APPLICATION FILED: November 13, 2006
APPLICATION AMENDED: February 7, 2006
APPLICATION AMENDED: June 18, 2007
PLANNING COMMISSION: July 19, 2007
BOARD OF SUPERVISORS: Not Yet Scheduled

County of Fairfax, Virginia

July 5, 2007

STAFF REPORT

RZ/FDP 2006-MV-031/SEA 2004-MV-035/7995-WRPA-004-1

MOUNT VERNON DISTRICT

APPLICANT:	KB HOME Virginia Inc. d/b/a KB Home Mid-Atlantic
PRESENT ZONING:	R-4 (0.58 acres), PDH-8 (13.46 acres), HC
REQUESTED ZONING:	PDH-8, HC
PARCEL(S):	83-1 ((1)) 56-57, 62A, 62B, 63-65, 67-74, 76, 78-80, 82, 83, 85, 88; 83-1 ((18)) 1, 1A, 2, 2A, 3 and-4 83-3 ((1)) 93-99 83-1 ((1)) 56A, 57B, 58A, 68A, 69A, 70A, 71A, 72A, 73A, 74A, 76A 83-1 ((18)) 1A, 2A; 83-1 ((1)) 88
ACREAGE:	14.04 acres
FAR/DENSITY:	6.69 dwelling units per acre (du/ac)
OPEN SPACE:	60%
PLAN MAP:	Residential, 3-4 du/ac, with option for 16-20 du/ac
SE CATEGORY:	Category 6; Use in the Floodplain
RZ PROPOSAL:	Rezone the subject site from R-4, PDH-8 and HC Districts to the PDH-8 District for the development of 94 new single-family attached dwellings

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Department of Planning and Zoning
Zoning Evaluation Division
12055 Government Center Parkway, Suite 801
Fairfax, Virginia 22035-5509
Phone 703 324-1290
FAX 703 324-3924
www.fairfaxcounty.gov/dpz/

SEA PROPOSAL: Special Exception Amendment to construct new structures in a floodplain, to add fill in the floodplain, to permit disturbance within a floodplain for removal of existing structures and pavement, to construct a stormwater outfall channel, and for installation of a pervious surface trail, with an overall net reduction in impervious area within the floodplain.

STAFF RECOMMENDATIONS:

Staff recommends that RZ 2006-MV-031 and the Conceptual Development Plan be approved subject to the execution of proffers consistent with those contained in Appendix 1 of the staff report.

Staff recommends approval of FDP 2006-MV-031, subject to the Board of Supervisors' approval of RZ 2006-MV-031 and the Conceptual Development Plan.

Staff recommends that the transitional screening and barrier requirements along those portions of the northern and western property lines where the site abuts single-family detached dwellings be modified to that shown on the CDP/FDP/SE Plat.

Staff recommends approval of waiver of the requirement for a minimum 200 square foot privacy yard for single-family attached dwelling units.

Staff recommends approval of SEA 2004-MV-035, subject to the proposed development conditions contained in Appendix 2.

Staff recommends approval of RPA Exception #7995-WRPA-004-1, subject to the proposed development conditions, dated June 15, 2007, and contained in Attachment A of Appendix 17.

It should be noted that it is not the intent of staff to recommend that the Board, in adopting any conditions proffered by the owner, relieve the applicant/owner from compliance with the provisions of any applicable ordinances, regulations, or adopted standards.

It should be further noted that the content of this report reflects the analysis and recommendation of staff; it does not reflect the position of the Board of Supervisors.

The approval of these applications does not interfere with, abrogate or annul any easement, covenants, or other agreements between parties, as they may apply to the property subject to this application.

For information, contact the Zoning Evaluation Division, Department of Planning and Zoning, 12055 Government Center Parkway, Suite 801, Fairfax, Virginia 22035-5505, (703) 324-1290.

Americans with Disabilities Act (ADA): Reasonable accommodation is available upon 7 days advance notice. For additional information on ADA call (703) 324-1334 or TTY 711 (Virginia Relay Center).

A GLOSSARY OF TERMS FREQUENTLY USED IN STAFF REPORTS WILL BE FOUND AT THE BACK OF THIS REPORT

DESCRIPTION OF THE APPLICATION

Proposal:

The applicant, KB Home Virginia, Inc., d/b/a KB Home Mid-Atlantic, is requesting to rezone the subject 14.04 acre property from the R-4, PDH-8, and HC Districts to the PDH-8 and HC Districts, to permit the construction of 94 single-family attached dwellings at a density of 6.69 du/ac. A total of 60% open space (or approximately 8.42 acres) is proposed. It should be noted that 13.46 acres of the subject property was previously rezoned to the PDH-8 District under RZ/FDP 2004-MV-041. However, three abutting parcels were not included in the application [Tax Map Parcels 83-3 ((1)) 93 and 94 and Tax Map Parcel 83-1 ((1)) 77]. The applicant seeks to include two of those three parcels (Parcels 93 and 94) within the current application. Parcel 77 is still not a part of the subject application.

