

North Pointe: Summary of Changes to the Proffers

The following summarizes the changes to the North Pointe Proffers from the draft of October, 2004 through the draft dated December 9, 2005.

Because North Pointe requires a special use permit for residential uses in a PD-MC district, the staff requested that all proffers pertaining to the residential areas should be removed and that staff would replace them with similar special use permit conditions. Thus, in those instances where the proffer was removed and made a special use permit condition, it is because the proffer was associated with a residential element of the plan.

1. **Section II – Entrance Corridor:** Added two paragraphs to respond to comments from the Architectural Review Board’s (“ARB”) advisory review of the project:

a. **Section 2.1: Creation of a 25-foot buffer along the Entrance Corridor**
Commitment to maintain a minimum 25-foot buffer area along the Entrance Corridor. Because in some areas a portion of the buffer area will be located within VDOT right-of-way, commitment to compensate on site for any portion of the buffer within the right-of-way that is lost due to further widening of Route 29, even if it is necessary to remove a row of parking on site that is adjacent to the buffer. As shown on the attached “cut” section, the actual buffer along Route 29 will generally be 50 feet or more, exclusive of the 18’ pervious (grass block) parking spaces. In addition, as also shown on the “cut” section, the line of site northbound along Route 29 is such that the parking adjacent to Route 29 should not be visible except in a few discreet locations for brief moments, and landscaping along the entrance road median will mute even that momentary vision.

b. **Section 2.2: ARB Approval of Stormwater Facilities.** Proffer that the stormwater maintenance facilities visible from the Entrance Corridor will be subject to ARB review and approval, including specifying when the plans for each must be submitted, and the standards by which such facilities will be reviewed by the ARB.

2. **Former Section 3.2: Residential Mix.** This proffer was removed from the proffers, modified, and made a special use permit condition. It is now condition number 1, entitled “Residential Mix” and describes the types of residential units and requires a minimum number of units from each type to ensure an appropriate mix.

3. **Former Section 3.4: Phasing of Construction.** This proffer was removed, modified and made special use permit condition number 2 entitled “Phasing of Residential Units.” This condition provides that the Owner may not construct more than 290,000 square feet of commercial space until a certain number of dwelling units have

been constructed. The current draft of the conditions requires 224 units. The Owner has requested that this number be reduced to 112 to provide market flexibility.

4. **Section 4.2: Stormwater Management Plan.** This proffer provides that stormwater management facilities for North Pointe will accommodate not only the on-site stormwater, but also off-site stormwater for eleven other nearby off-site parcels not owned or controlled by the Owner. Changes specifically identify the off-site parcels and clarify that the North Pointe facilities will mitigate the stormwater quality and quantity impacts.

5. **Former Section 4.4 Preservation Areas/Condition #3: Conservation Areas.** This proffer for “Preservation Areas” was removed, modified, and made Condition #3, which is now called a “Conservation Area.” These areas shall remain undisturbed and protected from development. In certain limited instances, and only upon approval of the Program Authority, storm drainage outfalls and pedestrian paths can be permitted in the Conservation Areas.

6. **Former Section 4.5 Conservation Areas/Condition #4: Conservation Areas with Utilities.** Similarly, this proffer for what had been called “Conservation Areas” was removed, modified, and made into Condition #4. The condition renames these areas as “Conservation Areas with Utilities.” Establishes areas that are generally to be undisturbed except that certain utilities are permitted in certain circumstances.

7. **Section V: Transportation.** This section was significantly modified and reorganized following staff’s suggestions, including as follows:

a. **Section 5.1: Internal Streets Construction Standards.** Clarified that Leake Road, North Pointe Boulevard, Northside Drive East, and Northwest Passage shall be public (and not private) roads.

b. **Section 5.3.1: Road Improvements.** This section clarifies the design and timing for construction of the three phases of Road Improvements, each as detailed herein, including that the road improvements be subject to approval by both VDOT and the County, as applicable.

