21, 2013 or of comparable quality as determined by Zoning Administration; provided, however, Applicant shall be permitted to vary the exterior design of the house to meet purchasers' desires as long as each house remains generally similar in style and presentation to the other houses constructed on the property. The exterior of the houses shall be constructed of brick, stone, cedar shingles or "Hardiplank" (or comparable cementitous siding), the proportion of which used for each house being reserved to the Applicant. The sides and rear of homes shall have similar architectural details (shutters, moldings, etc) as the front of the homes. The buildings may be tailored to suit buyers, but they need to be similar to each other and not dissimilar to the neighboring homes. In addition, materials used on fronts shall also be used on sides, since they are visible from adjacent and neighboring homes.

5. Building Restriction Line (BRL) Restrictions:

Notwithstanding the BRL set forth in Zoning Ordinance Section 3-407, 2.A(1)(c), in order to effect the overall intent of the approved GDP, the Applicant hereby proffers to and shall establish a rear BRL set at 100 feet from the rear lot line on each proposed lot on the GDP (herein the "proffered rear BRL"). The proffered rear building restriction line established by the Applicant shall be in lieu of the BRL set forth in the R-4 District. Establishment of the proffered rear BRL shall be set forth in a covenant approved as to form and content by the Fairfax County Attorney, and recorded among the Land Records with the subdivision plat. This covenant shall run with the land for all future purchasers of the properties. All sales literature and information to prospective purchasers shall notify purchasers of building restrictions relating to this proffered rear BRL prior to or simultaneous with entering into a contract of sale for a lot on the property. It shall be made clear to all purchasers that the entire wooded area behind the proffered rear BRL is a protected wooded area and that the covenants that protect this wooded area behind the proffered rear BRL shall remain enforceable under applicable Fairfax County ordnances.

6. Right of Way Dedication:

Right of Way: Applicant shall dedicate and convey in fee simple with no encumbrances to the Board of Supervisors, right of way for public street purposes (together with all ancillary easements), 35 feet from the centerline of Cedar Lane as shown on the GDP, and additional dedication of 3 feet if required by VDOT at the time of subdivision approval, and construct public improvements as shown thereon. In addition, Applicant shall improve shared driveway entrance to be in similar and substantial conformity to the entrance of the adjacent subdivision, RZ-1999-PR-031. Dedication of right of way shall be made at time of first subdivision plan approval or upon demand from Fairfax County, whichever shall first occur.

Frontage Improvements: Applicant shall provide a justification statement and analysis to VDOT and FCDOT to support the front ditch and shoulder improvement of the property's frontage adjacent to Cedar Lane in lieu of curb and gutter as shown on the GDP dated August 21, 2013. If this ditch and shoulder frontage improvement is not authorized by VDOT/FCDOT then Applicant shall either:

1. Escrow funds with Fairfax County DPWES per published unit prices for the construction of curb and gutter improvements along the property's Cedar Lane frontage; or
2. Construct the curb and gutter improvements.

If the request for frontage improvements for ditch and shoulder is not approved by VDOT and it is determined that curb and gutter frontage improvements shall be made, the frontage improvements shall be made whereby the face of curb shall be 20 ft from the centerline of Cedar Lane, as determined by VDOT.

FCDOT and VDOT will make the determination on the measures to be provided if the ditch and shoulder plan is not approved. Such improvements will be limited to the frontage immediately in front of the subject property and will not extend onto adjacent properties to the north or south of the subject property, except as shown on the GDP dated August 21, 2013, and it is not anticipated that the relocation of any utility poles on the north and south part of the subject property will be needed. Dedication of right of way shall be made at time of first subdivision plan approval or upon demand from Fairfax County, whichever shall first occur.

Cedar Lane Road Improvement: Applicant shall commit to closing one half of Cedar Lane at a time, and at times outside the daily peak hours specific to Cedar Lane. The maintenance and protection of traffic shall be provided according to strict regulations stated in the Federal Manual on Uniform Traffic Control Devices. The Applicant shall solicit neighbors for support of, and submit a nighttime construction waiver request with VDOT and FCDOT. This permit application waiver request shall

include, 1. Notifying the neighbors that adjoin the proposed improved areas of Cedar Lane; and 2. Requesting they sign a letter of approval for the nighttime waiver to submit to VDOT and FCDOT. This nighttime waiver permit will be sought to have the construction take place at night to reduce congestion on Cedar Lane during the day. The Applicant shall also notify neighbors prior to the proposed road improvement by use of signs on Cedar Lane, Willowmere Dr, Emil Way and Maple Lane of the upcoming construction as well as inform these neighbors via letter of any unanticipated delays in construction due to weather, delayed inspections or other issues.

