

**McMILLEN FARM PROFFERS
RZ 2017-DR-023**

October 11, 2018

Pursuant to Section 15.2-2303 (A) and 15.2-2303.4, Code of Virginia (1950, as amended), and Section 18-204 of the Zoning Ordinance of Fairfax County (1978, as amended), the property owner, contract purchaser, and applicant for themselves and their successors and/or assigns (collectively referred to as the “Applicant”) in this rezoning application proffer that the development of the parcel under consideration and shown on the Fairfax County Tax Maps as Tax Map 10-2 ((1)) Parcel 5 (the “Property”) shall be in accordance with the following conditions if, and only if, rezoning application RZ 2017-DR-023 (the “Application”) is granted by the Board of Supervisors (the “Board”). In the event that the Application is denied, these Proffers shall be immediately null and void and of no further force or effect on the Property.

GENERAL

1. Substantial Conformance. Subject to the provisions of Section 18-204 of the Fairfax County Zoning Ordinance (hereinafter referred to as the “Zoning Ordinance”), The Proposed Development of the Property shall be in substantial conformance with the Generalized Development Plan (“GDP”) prepared by Walter L. Phillips, Incorporated, consisting of eleven (11) sheets and dated May 25, 2017, as revised through April 20, 2018.
2. Maximum Lot Yield. The proposed development shall consist of a maximum of thirteen (13) single family detached dwelling units (the “Proposed Development”).
3. Minor Modifications. Pursuant to the Zoning Ordinance, minor modifications and variations to the GDP, such as, but not limited to locations of utilities, landscaping, minor adjustments of property lines and the general location of dwellings and driveways on the proposed lots may be permitted when it is determined by the Zoning Administrator or the Board of Supervisors (as applicable) that such modifications are in substantial conformance with the GDP and provided that the modifications do not increase the total number of dwelling units, decrease the amount of open space, tree save, or distances to peripheral lot lines, change the points of access to the Property, or alter the limits of clearing and grading as shown on the GDP. Final footprints may differ from that shown on Sheet P-0301 of the GDP, including but not limited to whether the garages are front or side loaded and whether they are two cars or larger. Notwithstanding their absence on Sheet P-0301 of the GDP, decks, deck related “additions” such as pergolas, lattice, privacy screens, deck benches, and deck planters, bay windows, patios, chimneys, areaways, mechanical equipment and other similar appurtenances may encroach into the minimum rear yard as established on the GDP provided such appurtenances meet all applicable regulations of the Zoning Ordinance.
4. Disclosure. Prior to entering into a contract of sale, prospective purchasers shall be notified in writing by the Applicant of the maintenance responsibility for walkways, common area landscaping, stormwater management facilities, and any other open space amenities, and shall acknowledge receipt of this information in writing. Prospective purchasers shall also be

advised in writing of any limitations with regard to the construction of additional structures such as decks, enclosed porches and patios in rear yards based on the location of each home, with regard to the building setbacks then in effect in the Zoning Ordinance. The initial deeds of conveyance and governing documents establishing the homeowners association with jurisdiction over the project (the "HOA") shall expressly contain these disclosures.

5. Public Access Easement. At the time of record plat recordation, the Applicant must cause to be recorded among the land records a public access easement running to the benefit of Fairfax County, in a form acceptable to the County Attorney, over the areas generally shown on the GDP.

6. Construction Hours. Outdoor construction activity shall be limited to between the hours of 7:00 am and 7:00 pm, Monday through Friday and 8:00 am to 5:00 pm 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 employee 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.

7. Construction Management. Prior to commencement of the Proposed Development, the District Supervisor and the presidents of each adjacent homeowners association shall be provided with the name, title, and contact information of the person to whom comments and/or complaints regarding construction activities may be directed. A sign with this information shall be posted on the Property prior to commencement of the Proposed Development and shall be retained through issuance of the RUP for the final dwelling unit. All parking of construction vehicles shall occur on the Property and shall not occur on adjacent public streets.