8. **Section 5.3.1(a): Phase I Road Improvements.**

a. **Section 5.3.1(a)(2)(i): Extension of North Pointe Boulevard to Northwest Passage.** Provides that if Northside Drive has not yet been constructed to the roundabout at North Pointe Boulevard (which might be the case if the Owner constructs the southern entrance from Route 29 before the middle entrance from Route 29), then North Pointe Boulevard will be constructed all the way to Northwest Passage as a Phase I Improvement. Section 5.3.1(a)(2)(iii) then provides that if this occurs, that Northwest Passage would also be built to Route 29 as a Phase I Improvement. This is shown more clearly on the exhibit we have included in your packets labeled Exhibit B.

b. **Section 5.3.1(a)(2)(ii): Roundabout at Proffit and Leake, Westbound Turn Lane on Proffit.** Commitment to constructing a roundabout at Proffit Road and Leake Road provided that sufficient right-of-way is available or made available. Otherwise, a traditional intersection would be built on a temporary basis until the roundabout is constructed by either the County or VDOT. In such an event, the Owner will proffer cash in the amount necessary for the future construction of the roundabout. In addition, this section includes a commitment to construct an additional westbound right turn lane on Proffit Road from Leake Road to Route 29.

c. **Section 5.3.1(a)(2)(iii): Construction of Northwest Passage.** As mentioned in subparagraph (a) above, this provides an alternative to constructing Northside Drive, such that if the Northwest Passage is constructed before Northside Drive, then the Owner will also construct at that time the portion of North Pointe Boulevard between Northside Drive and Northwest Passage.

d. **Section 5.3.1(a)(2)(iv): Additional Eastbound Through Lane on Proffit Road.** Provides that if the necessary right-of-way is made available, the Owner will either construct, or proffer the cash necessary to construct, an additional through lane eastbound on Proffit Road from Route 29 to the roundabout at Leake and Proffit Roads. The Owner does not own or control the land along this proposed improvement, and it appears that the right-of-way is not wide enough at that location to construct the additional east bound lane. As noted in subparagraph (b) above, the Owner will construct the additional westbound turn lane on Proffit Road between Leake Road and Route 29 within the existing right-of-way, which is sufficiently wide at that location. Needed improvements to Proffit Road are in the County's Six-year Plan, but funding is thought to be further out. Since there is a "project" in place, it is our understanding that the County and/or VDOT may have the ability to acquire (even if by condemnation) the additional right-of-way necessary to complete the contemplated improvements between Route 29 and Leake Road.

e. **Construction of Alternate Signalized Entrance.** The penultimate unnumbered paragraph just before the Phase II Road improvements clarifies that if the Owner elects to build the southern signalized entrance from Route 29 before the middle entrance, and thus builds all of North Pointe Boulevard and Northwest Passage rather than Northside Drive, then the improvements required for the middle signalized intersection (turn and taper lanes, for example) would not be required until the middle entrance is completed.

f. **Schedule for completion of Phase I Road Improvements.** The final unnumbered paragraph just before Phase II Road Improvements clarifies that the Phase I Road Improvements must be completed prior to the earlier of fifteen months after the issuance of the first building permit within the project, or the issuance of a certificate of occupancy for such building.

9. **Section 5.3.1(b) Phase II Road Improvements.**

a. **Section 5.3.1(b) Schedule for obtaining permits for Phase II Road Improvements.** Requires that prior to the approval of a site plan or subdivision plat for more than 290,000 square feet of commercial, office or hotel space, that the Owner obtain the permits for or post bonds for construction of the Phase II Road Improvements.

b. **Section 5.3.1(b)(1)(ii) Construction of Third Lane on Route 29 Southbound.** This subparagraph originally provided that the Owner would construct the third lane on Route 29 in the southbound lanes only 1,000 feet on either side of the southern entrance, which is all that VDOT would require for the entrance. the Owner has modified this proffer to provide that the third lane would extend from the portion of the third lane that extends 1,000 feet south of the middle entrance, all the way to Airport Road. The total distance of the third lane is thus increased significantly

c. **Commitment to Construct Signalized Entrance.** The penultimate unnumbered paragraph in Section 5.3.1.(b) clarifies that in any event, at least one of the middle or southern entrances will be constructed.

