

**PROFFERS**  
**RZ 2003-MV-034/FDP 2003-MV-034**  
**NATIONAL CAPITAL LAND & DEVELOPMENT, INC./**  
**GUNSTON COVE**  
**DATED: August 10, 2004**

Pursuant to Section 15.2-2303 (A) of the Code of Virginia, 1950, as amended, the undersigned Applicant/Owners for both themselves and their successors and assigns (hereinafter collectively "Applicant") for property identified as Tax Map Numbers 113-2((1))003-A, 113-2((1))003-B and 107-4((1))0059, (hereinafter referred to as the "Application Property") hereby agree to the following Proffers, provided the rezoning to the PDH-8 District and the Conceptual and Final Development Plan identified below for the Application Property are approved.

**CONCEPTUAL AND FINAL DEVELOPMENT PLAN:**

1. Development of the Application Property shall be in substantial conformance with the Conceptual and Final Development Plan prepared by Christopher Consultants, Ltd. dated April 1, 2004 and last revised on June 28, 2004 ("CDP/FDP").
2. Landscaping shall be located as depicted on Sheet 6 of 10 of the CDP/FDP installed per the specifications shown on Sheet 7 of 10 of the CDP/FDP and shall be in conformance with provisions of Article 13 of the Zoning Ordinance subject to the approval of the Urban Forestry Division.

**MINOR MODIFICATIONS:**

3. Pursuant to Par. 4 of Sect. 16-403 of the Fairfax County Zoning Ordinance, minor modifications from the approved CDP/FDP and these Proffers may be permitted as determined by the Zoning Administrator.
4. The Applicant reserves the right to make minor adjustments to the internal lot lines and utility line location on the proposed CDP/FDP at the time of subdivision plat submission based on final house locations and building footprints, without reducing peripheral setbacks, distance between proposed units, open space, or tree preservation areas, if such are in substantial conformance with the CDP/FDP as determined by the Zoning Administrator. The development shall conform to the typical lot layouts illustrated on Sheet 3 of 10 of the CDP/FDP and with a minimum of twelve feet between units; a minimum of eighteen (18) foot front yards; and a minimum of twenty (20) foot rear yards and no deck permitted closer than five (5) feet to the rear lot line. The Applicant, with Final House Grading Plan submission, shall include the maximum size deck allowed for each unit set forth showing compliance with this Proffer. A copy of these Proffers, including the deck size matrix, shall be provided to every unit purchaser as part of the required documents to be disclosed in the Homeowners Association ("HOA") documents as set forth in Proffer 7(a). The Applicant will not install any window in any unit that would be opposite a window in an adjacent unit across a side yard unless there is a minimum of sixteen (16) feet between said units. The Applicant will not construct any

building extensions (i.e., bay windows, chimneys, mechanical equipment) into the side yards of any unit which has a side yard of less than eight (8) feet.

5. The Applicant shall review Low Impact Development ("LID") options above those currently shown on the CDP/FDP during the final subdivision process and apply them where practical notwithstanding that the particular design is not shown on the approved CDP/FDP provided that such LID's are in substantial conformance with the CDP/FDP and are approved by the DPWES. The Applicant agrees to provide LID techniques in the Storm Water Management Best Management Practice basin by making it an extended detention dry pond in accordance with current Public Facilities Manual requirement to comply with the Chesapeake Bay Act requirements, to minimize subsurface pipe systems and maximize surface drainage in vegetated swales and will to the extent permitted by current codes, have the roof drains discharge to the surface and not into a pipe system as approved by DPWES.

**DENSITY CREDIT:**

6. The Applicant hereby reserves density credit as may be permitted by the Zoning Ordinance for all eligible dedications described herein or as may be reasonably required by Fairfax County or other state or local government organizations at the time of subdivision plat approval.

**HOMEOWNERS ASSOCIATION:**

7. (a). The Applicant shall prepare all the necessary documentation to form a homeowners association which HOA will eventually be controlled by the Homeowners as provided by state law.

(b). The HOA documents shall contain a covenant which shall be recorded providing the garages shall only be used for a purpose that will not interfere with the intended purpose of garages (e.g., parking of vehicles). The aforesaid 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 HOA, to be established, and the Fairfax County Board of Supervisors. Prospective purchasers shall be advised in writing of the use restrictions prior to entering into a contract of sale.