The applicant shall send a summary of the construction plan and schedule to the impacted neighboring property owners no later than one month before work starts. The summary shall include a contact person for any questions. As dates for closures and/or driveway blockages approach, applicant shall timely notify any/all impacted properties, to include timely notice of any changes or delays in dates. Applicant shall copy the Providence District Supervisor's office on all such notifications, and shall provide the summary information to the Briarwood Citizens' Association.

If neighboring driveways are blocked by construction time over-runs or by overnight road disrepair, the applicant shall provide the cost for lodging for the family homes affected. The Applicant shall submit road closure plans at submission of site plans. All neighboring driveways and entrances and disturbed areas shall be restored in-kind and in accordance with the GDP dated August 21, 2013. The driveway areas shall be restored and all disturbed land areas shall be restored by use of seed or sod in accordance with PFM standards. The applicant shall submit a Cedar Lane driveway photo-log to the Providence District Supervisor's office before any construction begins.

Notwithstanding the foregoing, funds may be reallocated at the discretion of the Providence District Supervisor toward construction of other transportation related improvements, including pedestrian facilities, in the vicinity of the application property, as determined by the Fairfax County Department of Transportation (FCDOT).

7. Maintenance of Bio Retention Facilities (Rain Gardens):

The rain gardens shown on the subject property will be designed and constructed as determined by DPWES, and shall be maintained by the owners of the respective lots on which the rain gardens are located. The roof drains and piping that connect the homes to the rain gardens shall also be maintained by the owners of the respective lots and shall also be recorded in the maintenance covenant. All sales literature and information will be detailed in a maintenance agreement that shall be signed by prospective purchasers prior to or simultaneous with entering into a contract of sale for a lot on the property. The maintenance agreement shall comprehensively detail how the rain gardens are to be maintained to include, but not limited to:

1. Specifics of the mulching schedule and types of materials to be used as mulch.
2. An approved list of trees, shrubs and plants recommended to be planted in the rain garden.
3. A watering schedule for the vegetation in the rain garden.
4. Protecting the rain gardens from chemicals, fertilizers and/or salt during driveway or asphalt trail snow removal.
5. Troubleshooting and remedies for rain garden problems.
6. A list of landscape companies, rain garden design contacts and resources on rain gardens for the homeowners and HOA.

The maintenance agreement shall be set forth in a covenant approved as to form and content by the Fairfax County Attorney, and recorded among the Land Records with the subdivision plat. This covenant shall run with the land to protect the rain gardens by future and/or subsequent property owners.

If stormwater management measures required by DPWES at site plan are not in substantial conformance with that shown on the GDP, a proffered condition amendment (PCA) and GDPA shall be required.

8. Common Driveway and Eight Foot Asphalt Trail Maintenance:

The common driveway providing access to Cedar Lane for each of the lots on the property and eight foot asphalt trail shall be maintained by the homeowners pursuant to a joint maintenance agreement which Applicant shall set forth in a covenant approved as to form and content by the Fairfax County Attorney, and recorded among the Land Records with the subdivision plat. This covenant shall run with the land, recording the same with the subdivision documents at the time of recordation of the subdivision plat. All prospective purchasers will be made aware of the projected costs associated with the maintenance of the common driveway and asphalt trail. All sales literature and information to prospective purchasers shall notify purchasers of the maintenance covenant prior to or simultaneous with entering into a contract of sale for a lot on the property. A public access easement in a form approved by the County Attorney shall be placed on the eight foot wide asphalt trail depicted on the GDP along the Cedar Lane frontage of the site.

9. Park Authority Contribution:

At the time of subdivision plan approval, the Applicant will contribute the sum of $5,358.00 to the Fairfax County Park Authority for development of recreational facilities at one or more of the FCPA sites located within the service area of the subject property.

10. School Board Contribution:

At the time of subdivision plan approval the applicant shall contribute the sum of $24,800.00 for capital improvements to the public schools served by the

subdivision. Said contribution shall be deposited with DPWES for transfer to Fairfax County Public Schools.

11. Contribution to Housing Trust Fund:

To assist the County in its goal to provide affordable dwellings elsewhere in the County, prior to the issuance of the first Building Permit, the Applicant shall contribute to the Fairfax County Housing Trust Fund a sum equal to one-half of one percent (0.5%) of the projected sales price of each of the new residential units to be built on-site, as determined by the Department of Housing and Community Development (HCD) and DPWES in consultation with the Applicant.