d. **Schedule for completion of Phase II Road Improvements.** The last unnumbered paragraph in 5.3.1(b) makes it clear that the Phase II Road Improvements must be completed prior to the earlier of fifteen months after issuance of the first building permit for a building that would cause the Project to exceed the 290,000 square foot commercial space threshold, or the issuance of a certificate of occupancy for such building.

10. **Section 5.3.1(c): Phase III Road Improvements.**

a. **Section 5.3.1(c): Schedule for obtaining permits for Phase III Road Improvements.** Requires that prior to the earlier of (i) a plat or plan for the 534th dwelling unit; (ii) a plat or plan for the development of the property along the lower portion of Northwest Passage; or (iii) five years after the issuance of the first certificate of occupancy for any building within the Project, the Owner must obtain the permits for or post bonds for construction of the Phase III Road Improvements.

b. **Section 5.3.1(c)(1)(ii): Completion of Northwest Passage.** Clarifies that construction of Northwest Passage is a Phase III Improvement. Although note that it is an alternate Phase I Improvement at the Owner's option, as previously discussed in paragraphs 8(a) and (c) of this summary.

c. **Section 5.3.1(c)(1)(iv): Extension of North Pointe Boulevard.** Clarifies that if it is not already constructed, that the North Pointe Boulevard must be completed between Northside Drive and Northwest Passage.

d. **Section 5.3.1(c)(1)(v): Traffic Signal at Northern Entrance (at Northwest Passage and Lewis & Clark Drive).** Provides that the Owner will add the

fourth “leg” to the traffic signal if the signal is already in place. In addition, if the signal is not already in place, and if the traffic generated by the Project causes the VDOT signal warrants to be met, the Owner will install the signal at its expense.

e. **Section 5.3.1(c)(2): Accelerated Construction of Northwest Passage and Phase III Improvements for Construction of Elementary School.** Provides that within six months after the County notifies the Owner that it intends to build a school on the elementary school site, that the Owner will submit road plans for Northwest Passage, and then complete Northwest Passage within twelve months after issuance of the building permit for the school. This twelve-month period will provide more than enough time to construct Northwest Passage prior to the school opening. In addition, this section further provides that if they are not already complete by that time, that all other Phase III Road Improvements will be completed within twelve months after the start of construction of the school. Thus, if the County elects to construct the elementary school prior to the time the Phase III Improvements would otherwise be required, the deadlines for completing the Phase III Improvements would accelerate.

f. **Schedule for Completion of Phase III Road Improvements.** The last unnumbered paragraph in 5.3.1(c) requires that within one year after the triggering event that caused the Owner to obtain permits for the Phase III improvements (534th dwelling unit, development along Northwest Passage, or five years after the certificate of occupancy for the first building in the Project), the Phase III Road Improvements must be complete.

11. **Section 5.3.2: Cash Contribution for Wireless Radio System for Traffic Signals.** This section includes mostly technical edits to clarify that the contribution will be to either the County or VDOT, that it may link multiple signals, and provides for the distribution of the funds by a certain time as required by Virginia law.

12. **Section 5.3.4: Cash Contribution for Regional Transportation Study.** The amount of the cash proffer for the regional transportation study for the Route 29 corridor was increased from \$25,000 to \$100,000.