(c) The HOA documents shall include provisions to allow the extension of the HOA to include the Lorton Valley Subdivision consolidation and resubdivision (Tax Map 113-2((2)), lots 1-15). The HOA shall include the property that is the subject of RZ 2003-MV-045/FDP 2003-MV-045 (Tax Map 113-2((1)), parcels 20, 21 and 21A) and any subdivision thereof. Prospective purchasers shall be notified of this requirement prior to entering into a contract of sale.

8. Prior to approval of the record subdivision plat for development lots within the Application Property, the Applicant shall submit the documents establishing the HOA to the County of Fairfax (hereinafter "County") for review and approval. The HOA shall be established of record prior to approval of the record subdivision plat for the Application Property.

## LIMITS OF CLEARING AND GRADING:

9. The Applicant shall substantially conform to the limits of clearing and grading as shown on the CDP/FDP. Placement and positioning of all utilities shall be done in the least disruptive manner possible, as determined by the Director of Department of Public Works and Environmental Services ("DPWES"). In the event that tree preservation areas shown to be protected are damaged, a tree replacement plan shall be submitted for review and approval by the Urban Forestry Division.

## TREE PRESERVATION

10. (a). The Applicant shall submit a tree preservation plan as part of the first and all subsequent subdivision plat submissions. The preservation plan shall be prepared by a professional with experience in the preparation of tree preservation plans, such as a certified arborist or landscape architect and reviewed and approved by the Urban Forestry Division. The tree preservation plan shall consist of a tree survey which includes the location, species, size, crown spread and condition rating percent of all trees ten (10) inches or greater in diameter. The area to be surveyed shall be fifteen (15) feet on the inside to the limits of clearing and grading reflected for all tree preservation areas on the approved CDP/FDP. Individual trees or grouping of trees to be preserved as reflected on the approved CDP/FDP shall be included. The condition analysis shall be prepared using methods outlined in the latest edition of the Guide To Plant Appraisal, published by the International Society of Arboriculture. Specific tree preservation activities that will maximize the survivability of trees identified to be preserved, such as, but not limited to: crown pruning; root pruning; mulching and fertilization and others as necessary, shall be included in the tree preservation plan. The tree preservation plan shall include details regarding the construction of the retaining wall around the tree preservation area. The Division of Urban Forestry may require that the retaining wall be constructed prior to or as part of the initial site improvements, such as utilities, grading and street construction.

(b). All trees to be preserved in the tree preservation plan shall be protected by fencing. Tree protection fencing shall be erected at the limits of clearing and grading. Materials and installation of tree protection fencing shall conform to the following standard:

Four foot high fourteen/gauge welded wire attached to six foot steel posts driven 18 inches into the ground and placed no further than 10 feet apart.

The tree protection fencing shall be made clearly visible to all personnel by using fluorescent reflectors or orange coloring to call attention thereto. Fencing shall be installed prior to the performance of any clearing and grading activities on site. All tree preservation activities including the installation of tree protection fencing shall be performed under the supervision of a certified arborist or landscape architect. Prior to the commencement of any clearing and grading activities on the site the Urban Forestry Division shall be notified and given the opportunity to inspect the site to assure all tree protection devices have been correctly installed.

(c). The demolition of existing features and structures shall be conducted in a manner that minimizes the impact on individual trees and groups of trees that are to be preserved as reviewed and approved by the Urban Forestry Division. The methods to preserve the trees shall be shown on the grading plan submitted with the request for permission to demolish the structures. Methods to preserve existing trees may include, but are not limited to the following: use of super silt fence, welded wire tree protection fence, root pruning, mulching and others.

(d). The Applicant shall retain a professional with experience in plant appraisal, such as a certified arborist or landscape architect, to determine the replacement value of the trees to be preserved in the northeast corner of the site as shown on the CDP/FDP. These trees and their value shall be identified on the tree preservation plan and landscape plan at the time of the first submission of the subdivision plat. The replacement value shall be determined according to the methods contained in the latest edition of the Guide for Plan Appraisal published by the international Society of Arboriculture, subject to the review and approval of the Urban Forestry Division.

(e). At the time of subdivision plat approval, a cash bond or letter of credit payable to the County shall be posted to ensure preservation and/or replacement of the designated trees that die or are dying due to construction activities. The terms of the letter of credit shall be subject to the approval of the County Attorney. The total amount of the cash bond or letter of credit shall be in the amount of the sum of the assigned replacement values of the designated trees.