TRANSPORTATION

8. Construction of Road. The Applicant must construct the proposed public street, as shown on Sheet P-0301 of the GDP. The street shall be dedicated to Fairfax County for inclusion into the state road system prior to bond release.

ENVIRONMENTAL

9. Green Building Practices. For each new dwelling unit constructed, certification shall be provided in accordance with the National Green Building Standard (NGBS) using the ENERGY STAR® (version 3.0) Qualified Homes path for energy performance or other equivalent program, as demonstrated through documentation submitted to the Environment and Development Review Branch of the Department of Planning and Zoning ("DPZ") and from a home energy rater certified through the Home Innovation Research Labs. Such documentation shall demonstrate that each dwelling unit has attained the certification prior to the issuance of the Residential Use Permit ("RUP") for that dwelling.

10. Conceptual Landscape Plan. Landscaping shall be generally consistent with the quality, quantity and shall be provided in the general locations shown on Sheet P-0401 of the GDP and shall be non-invasive, predominantly native species (the "Conceptual Landscape Plan"). At the

time of planting, the minimum caliper for deciduous trees shall be two (2) inches and the minimum height for evergreen trees shall be seven (7) to eight (8) feet, as depicted on the GDP. Actual types, locations and species of vegetation shall be determined pursuant to more detailed landscape plans submitted at the time of submission of the subdivision plans for review and approval by Urban Forest Management Division (“UFMD”), provided that, to the extent possible, all species are locally common native species. Such landscape plans shall provide tree coverage and species diversity consistent with the PFM criteria, as determined by UFMD. The Applicant reserves the right to make minor modifications to such landscaping to reasonably accommodate utilities and other design considerations, as approved by UFMD, provided such relocated landscaping shall retain a generally equivalent number of plantings as shown on the approved GDP.

11. Limits of Disturbance. The Applicant must substantially conform to the limits of disturbance as shown on Sheet P-0302 of the GDP, subject to allowances 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 disturbance as shown on the GDP, they shall be located in the least disruptive manner necessary as determined by UFMD. A replanting plan shall be developed and implemented, subject to approval by UFMD, for any areas protected by the limits of disturbance that must be disturbed for such utilities or trails.

12. Tree Preservation. The Applicant must submit a tree preservation plan and narrative (the “Tree Preservation Plan”) as part of the first and all subsequent site plan submissions. The Tree Preservation Plan shall be prepared by a Certified Arborist, a Registered Consulting Arborist or a Professional Landscape Architect, and shall be subject to the review and approval of UFMD. 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 individual trees, living or dead, with trunks 12 inches in diameter and greater (measured at 4 ½ feet from the base of the trunk or as otherwise permitted in the latest edition of the Guide for Plant Appraisal published by the International Society of Arboriculture) and twenty-five (25) feet within the undisturbed area and ten (10) feet of the limits of clearing and grading in the disturbed area shown on the GDP. The Tree Preservation Plan shall provide for the preservation of those areas shown for tree preservation, those areas outside of the limits of disturbance shown on the GDP and those additional areas in which trees can be preserved as a result of final engineering. The condition analysis ratings shall be prepared using methods outlined in the latest edition of the Guide for Plant Appraisal published by the International Society of Arboriculture. Specific tree preservation activities that will maximize the survivability of any tree identified to be preserved shall be included in the Tree Preservation Plan, such as: crown pruning, root pruning, mulching, fertilization, and any other activities determined by the Certified Arborist to be necessary.

13. Tree Preservation Walk-Through. The Applicant must schedule a tree preservation walk-through (the “Tree Preservation Walk-Through”) prior to commencing any clearing of trees on the Property. The Applicant’s Certified Arborist, Registered Consulting Arborist or Professional Landscape Architect shall have the limits of clearing and grading marked with a continuous line of flagging prior to the Tree Preservation Walk-Through. During the Tree Preservation Walk-Through, the Applicant’s designated representative shall walk the limits of clearing and grading

with UFMD to determine where adjustments to the clearing limits can be made to increase the area of tree preservation, increasing the survivability of trees at the edge of the limits of clearing and grading, and such adjustment shall be implemented. 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 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 adjacent trees and associated understory vegetation and soil conditions.