13. **Section VI Open Space Areas and Greenway.**

a. **Former Section 6.1: Open Space.** This proffer was modified and made special use permit condition numbers 5 and 6. Condition 5 requires that designated open spaces be restricted from development. Exceptions exist for utilities and for trails, playgrounds, picnic tables and similar amenities. Condition 6 requires that the total area of open-space related areas be at least 35% of the portion of the Project that is devoted to residential uses.

b. **Former Section 6.2: Rivanna Greenway/Access.** This proffer is now special use permit condition number 7, which provides that the Owner will dedicate land along the Rivanna River to the County’s Greenway Trail program.

c. **Current Section 6.1: Pedestrian Pathways.** Clarifies that the pedestrian pathways in the nonresidential areas shall be shown on applicable plats and plans and constructed by the Owner as either Class A or B trails. This proffer now also provides that any pathway constructed under a street must conform to applicable VDOT standards and that the Owner must enter into a maintenance agreement with VDOT for the paths.

14. **Former Section VII Landscaping and Buffering.**

a. **Former Section 7.1: Landscaped Buffer Between Residential Areas and Rural Areas.** This proffer was made special permit condition 8, which requires the Owner to establish and maintain a heavily vegetated buffer in the open space buffer common areas adjacent to rural areas. The condition also specifies the standards to which the buffer must be established and maintained.

b. **Former Section 7.2: Pritchett Lane Emergency Access.** This proffer is now special use permit condition 9A, which requires the Owner to construct several emergency access way extensions from the Project to Pritchett Lane and then to dedicate such access ways to public use.

15. **Former Section 8.1: Community Development Authority.** This proffer has been removed at the County's request.

16. **Current Section 8.1: Branch Library.** This proffer now clarifies that the Owner will dedicate the fee simple interest in the library land for the library, and that such dedication will include easements for construction staging, parking, and stormwater management facilities. Language was also added that permits the use of the library land for other governmental uses in addition to the library that are not incompatible with the proposed surrounding uses. The proffer also specifically provides that the Owner will construct the library parking lot prior to the library opening, grant the use of other parking areas for construction staging, be responsible for maintenance of the library parking lot, and dedicate the adjacent park area to public use. Language at the end of the section pertaining to potential financing of the library by the Community Development Authority has been removed although the Owner remains willing to discuss such a financing tool with the Library Board and the County.

17. **Section 8.2: Affordable Housing.** This proffer has been substantially modified. It now provides that the Owner will provide at least 36 "for-sale" affordable units, one third from each of the following categories: (i) multi-family; (ii) "other" (townhouses, duplexes, attached houses and condominiums); and (iii) single family detached. In addition, the Owner will provide at least four Carriage House Units which will be affordable, and at least 40 "for-rent" affordable units. This provides a total of 80 affordable units. It is our understanding that North Pointe is the only project in Albemarle to proffer single-family detached affordable units. The Owner originally offered to construct more Carriage House Units, but was advised by staff that any such units would count against the density limits. There seems to be sentiment among some

who think that these type units should not count against density limits and, if this issue is clarified, the Owner would add more such units to the proffer.

a. **Section 8.2(a): Attached For-Sale Affordable Units.** The multi-family and “other” for-sale affordable units will be affordable to households with incomes up to 80% of the area median family income such that housing costs do not exceed 30% of the area median family income based on an annual interest rate of 5.69%. The inclusion of a base interest rate is vital to ensure that as interest rates increase, the price of the affordable units does not have to decrease proportionately as the mortgage loan amount available to purchasers moves inversely to the interest rate and will decrease as interest rate increase. This is an important implementation issue that the Owner believes merits discussion by the Board.

b. **Section 8.2(b): Single Family Detached For-Sale “Workforce” Units.** The price for single family detached for-sale affordable units would be based on the then-current Virginia Housing Development Authority price limits for first-time homebuyers, and would be available to households with incomes up to 120% of the area median family income. It is these households with incomes up to 120% of the area median family income – many two income firefighters, police officers, emergency services personnel, school teachers and administrative aides – who are most in need of more affordable housing in the County. The Owner believes it is appropriate that a small portion of the affordable units be made available to these families.

c. **Section 8.2(c): For-Rent Affordable Units.** Language was added clarifying how the for-rent affordable units would be administered and regulated.