12. Tree Preservation/ Landscape Design: Tree Preservation:

The Applicant shall submit a Tree Preservation plan and Narrative as part of the first and all subsequent subdivision plan submissions. The preservation plan and narrative shall be prepared by a Certified Arborist or a Registered Consulting Arborist with experience in the preparation of tree preservation plans, and shall be subject to the review and approval of the Urban Forest Management Division (UFMD), DPWES.

Tree Preservation: The tree preservation plan shall include a tree inventory that identifies the location, species, critical root zone, size, crown spread and condition analysis percentage rating for all individual trees to be preserved as well as all on and off-site trees, living or dead with trunks 12 inches in diameter and greater (measured at 4 ½ - ft from the base of the trunk or as otherwise allowed in the latest addition of the Guide for Plant Appraisal published by the International Society of Arboriculture) located within 25 feet to either side of the limits of clearing and grading shown on the GDP for the entire site. 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 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. Specific tree preservation activities that will maximize the survivability of any tree identified to be preserved, such as: crown pruning, root pruning, mulching, fertilization and others as necessary shall be included in the plan. 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.

Tree Preservation Walk-Through: The Applicant shall retain the services of a certified arborist or Registered Consulting Arborist, 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 an UFMD, DPWES, representative 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. The Providence District Supervisor's office and the adjoining neighbors will also be notified prior to the Tree Preservation Walk-Through. Trees that are identified 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 under story 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 adjacent trees and associated under story vegetation and soil conditions.

Limits of Clearing and Grading. The Applicant shall conform strictly to the limits of clearing and grading as shown on the GDP, subject to allowances specified in these proffered conditions and for the installation of utilities and/or trails or supplemental planting 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, they shall be located in the least disruptive manner necessary as determined by UFMD, DPWES. A replanting plan shall be developed and implemented, subject to approval by UFMD, DPWES, for any areas protected by the limits of clearing and grading that must be disturbed for such replanting, trails or utilities.

Tree Preservation Fencing: All trees shown to be preserved on the tree preservation plan shall be protected by 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 of trees shall be erected at 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 fencing 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 (3) days prior to the commencement of any clearing, grading or demolition activities, but subsequent to the installation of the tree protection devices, the UFMD, DPWES, 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 UFMD, DPWES.

Root Pruning: The Applicant shall root prune, as needed to comply with the tree preservation requirements of these proffers. All treatments shall be clearly identified, labeled, and detailed on the erosion and sediment control sheets of the

subdivision plan submission. The details of these treatments shall be reviewed and approved by UFMD, DPWES, accomplished in a manner that protects affected and adjacent vegetation to be preserved, and may include, but not be limited to the following:

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

Demolition of Existing Structures: The demolition of any existing features and structures within areas protected by the limits of clearing and grading areas shown on the GDP shall be done by hand without heavy equipment and conducted in a manner that does not impact individual trees and/or groups of trees that are to be preserved as reviewed and approved by UFM, DPWES.

Site Monitoring: During any clearing or tree/vegetation/structure removal on the Applicant 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 UFMD, DPWES. The Applicant shall retain the services of a certified arborist or Registered Consulting Arborist to monitor all construction and demolition work and tree preservation efforts in order to ensure conformance with all tree preservation proffers, and UFMD, DPWES approvals. The monitoring schedule shall be described and detailed in the Landscaping and Tree Preservation Plan, and reviewed and approved by UFMD, DPWES.

Monetary Value of Trees: The Applicant shall retain a professional arborist with experience in plant appraisal, to determine the replacement value of all trees 12 inches in diameter or greater located on the Application Property, or those that are shown to be saved on the Tree Preservation Plan. These trees and their value shall be identified on the Tree Preservation Plan at the time of the first submission of the respective public improvement/site plan(s). The replacement value shall take into consideration the age, size and condition of these trees and shall be determined by the so-called "Trunk Formula Method" contained in the latest edition of the Guide for Plan Appraisal published by the International Society of Arboriculture, subject to review and approval by UFMD, DPWES.

Tree Bond: At the time of the respective public improvement/site plan approvals, the Applicant shall both post a cash bond or a letter of credit payable to the County of Fairfax to ensure preservation and/or replacement of the trees for which a tree value has been determined in accordance with the Proffer above (the "Bonded Trees") that die or are dying due to unauthorized construction activities. The letter of credit or cash deposit shall be equal to 50% of the replacement value of the Bonded Trees. At any time prior to final bond release, should any bonded Trees die,

be removed, or are determined to be dying by UFMD, DPWES, due to unauthorized construction activities, the Applicant shall replace such trees at its expense. The replacement trees shall be of equivalent size, species and/or canopy cover as approved by UFMD, DPWES. In addition to this replacement obligation, the Applicant shall also make a payment to Fairfax County equal to the value of any Bonded Tree that is dead or dying or improperly removed due to unauthorized activity. This payment shall be determined based on the Trunk Formula Method and paid to a fund established by the County for furtherance of tree preservation objectives. Upon release of the bond any amount remaining in the tree bonds required by this proffer shall be returned/released to the Applicant.