14. Tree Protection Fencing. All trees shown to be preserved on the Tree Preservation Plan shall be protected by tree protection fence. Tree protection fencing shall be at least four (4) feet 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 (the “Tree Protection Fencing”). As an alternative, the Applicant may use super silt fence, provided that required trenching for super silt fence is done per the root pruning guidelines contained in these Proffers. Tree Protection Fencing shall be erected at the limits of clearing and grading as shown on the demolition, and phase I & II erosion and sediment control sheets.

All Tree Protection Fencing shall be installed after the Tree Preservation Walk-Through 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 or Professional Landscape Architect, and accomplished in a manner that does not harm existing vegetation that is to be preserved. Three (3) business days prior to the commencement of any clearing, grading or demolition activities, but subsequent to the installation of Tree Protection Fencing, UFMD shall be notified and given the opportunity to inspect the site to ensure that all tree protection devices have been correctly installed. If UFMD does not respond within three (3) business days, the Tree Protection Fencing shall be deemed approved and Applicant may proceed with clearing, grading and demolition activities. If it is determined by UFMD that the Tree Protection Fencing has not been installed correctly, no grading or construction activities shall occur until the fencing is installed correctly, as determined by UFMD.

15. Root Pruning. The Applicant must root prune, as needed to comply with the tree preservation requirements of these proffers. Root pruning shall be clearly identified, labeled, and detailed on the erosion and sediment control sheets of the site plan submission. Root pruning shall be accomplished in a manner that protects affected and adjacent vegetation to be preserved, and may include, but not be limited to the following:

- A. Root pruning shall be done with a trencher or vibratory plow to a minimum depth of 18 inches.
- B. Root pruning shall take place prior to any clearing and grading, or demolition of structures.
- C. Root pruning shall be conducted with the supervision of a certified arborist.

D. UFMD shall be informed when all root pruning and tree protection fence installation is complete.

16. Site Monitoring. During any clearing or tree/vegetation/structure removal on the Property, a representative of the Applicant must be present to monitor the process and ensure that the activities are conducted as conditioned and as approved by UFMD. The Applicant must retain the services of a Certified Arborist, a Registered Consulting Arborist, or a Professional Landscape Architect to monitor all construction and demolition work and tree preservation efforts in order to ensure conformance with all tree preservation development conditions and UFMD approvals. The monitoring schedule shall be described and detailed in the Tree Preservation Plan, and shall be reviewed and approved by UFMD.

17. Site Landscaping. Prior to the installation of plants that meet the requirements of the approved landscape plan, the Applicant must coordinate a pre-installation meeting on site with the landscape contractor and a representative of UFMD. Any proposed changes to the location of plantings, size of trees/shrubs, and any proposed plant substitutions for species specified on the approved plan shall be reviewed at this time and must be approved prior to planting. The installation of plants not specified on the approved plan, and not previously approved by UFMD, may require submission of a revision to the landscape plan or removal and replacement with approved material prior to bond release. UFMD shall be contacted a minimum of three (3) days prior to the meeting on site.

18. Stormwater Management Facilities and Best Management Practices. Stormwater management ("SWM") shall be provided as generally depicted on Sheets P-0503 and P-0504 of the GDP and as approved by DPWES. The requirements for upkeep of SWM facilities that are privately maintained shall be detailed in a standard maintenance agreement between the County and the Applicant (the "Maintenance Agreement"). The Maintenance Agreement shall be recorded in the land records of Fairfax County and shall run with the land. Should any deficiencies in SWM or Best Management Practices ("BMP") facilities and/or improvements be identified by the Stormwater Management Maintenance Division of DPWES during regular inspections, or when investigating a drainage complaint, the complaint shall be addressed in accordance with the Maintenance Agreement. Upon request, the Applicant must provide any maintenance inspection reports required by this Proffer to the District Supervisor's Office. In the event County policy ever permits all or part of the SWM and/or BMP facilities to be eligible for maintenance by the County, then the Applicant may request such County maintenance for any facility or facilities which are eligible for such public maintenance.