(f). If the designated trees are found to be dead or dying at the time of final bond release by an Urban Forestry Division representative, the cash bond or letter of credit shall be used to the fullest extent possible to plant similar species, or species appropriate to the site, in consultation with the Urban Forestry Division and the Applicant's certified arborist. The cash bond or letter of credit shall not be used for the removal of the dead/dying trees normally required by the PFM and the Conservation Agreement. If the Applicant's certified arborist, in consultation with the Urban Forestry Division representative, determine that only a certain number of trees can be planted due to space constraints which amounts to less than the full extent of the security, the remainder of the monies shall be returned to the Applicant. The cash bond or letter of credit shall be relapsed two years from the date of release of the projects conservation escrow, or sooner, if approved by the Urban Forestry Division.

(g). Applicant shall use its best efforts, subject to final engineering and grading, to preserve trees over ten (10) inches in diameter that are situated along the northern property line of Lot 107-4((1))0059, contiguous to Lorton South Townhomes ("Lorton South"). These trees will not be considered part of the foregoing tree preservation plan set forth in Proffer 10(a)-(f). Trees located on Lorton South property that are near the aforesaid property line shall be preserved using the methods set forth in Proffer 10(c) provided written permission is received from Lorton South to access its property to install the necessary tree protection measures.

**OPEN SPACE:**

11. All open space areas shown on the CDP/FDP shall be dedicated and conveyed to the HOA and shall remain undisturbed before, during and after development activity except for necessary crossings for placement of utilities as approved by DPWES, and/or for the installation of recreation facilities, and/or for grading related activity.

**LANDSCAPING:**

12. (a). In order to restore a natural appearance to the proposed stormwater management pond, a landscape plan shall be submitted as part of the first submission of the subdivision plat for review and approval by the Urban Forestry Division. The plan shall show the restrictive planting easement for the pond, and extensive landscaping in all areas outside of that restrictive planting easement, to the maximum extent feasible in accordance with the planting policies of Fairfax County.

(b). All utilities on the property shall be located so as to not interfere with the landscaping shown on the proffered CDP/FDP, subject to the approval of the Urban Forestry Division.

**AFFORDABLE DWELLING UNITS:**

13. Applicant hereby proffers a contribution to the Housing Trust fund a sum equal to .5% of the sales price of all of the residential units approved on the Application Property. This contribution shall be payable prior to issuance of the first building permit. The aforesaid sale price shall be determined by the Department of Housing and Community Development, in consultation with the Applicant and the DPWES.

**ENERGY CONSERVATION:**

14. All homes on the Application Property will meet the thermal guidelines of the CABO for energy efficient homes or its equivalent, as determined by DPWES for either electric or gas energy systems.

**RECREATION FACILITIES:**

15. Based upon the Zoning Ordinance, Sections 6-110 and 16-404, the Applicant shall provide \$955.00 per residential unit for outdoor recreational facilities to serve the development with a one-time contribution of \$42,020.00 to the Fairfax County Park Authority. In order to offset the additional impact caused by the proposed development less credit for the onsite active recreation facilities, the Applicant shall simultaneously with the aforesaid contribution make an additional contribution to the Fairfax County Park Authority of \$20,000.00 for a total of \$62,020.00. The above noted contribution shall be reduced by \$7,500.00 as a credit for construction of the onsite tot lot as shown on the CDP/FDP. The contribution shall be made at the time of the approval of the subdivision plat.

**PUBLIC SCHOOLS:**

16. The Applicant shall make a one-time monetary "Public Schools" contribution of \$112,500 to the Fairfax County Board of Supervisors for the projected increase in students attributed to the approved rezoning. Said contributions shall be used for capital improvement for the Laural Hill Public Schools (elementary, middle school and high school). This contribution shall be made at the time of subdivision plat approval.

**GUNSTON COVE ROAD DEDICATION AND CONSTRUCTION:**

17. Subject to Virginia Department of Transportation ("VDOT") and DPWES approval, the Applicant shall dedicate and convey in fee simple to the Board of Supervisors right-of-way for the widening of Gunston Cove Road along the Application Property's frontage as shown on the CDP/FDP at the time of subdivision plat approval or upon demand of the County, whichever occurs first. Applicant shall construct a section along its Gunston Cove Road frontage as shown on the typical cross section for Gunston Cove Road on Sheet 2 of 10 of the CDP/FDP. Applicant shall relocate and underground all utilities along the Application Property frontage outside of the ultimate edge of road improvements in conjunction with the development of the Property.