Privacy Screening: Homes to the north, west and south will have privacy screening trees in substantial conformity as shown on the Generalized Development Plan dated August 21, 2013.

13. Heritage Resources:

Prior to subdivision plan approval, the Applicant shall conduct a Phase I archaeological study on those areas of the Property identified by Cultural Resource Management and Protection Section (CRMPS) of the Fairfax County Park Authority and provide the results of such study for the review and approval of CRMPS. The study shall be conducted by a qualified archaeological professional. If the Phase I study concludes that a Phase II study of the Property is warranted, the Applicant shall complete said study and provide the results to CRMPS; however, submission of the Phase II study to CRMPS shall not be a pre-condition of subdivision plan approval. If the Phase II study concludes that additional Phase III evaluation and/or recovery is warranted, the Applicant shall also complete said work in consultation and coordination with CRMPS; however, any such Phase III work shall not be a pre-condition of subdivision plan approval.

14. Interior Noise Abatement:

In order to achieve a maximum interior noise level of approximately 45dBA Ldn, residential units on Lots 1 to 3 located within one hundred and six (106) feet from the existing centerline of Cedar Lane that may experience noise levels between 65 and 70 dBA Ldn as determined by the DPWES, will be constructed with the following measures to mitigate the impact of highway noise:

(i) Construction materials and techniques known to have physical properties or characteristics suitable to achieve a Sound Transmission Classification (STC) of at least 45 for exterior walls of residential buildings; and
(ii) Doors and glazing shall have a laboratory STC rating of at least 37 unless glazing constitute more than 20 percent of any façade exposed to noise levels of DNL 65 dBA or above. If doors, windows and other glazed areas constitute more than 20 percent of an exposed façade, then the glazing of such features shall have an STC rating of at least 45.

(iii) Measures to seal and caulk between surfaces should follow methods approved by the American Society for Testing and Materials to minimize sound transmission.

15. Lighting and Signs:

a. All exterior lighting shall be in conformance with Part 9 of Article 14 of the Zoning Ordinance.

b. 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 Property. Furthermore, the Applicant shall direct its agents and employees involved in the marketing and/or home sales for the Property to adhere to this Proffer.

16. Energy Saver Program:

All homes constructed on the Property shall meet the thermal guidelines of the CABO Model Energy Program for energy-efficient homes or its equivalent, as determined by the DPWES for either electric or gas energy systems, as applicable. Additionally, prospective homeowners will have the option to have their home constructed in accordance with the EarthCraft House Program as demonstrated through documentation provided to DPWES and DPZ prior to the issuance of the residential use permit (RUP) for each new home.

17. Telecommuting:

All dwellings shall be pre-wired with broadband, high capacity data/network connections in multiple rooms, in addition to standard phone lines.

18. Other:

During the development of the subject site, the telephone number of the site superintendent that shall be present on-site during construction shall be posted for all surrounding residents to obtain throughout the development of the Property.

Outdoor construction activity shall be limited to between the hours of 7:00 a.m. and 7:00 p.m., Monday through Friday and 8:00 a.m. and 5:00 p.m. on Saturdays. No outdoor construction activities shall be permitted on Sundays or on Federal holidays. The site superintendent shall notify all employees and subcontractors of these hours of operation and shall ensure that the hours of operation are respected by all employees and subcontractors. Construction hours shall be posted on-site in both English and Spanish. This proffer applies to the original construction only and not to future additions and renovations by homeowners.

19. Off Site Drainage Improvement:

An offsite drainage improvement is proffered along lots 13, 14, 15 and 16 adjacent to the subject Property and annotated on sheet 6 of the GDP dated August 21, 2013. The four property owners of lots 13-16 have each signed notarized letters of permission granting the Applicant permission to apply for the necessary permits to construct the offsite drainage improvement with VDOT and FCDOT. These four property owners will sign an updated notarized letter prior to submitting for applications with VDOT and FCDOT that states that they have seen the latest dated proposed offsite drainage improvement plans, which includes the use of 15 inch pipe for the drainage system, and that they continue to grant permission for the Applicant to obtain the necessary permits with VDOT and FCDOT and to construct the proposed drainage system. These notarized letters will also grant the Applicant permission to obtain any necessary easements for the purpose of installing the proposed offsite drainage system.

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APPLICANT:

James Hollingsworth
Owner