19. Cultural Resource Preservation. The Property is a portion of what was once a working farm (the "McMillen Farm") and is currently improved by a home, portions of which were built in 1904 (the "McMillen Home"), and a barn, which was built in several phases beginning on or about 1850 (the portion built on or about 1850 to be referred to as the "Barn").

A. Marketing and Sale. Prior to removing the McMillen Home and the Barn from the Property, the Applicant must market both structures to any potential purchaser, using a licensed broker with expertise in historic properties, for a minimum period of one hundred eighty (180) days. The purchaser of the McMillen Home ("Home Purchaser") will be required to relocate it to one of the

lots on the Property, as selected by the Applicant. The purchaser of the Barn (“Barn Purchaser”) will be required to de-construct or otherwise safely move the Barn to a location of the Barn Purchaser’s choosing off the Property but within the limits of Fairfax County. If the Applicant does not receive a *bona fide* offer to purchase the McMillen Home and/or the Barn within the 180-day marketing period, then the Applicant must have the right to remove either or both structures from the Property in accordance with Proffer 20.

- B. Requirements with respect to purchase of the McMillen Home. The Applicant may require a potential purchaser of the McMillen Home to demonstrate, among other things, the financial ability to preserve and maintain the exterior of the McMillen Home to specifications required by the Virginia Department of Historic Resources for historic properties, or a similar set of specifications as agreed to by the Home Purchaser and the Applicant as seller. The Applicant may also record covenants that run with the land requiring that the McMillen Home be maintained in the specified condition. Any such covenants will not preclude the McMillen Home from being altered or demolished in the event of casualty, or by action of the local building official. The Applicant may authorize the HOA to enforce any such covenants. The Home Purchaser will also be obligated to complete renovation of the McMillen Home within a specified time frame as agreed to between the Applicant and the Home Purchaser.
- C. Requirements with respect to Purchase of the Barn. The Applicant may require a potential purchaser of the Barn to demonstrate, among other things, the financial ability to (i) deconstruct and reconstruct the Barn in accordance with any requirements of the Virginia Department of Historic Resources and/or in compliance with the recommendations of a relocation company familiar with the relocation of historic structures, or (ii) relocate the Barn intact to another location utilizing a relocation company familiar with the relocation of historic structures.
- D. Additional Requirements. The Applicant will provide a maximum of twenty-five thousand dollars (\$25,000.00) (“Cultural Resource Offset”) toward: (1) the relocation of the McMillen Home, and/or the relocation and/or deconstruction and reconstruction of the Barn; or (2) the Farm Memorial (as defined below). The Cultural Resource Offset will be allocated first to the Home Purchaser or Barn Purchaser, as applicable, at the Applicant’s discretion and may be divided, in any proportion, between, or may be given exclusively to, either the Home Purchaser or the Barn Purchaser. Any of the Cultural Resource Offset allocated to the Home Purchaser or Barn Purchaser will be disbursed at closing on the lot to which the McMillen Home will be relocated or at the time the Barn Purchaser takes possession of the Barn, as applicable. The Home Purchaser and/or the Barn Purchaser will be given not less than ninety (90) days to complete the move of the McMillen Home and/or the deconstruction/reconstruction or move of the Barn, as applicable.
- E. McMillen Home Feasibility Study. Prior to entering into a purchase agreement with respect to the McMillen Home, the Applicant shall conduct a feasibility

study that will include, at a minimum: (i) an existing conditions assessment of the McMillen Home, (ii) a summary of code requirements and regulations and evaluation of the technical and economic feasibility of the proposed work, and (iii) a technical evaluation and summary of the work required to be completed in accordance with the Secretary of the Interior's Standards for Treatment of Historic Properties. Such feasibility study will be provided to the Home Purchaser at the time the Applicant and the Home Purchaser enter into a purchase agreement with respect to the McMillen Home, and the Home Purchaser will be provided with thirty (30) days to review the feasibility study unless the Home Purchaser requests a short review period.