18. Applicant shall make a one-time contribution to Lorton Area Road Fund in the amount of \$550.00 a unit. This amount will be paid at the time of subdivision plat approval. The total contribution will be \$24,200.00.

**SIGNS**

19. 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 any builder or at the Applicant's or any builder's direction to assist in the initial marketing and sale of homes on the subject Property. Furthermore, the Applicant and every builder shall direct its agents and employees involved in marketing and/or sale of residential units on the subject Property to adhere to this proffer.

**PRIVATE STREET**

20. The Applicant will construct all private streets on Application Property in conformance with the Public Facilities Manual standard TS-5A with a minimum thirty-eight (38) foot easement and minimum twenty-four (24) foot pavement width. Said private streets shall be constructed with materials and depth of pavement pursuant to the provisions of Section 7-0502 of the Public Facilities Manual. Sidewalks will be provided on the private streets as shown on the CDP/FDP. The HOA will be responsible for maintenance, snow removal and general upkeep of the private streets and sidewalks. Prospective purchasers shall be advised in writing prior to signing the contract of sale of the duty of the HOA to maintain the private streets and sidewalks and in the HOA documents. Applicant shall also deposit \$10,000.00 into an escrow account established for the benefit of the HOA to provide for the future maintenance of the private streets.

## NOISE ATTENUATION

21. Prior to final subdivision plat approval, the Applicant shall provide a train noise analysis ("Study") to assess the impact of railroad noise on the proposed development based on final house locations, site grades and future walls projected to the year 2020, to DPWES and DPZ for review and approval in accordance with DPZ's established guidelines for such Study. The Study shall utilize standard measures to evaluate noise, and shall demonstrate that exterior noise levels for both ground and upper story levels of any unit does not exceed DNL 75 dBA and that exterior noise within the privacy yards and outdoor recreational areas are reduced to below DNL 65 dBA.

22. In order to reduce exterior noise within privacy yards and outdoor recreation areas to below DNL 65 dBA, the Applicant shall, if necessary, construct a noise attenuation wall as shown on Sheet 2 of 10 on the CDP/FDP which shall be solid from the ground up, with no gaps and no openings, not to exceed ten (10) feet in height as permitted by Fairfax County Zoning Ordinance Section 10-104(F), with the need, size and final location to be established after completion of Study above. All units that require interior or exterior structural noise alteration shall be identified on the subdivision plat.

23. In order to reduce interior noise to a level of approximately DNL 45 dBA, units within a noise impact zone of DNL 65-70 dBA, if determined necessary by the Study required in Proffer number 21 above, Applicant shall construct the units with the following acoustical treatment measure:

(a). Exterior walls shall have a laboratory sound transmission class ("STC") rating of at least 39.

(b). Doors and windows shall have a laboratory STC rating of at least 28 unless glazing constitutes more than 20% of any façade exposed to noise levels of DNL 65 dBA or above. If glazing constitutes more than 20% of an exposed façade, then the windows shall have an STC rating of at least 39.

(c). All surfaces shall be sealed and caulked in accordance with methods approved by the American Society for Testing and Materials ("ASTM") to minimize sound transmission.

24. In order to reduce interior noise to a level of approximately DNL 45 dBA, units within the noise impact zone of DNL 70-75 dBA, if determined necessary by the Study, required in Proffer number 22 above, Applicant shall construct the units within the impact zone with the following acoustical treatment measures:

(a). Exterior walls shall have a laboratory STC rating of at least 45.

(b). Doors and windows shall have a laboratory STC rating of at least 37 unless glazing constitutes more than 20% of any façade exposed to noise levels of DNL 70 dBA or above. If glazing constitutes more than 20% of an exposed façade, then the windows shall have an STC rating of at least 45.

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

### **RETAINING WALLS**

25. (a). Retaining walls shall be covered with precast concrete in a design, the material and appearance of which shall be substantially similar to one of the patterns shown on Exhibit 1 attached hereto subject to the review and approval of the Planning Commission prior to the approval of the subdivision plat. Handrails and/or guardrails at the top of the retaining walls shall be provided as required by DPWES and shall be the Echelon Plus attached hereto as Exhibit 2. Retaining wall sizes and locations may be subject to change upon final engineering; however, in no instance shall the height of the retaining wall exceed twenty (20) feet.