A Special Exception Amendment (SEA) is also requested for the subject property, to permit uses in a floodplain. The applicant is proposing to amend the previously approved SE approved to disturb portions of the floodplain, Resource Protection Area (RPA) and Environmental Quality Corridor (EQC) at the rear of the property in order to remove existing pavement and structures, construct drainage outfall facilities, and construct a pervious surface recreational trail, which would result in an overall net decrease in impervious surface located within the floodplain/RPA/EQC from 18,295 SF to 12,632 SF.

A General RPA Encroachment Request has also been filed with the Department of Public Works and Environmental Services (DPWES) to place fill within the RPA and to construct five dwelling units (which were previously approved under RZ/FDP 2004-MV-041 and SE 2004-MV-035) in the RPA. The public hearing for the RPA Encroachment Request (7995-WRPA-004-1) will be held concurrently with the rezoning/special exception amendment applications addressed in this staff report; the staff report for the RPA request is located in Appendix 17.

Waivers/Modifications Requested:

- Modification of transitional screening and barrier requirements along those portions of the western and northern property lines which abut single-family detached dwellings to that depicted on the CDP/FDP/SE Plat.

- Waiver of the requirement for a minimum 200 square foot privacy yard for single-family attached dwelling units.

The applicant's draft proffers, staff proposed SEA development conditions, and the applicant's affidavit and Statement of Justification are contained in Appendices 1-4, respectively.

LOCATION AND CHARACTER

Site Description:

The subject property is located on the northeast side of Huntington Avenue, and the west side of Hunting Creek Road. The site consists of 55 parcels, a portion of Foley Street which has been vacated, and former alley, which has been abandoned. All but two of the parcels are zoned PDH-8; Parcels 93 and 94 are zoned R-4. The parcels were developed with single-family detached dwellings of varying age and condition, with accessory structures. Many of these dwellings have been removed. The property surrounds Foley Street, with the exception of Parcel 77, which is not part of the application.

The site includes a large portion of floodplain, Resource Protection Area (RPA, and Environmental Quality Corridor (EQC) along a coterminous boundary, and densely wooded vegetation in that vicinity, with additional trees scattered through the developed portions of the site. In addition, areas of marine clay are also located on the site.

SURROUNDING AREA DESCRIPTION			
Direction	**Use**	**Zoning**	**Plan**
North	Multi-family Residential (Riverside Park)	R-30	Residential, 20+ du/ac
South	Multi-family Residential (Hunting Creek Club); Single-Family Attached Residential (Berkshire East)	R-30; R-8	Residential, 20+ du/ac; Residential, 8-12 du/ac
East	Multi-family Residential (Riverside Park)	R-30	Residential, 20+ du/ac
West	Single-Family Attached Residential (Huntington Park)	R-8	Residential, 8-12 du/ac

BACKGROUND (See Appendices 5 and 6)

On November 21, 2005, the Board of Supervisors approved RZ/FDP 2004-MV-041 to rezone 13.46 acres of the subject site from the R-4 and R-8 Districts to the PDH-8 District for 85 single-family attached dwellings at a density of 6.32 dwelling units per acre (du/ac) with 64% open space. That same day, the Board also approved a concurrent special exception (SE) for use in the floodplain (SE 2004-MV-035). As stated, two of the parcels included in the current application [Tax Map Parcels 83-3 ((1)) 93 and 94] were not included in these applications. Tax Map Parcel 83-1 ((1)) 77, which was not included within applications RZ/FDP 2004-MV-041 and SE 2004-MV-035, remains unconsolidated. Under the approved layout, none of the proposed new units were located within the floodplain. (See Appendices 5 and 6 for a copy of the previously-approved proffers and development conditions.)

In June 2006, portions of the site flooded, as did the abutting Huntington Park subdivision to the west.

On November 13, 2006, the applicant filed zoning applications, RZ/FDP 2006-MV-031 and SEA 2004-MV-035, in order to include two of the previously-unconsolidated parcels (Parcels 93 and 94) within the proposed development. Under these applications, the applicant only proposed to modify the site layout in the southeastern portion of the site in order to incorporate Parcels 93 and 94 within the design. No other changes were proposed to the remaining portions of the site layout.

On November 21, 2006, a final site plan (7995-SP-001-1) was approved for half of the subject site; this site plan included 36 single-family attached dwellings. This site plan was known as Huntington Mews, Section 1. On March 29, 2007, the Department of Public Works and Environmental Services (DPWES) approved an amendment to the previously-approved site plan for Huntington Mews, Section 1 (7995-SP-001-2). A final site plan was also submitted for the other half of Huntington Mews but it has not yet been approved.

On January 30, 2007, the Director of the Department of Public Works and Environmental Services (DPWES) adopted a floodplain study prepared by the Virginia Department of Transportation (VDOT) in 2002 in connection with the Woodrow Wilson Bridge project. As a consequence of the adoption of the VDOT Floodplain Study, the location of the floodplain line (and the RPA line) on the subject site changed to incorporate more of the site and the flood elevation for the site was raised from elevation 11’ NVGD ’29 to elevation 14’ NVGD ’29. With the adoption of the new floodplain study, additional portions of the subject site are now located within a major floodplain, including eight of the 85 single-family attached dwellings approved under the approved layout for RZ/FDP 2004-MV-041 and SE 2004-MV-035.