- F. Barn Feasibility Study. Prior to entering into a purchase agreement with respect to the Barn, the Applicant shall conduct a feasibility study that will include, at a minimum: (i) an existing conditions assessment of the Barn, (ii) a summary of code requirements and regulations and evaluation of the technical and economic feasibility of the proposed work, and (iii) a technical evaluation and summary of the work required to be completed in accordance with the Secretary of the Interior's Standards for Treatment of Historic Properties. Such feasibility study will be provided to the Barn Purchaser at the time the Applicant and the Barn Purchaser enter into a purchase agreement with respect to the Barn, and the Barn Purchaser will be provided with thirty (30) days to review the feasibility study unless the Barn Purchaser requests a short review period.
- G. Removal. In the event that either the McMillen Home or the Barn is not purchased within the allotted time, the Applicant must notify DPZ in writing no less than sixty (60) days prior to removing such structure to document compliance with this Proffer. In the event the McMillen Home is ever demolished as a result of casualty damage or by reason of action by the local building official, the Applicant reserves the right to permit the owner of the lot to construct a new home on such lot, subject to these Proffers and any applicable HOA restrictions.
- H. Mitigation. In the event that either the McMillen Home or the Barn is not purchased, the Applicant will memorialize the McMillen Farm by creating an on-site area, as part of the common area owned by the HOA, that celebrates the history of the Property ("Farm Memorial"). The potential location of the Farm Memorial is in the back corner of proposed Lot 1 where the Farm Memorial would be accessible from the trail on Dranesville Road, as shown on Exhibit A. However, the Applicant may choose to locate the Farm Memorial in a different location than shown on Exhibit A, provided public access is maintained, and reserves the right, in the Applicant's sole discretion, to place the Farm Memorial on a separate outlot created during the subdivision process. The Farm Memorial will be designed by a design professional with experience in historic memorial design and will include, at a minimum, an information panel or panels with appropriate references to the farm's history and appropriate landscaping and/or hardscaping. An illustrative example of the type of memorial contemplated is shown at Exhibit B. Specific historical references will be shared with the History Commission prior to posting to ensure accuracy. The Applicant will also allow

the general public to access the Farm Memorial, but may restrict such access as follows: March – December, 11 a.m. to 4 p.m.; January – February, 11 a.m. to 3 p.m. In creating the Farm Memorial, the Applicant will expend any remaining Cultural Resource Offset. If there is no remaining Cultural Resource Offset, the requirement to create the Farm Memorial will be extinguished. Such Farm Memorial, if constructed, will be completed prior to bond release for the Proposed Development.

20. Historic and Cultural Resource Documentation. Whether or not the McMillen Home or the Barn are relocated in accordance with Proffer 19, and prior to deconstructing or removing any of the structures on the Property, for the purpose of recording and documenting relevant historic information prior to demolition, the Applicant shall cause the structures on the Property to be photographed and documented by a consultant listed either in the Virginia Department of Historic Resources (“VDHR”) or the Maryland Historical Trust Preservation Consultant Directory or by a certified professional architectural historian. Photographic recordation and written documentation and description of the house and other historic structures, their construction, occupants and significant events that occurred on the Property shall be accomplished to a standard as required for a VDHR “Intensive Level Survey” using VDHR Preliminary Information Form, and shall be completed prior to demolition of any of the historic structures on the Property. Said documentation shall include a sketch plan drawing, as indicated in the Historic American Building (“HABS”) Documentation Level III. All photographs (including negatives), written documentation and sketches shall be submitted to the Virginia Room of the Fairfax County Public Library and to DPZ. A minimum of thirty (30) days prior to demolition of the McMillen Home, the Applicant shall provide DPZ with written notice and shall permit representatives of DPZ, the History Commission and the Fairfax County Park Authority access to the house during said 30-day period. Said representatives shall be required to sign waivers of liability for their presence on the Property, if requested by the Applicant.