d. **Section 8.2(d): Carriage House Units.** Added a definition for Carriage House Units that is consistent with other approved proffers.

e. **Section 8.2(e): Phasing of Affordable Units.** Provides that the affordable units shall be provided at a rate of 3-8 per year, and that the Owner may “carry over” or “bank” credits for such units if the number provided per year exceeds the proffered rate.

f. **Section 8.2(f): Qualified Purchasers of For-Sale Units.** Provides a process and schedule for the County Housing Office to obtain a qualifying family for each to-be-constructed affordable unit.

g. **Former Section 8.2(f), Current Section 8.2(h): Cash Proffer for Affordable Housing.** Former Section 8.2(f) would have provided \$250,000 over five years to several non-profit housing organizations as matching funds. Current Section 8.2(h) increases the proffer amount to \$300,000 and provides that it would be directed to the County’s Housing Initiative Fund to fund affordable home ownership loan programs. Such funds would be paid to the County within 60 days after approval of the first plat or plan within the Project, rather than at the time of issuance of the building permit, as has been done with other projects. This up-front injection of \$300,000 cash into the program

would occur at an important time as many affordable units from this and other projects are being made available and, in order to find and qualify buyers for these units (in a now competitive market with so many condominium conversions competing in the “affordable” price range), it will be necessary to have sufficient funds available to fund down payment assistance.

18. **Former Section 8.5: Additional Proffit Road Improvements.** This proffer was removed when the Community Development Authority provision was removed.

19. **Section 9.1: Elementary School Site.** Requires that the land dedication be made within 270 days (9 months) after the County’s request, which will allow time for subdivision plat preparation and approval, and also the completion of site work required by this proffer, such as grading, utility extension, installation of underground mains for the irrigation systems for the recreational fields, and a pedestrian pathway. The proffer now clarifies that the pathways will be installed when the site is graded for the fields, that the Owner will provide all utilities to the school site, that the County will have an easement for the use of stormwater management facilities and for construction. The language also clarifies that if the County elects not to use the land for a school, then the Owner would contribute \$500,000 cash to the capital improvement program and the school land could then be used for residential purposes under certain terms.

20. **Section 9.2: Bus Stop Turnoff and Improvements.** Mostly technical modifications, and also a provision for the disposition of the funds if they are not used for the intended purpose within a certain period of time, as required by Virginia law.

21. **Section 10.1: Dedication of Right-of-Way – Extension to Parcel 22E.** Parcel 22E is not part of the Project and is not owned or controlled by the Owner. It is located near the intersection of Route 29 and Northside Drive, just north of building 32 shown on the Application Plan. This proffer provides that prior to issuance of a building permit for building 32, the Owner will record an irrevocable deed of dedication dedicating to public use for road purposes, the area labeled for right-of-way dedication. This would occur only after parcel 22E is upzoned to something other than an RA district (at which time it would be clear what the proposed use of this adjacent property will be, which dictates the location and design of the road) and a road had been constructed. The proffer would also require a slight extension of the access road serving building 32 and the placement of a sign and the end of such road, both to alert the public that the area is the location of a future road extension.

22. **Former Section 10.1(b): Extension to Parcels 22G and 22P.** This proffer is now special use permit condition 9B.

23. **Section 10.2: Access to Tax Map 32A, Section 2 Parcel 4.** Tax map parcel 32A-2-4 is the Northwoods Mobile Home park located outside of the Project, just east of building 6 on the Application Plan. This proffer is similar to item 21 above, in that it would require the Owner to record an irrevocable deed of dedication for the designated

area once the adjacent land is upzoned and a road is constructed, extend the road slightly, and erect a sign about the future extension of a road in the area.

24. **Former Section 11.1: Overlot Grading Plan.** This proffer was modified and made special use permit condition number 10, since it will apply to the residential areas. The Owner is agreeable to an overlot grading plan condition, but in a form that mirrors the agreements reached between the County staff and the Blue Ridge Homebuilder's Association rather than what is in the current text of condition 10.