(b) On or before bond release for the proposed development, and as a condition thereto, the Applicant shall deposit \$7,500.00 into an escrow account established for the benefit of the HOA. Such funds shall be established for use by the HOA for future maintenance, repair and upkeep of the common area retaining walls.

(c). A geo-technical engineer shall be present during the construction/installation of the retaining walls and shall monitor such construction/installation for compliance with the approved specifications and shall prepare a certification to be submitted to DPWES.

### **CONSTRUCTION LIMITATIONS:**

26. Construction hours shall be limited to the hours between 7 a.m. and 7 p.m. Monday through Friday and on Saturday from 8 a.m. until 6 p.m. Construction shall not be allowed on Sunday. No construction traffic shall be allowed to travel through adjacent neighborhoods of Gunston Square and/or Lorton South.

### **LIGHTING**

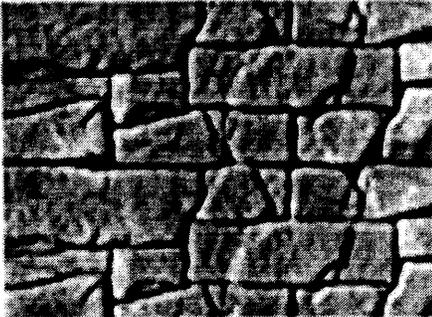
27. All lighting installed on the property shall conform to the requirements of Part 9, Outdoor Lighting, of Article 14, Performance Standards, of the Fairfax County Zoning Ordinance.

**SIGNATURES ON NEXT PAGE**

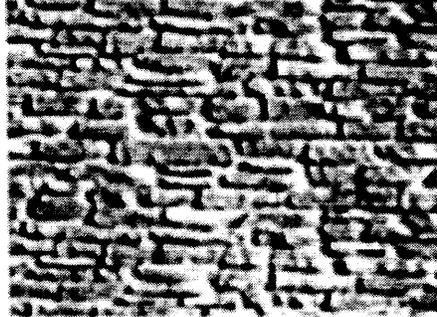
# Patterns/Formliners

The forms are in a PDF format, if you do not have the acrobat reader point your browser to this link:

<http://www.adobe.com/products/acrobat/readstep2.html>



**Sedona**



**Dry Stack**



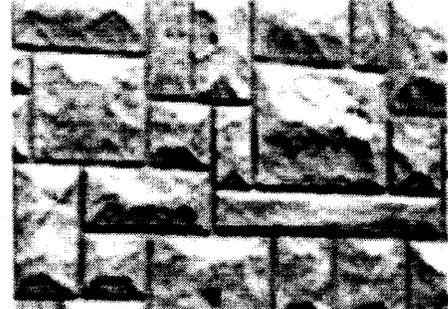
**San Luis Obispo**



**River Rock**



**Coquina**



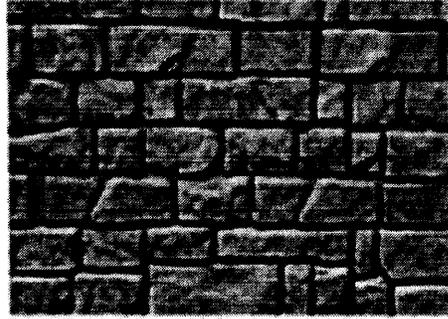
**Ashlar Cut Stone**



**Split Faced Granite 24"**

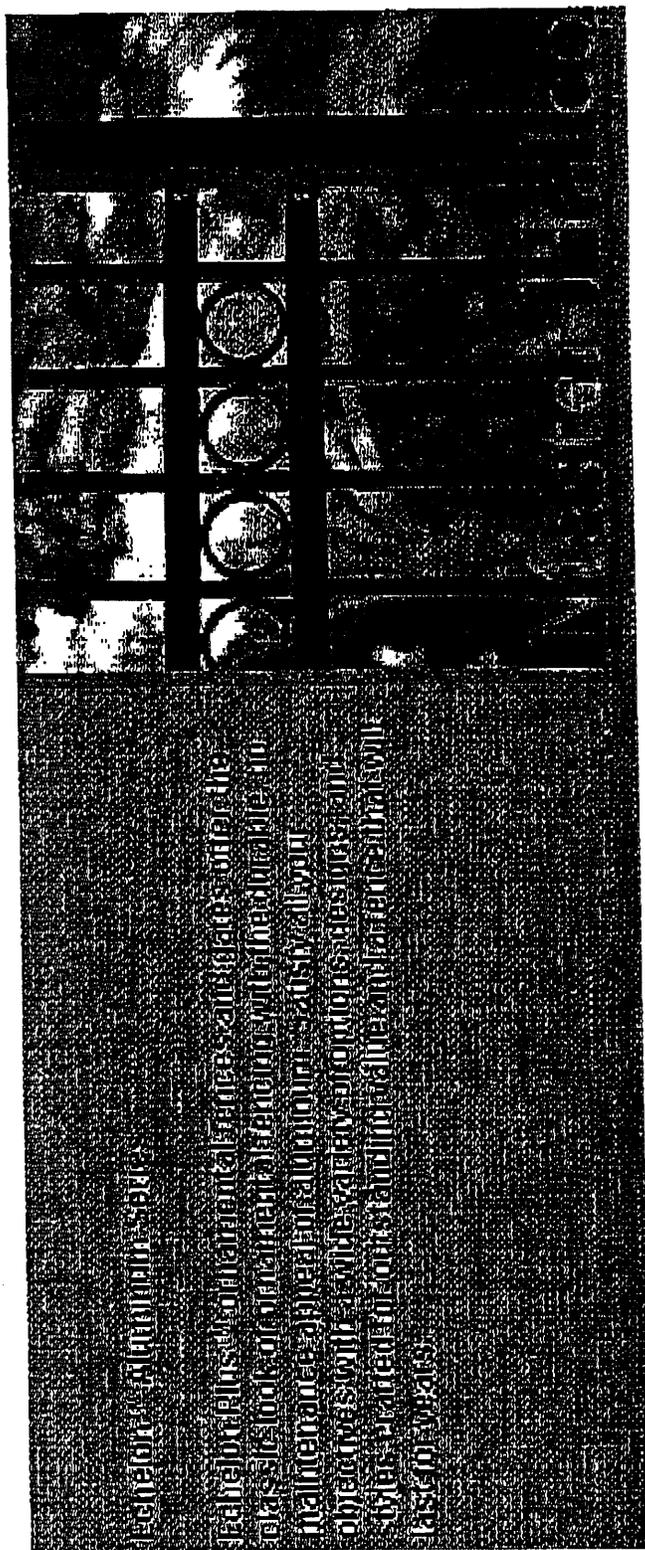


**Split Faced Granite 12"**



**Navajo**

Exhibit 2



**OWNERS**

By: Judy L. Barnes  
Judy L. Barnes  
Property Owner of Tax Map #113-2-01-0003-A  
9717 Gunston Cove Road

By: \_\_\_\_\_  
Robert B. Dowling  
Property Owners of Tax Map #113-2-01-0003-B  
9719 Gunston Cove Road

By: \_\_\_\_\_  
Rosalyn M. Dowling  
Property Owner of Tax Map #113-2-01-0003-B  
9719 Gunston Cove Road

By: \_\_\_\_\_  
Edward Berch  
Property Owners of Tax Map # 107-4-01-0059  
No Property Address Assigned

By: \_\_\_\_\_  
Anneliese A. Berch  
Property Owner of Tax Map # 107-4-01-0059  
No Property Address Assigned

**NATIONAL CAPITAL LAND & DEVELOPMENT, INC.**

By: \_\_\_\_\_  
F. Gary Garczynski, President

**OWNERS**

By: \_\_\_\_\_  
Judy L. Barnes  
Property Owner of Tax Map #113-2-01-0003-A  
9717 Gunston Cove Road

By: Robert B. Dowling  
Robert B. Dowling  
Property Owners of Tax Map #113-2-01-0003-B  
9719 Gunston Cove Road

By: Rosalyn M. Dowling  
Rosalyn M. Dowling  
Property Owner of Tax Map #113-2-01-0003-B  
9719 Gunston Cove Road

By: \_\_\_\_\_  
Edward Berch  
Property Owners of Tax Map # 107-4-01-0059  
No Property Address Assigned

By: \_\_\_\_\_  
Anneliese A. Berch  
Property Owner of Tax Map # 107-4-01-0059  
No Property Address Assigned

**NATIONAL CAPITAL LAND & DEVELOPMENT, INC.**

By: \_\_\_\_\_  
F. Gary Garczynski, President