PUBLIC FACILITIES CONTRIBUTIONS

21. Schools Contribution. The Applicant must contribute the total sum of \$36,786.00 to Fairfax County to transfer to the Fairfax County School Board, to the extent that each residential lot is constructed and occupied. Such amount will be calculated from a contribution of \$12,262.00 per student multiplied by the Proposed Development’s net generation of 3 new students to schools that are projected to be over capacity (2 high school students and 1 middle school student). Such contribution is to be utilized for capital improvements that result in capacity enhancements to schools within the pyramid that serves the Property, provided that such funds are used for construction of new primary and secondary public schools or expansion of existing primary and secondary public schools, to include all buildings, structures, parking, and other costs directly related thereto. The Applicant must make said contribution in equal amounts of \$4,598.25, prior to the issuance of each of the 6th (sixth) through 13th (thirteenth) RUPs.

22. Parks Contribution. The Applicant must contribute the total sum of \$22,646.48 to the Fairfax County Park Authority for improvements to parks in the vicinity of the Property, in consultation with the District Supervisor, and to the extent that each residential lot is constructed and occupied. Such amount will be calculated from 3.17 net new residents per residential unit multiplied by \$893, further multiplied by the proposed 13 lots less 5 existing lots by-right

(totaling 8 new lots). Such contribution shall be made provided that no park facility improvement will include any operating expense of an existing public facility, such as ordinary maintenance or repair, or any capital improvement to an existing public facility, such as a renovation or technology upgrade, that does not expand the capacity of such facility. For the purposes of this proffer, the term “public park” must include playgrounds and other recreational facilities. The Applicant must make said contribution in equal amounts of \$2,830.81, prior to the issuance of each of the 6th (sixth) through 13th (thirteenth) RUPs.

MISCELLANEOUS

23. Wildlife. Prior to the issuance of a building permit, the Applicant will identify a wildlife services organization experienced with the humane relocation of wildlife to determine if relocation of the wildlife on the Property is appropriate and/or permitted. To the extent that wildlife relocation is appropriate and permitted, the Applicant will grant the selected organization access to the Property, provided the organization is willing to release the Applicant from any liability relating to identifying, trapping and relocating wildlife on the Property. To the extent that wildlife relocation is appropriate and permitted, the selected organization must have access to the Property for not less than thirty (30) days for the purposes of humane removal and relocation of any wildlife found to be within the boundaries of the Property.


24. Successors and Assigns. These Proffers shall bind and inure to the benefit of the Applicant and its successors and assigns, to include the HOA as defined in Proffer 4.

25. 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 taken together shall constitute but one and the same instrument.

SIGNATURES TO FOLLOW ON THE NEXT PAGE:

OWNER:


Coomber Hall at McMillen Farm, LLC,
a Virginia limited liability company
Title Owner of 10-2 ((1)) Parcel 5

By: 
Printed Name: Victoria A. Coomber
Title: Sole Member

CONTRACT PURCHASER:

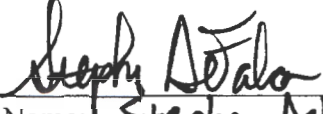
1521 DRANESVILLE LLC
a Virginia limited liability company

By: Tradition Homes LLC
a Virginia limited liability company
its Sole Member

By: 
Printed Name: Stephen DeFalco
Title: Managing Member

APPLICANT:

Tradition Homes, LLC
a Virginia limited liability company

By: 
Printed Name: Stephen DeFalso
Title: Managing Member

APPLICANT:

Tradition Homes, LLC
a Virginia limited liability company


By: 
Printed Name: GEORGE F. DEFALCO III
Title: MANAGING MEMBER

Exhibit A Proposed Location of Farm Memorial

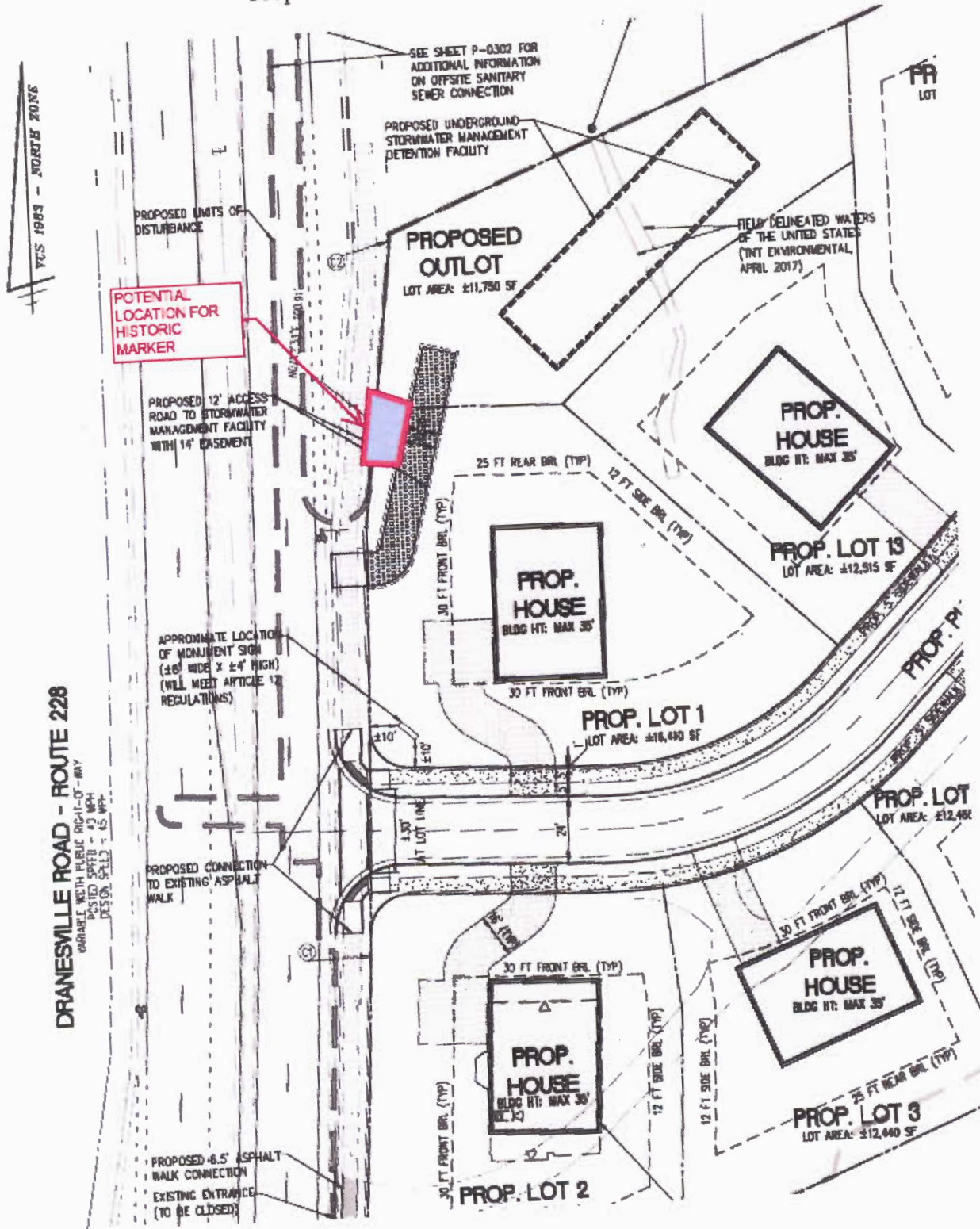


Exhibit B
Farm Memorial – Provided for Illustrative Purposes Only