The following is a comparison of the previously approved zoning application and the current zoning application:

	Approved plan	Current Application
Proposed # units	85	94
Site Area (acres)	13.36	14.04
Site Area within Floodplain (acres)	5.92	7.13
Site Area within 1993 RPA (acres)	5.92	5.92
Site Area within 2007 RPA (acres)	7.13	7.13
# units in original RPA	0	0
# units in revised RPA	8	5

As new zoning applications, RZ/FDP 2006-MV-031 and SEA 2004-MV-035 are subject to the current requirements of the Zoning Ordinance and Chesapeake Bay Preservation Ordinance (CBPO). Therefore, even though no change in location was proposed to the eight of the units proposed under the pending zoning applications (RZ/FDP 2006-MV-031 and SEA 2004-MV-035), which were previously approved under RZ/FDP 2004-MV-041 and SE 2004-MV-035, the applicant must comply with the applicable provisions of CBPO and Fairfax County Code for establishing uses in the floodplain as currently defined by the County (including raising the elevation of the lowest part of the lowest floor of those eight dwellings now within the floodplain be not less than 18 inches above the base flood elevation).

While the current zoning applications are required to meet the current Zoning Ordinance and CBPO requirements, the applicant likely has a right to develop the site in substantial conformance with the plans approved under RZ/FDP 2004-MV-041 and SE 2004-MV-035. The Chesapeake Bay Preservation Act explicitly states that the provision of the Act *"shall not affect vested rights of any landowner under existing law."* For that reason, it is highly possible that the applicant could withdraw the pending zoning applications and develop the property in substantial conformance with RZ/FDP 2004-MV-041 and SE 2004-MV-035 without regard to the newly delineated floodplain for the site. Any site plan submitted pursuant to the previously-approved zoning application would be required to comply with the requirement of the Chesapeake Bay Preservation Act to the great extent possible, but the County likely could not require the applicant to decrease the density of the development because the applicant may have a vested right to proceed with the development.

COMPREHENSIVE PLAN PROVISIONS

Plan Area: IV

Planning District: Mount Vernon Planning District

Planning Sector: Huntington Community Planning Sector (MV1)

Plan Map: Residential; 3-4 du/ac

Plan Text:

In the Fairfax County Comprehensive Plan, 2003 Edition, Area IV, Mount Vernon Planning District as amended through April 26, 2004, Huntington Community Planning Sector (MV1) Land Unit S, Huntington Transit Station Area, pages 92-94 state:

> ***Land Units Q, R, S and U (North Gateway Area)***
>
> *In the area north of Huntington Avenue and west of Richmond Highway, in Land Unit S, is a group of older single-family detached dwellings and undeveloped land that is mostly a designated Resource Protection Area (RPA). This area is planned for residential use at 3-4 dwelling units per acre. As a redevelopment option, if substantial consolidation, which shall be defined as 75 percent of the parcels outside the Resource Protection Area (RPA) and all the RPA, less publicly owned land, is accomplished, redevelopment at a density up to 16-20 dwelling units per acre may be appropriate."*

In the Fairfax County Comprehensive Plan, 2003 Edition, Area IV, Mount Vernon Planning District as amended through April 26, 2004, Huntington Community Planning Sector (MV1) under the heading Land Use, beginning on page 80, the Plan states:

> *The purpose of the planning recommendations is to guide and direct development in the Huntington Transit Station Area by recognizing the opportunities and constraints. The area impacted by these recommendations is divided into land units as presented in Figure 20. The land use recommendations are based upon the concept of concentrating development to a limited area nearest to the Metro station and preserving the existing stable neighborhoods around the station.*
>
> *Where substantial parcel consolidation is specified, it is intended that such consolidations will provide for projects that function in a well-designed and efficient manner and provide for the development of unconsolidated parcels in conformance with the Area Plan.*
>
> *The Huntington Sector has areas of stable residential neighborhoods. Infill development within this sector should be of a compatible use, type and intensity in accordance with the guidance provided by the Policy Plan under Land Use Objectives 8 and 14.*

By its distinct character, the Huntington Transit Station Area warrants special development conditions and incentives that may not be applied elsewhere in the County. Implementation strategies may include special transit zoning, urban design guidelines, parking policies and funding mechanisms for roads and other public improvements. For the most part, these conditions and other implementation strategies only come into effect for development at the higher densities and intensities recommended by the Plan.

Traffic reduction measures such as ride-sharing, transit incentives and other transportation systems management strategies are applicable to this area. While the County is striving to implement the planned road improvements and encouraging the use of transportation systems management strategies, the development community must address the concerns of traffic congestion for any new development within the Transit Station Area. This may be addressed by any number of responses, including transportation systems management, financing for road improvements and/or the deferral of development until adequate road improvements have been implemented. Outside of the Huntington Transit Station Area, existing stable residential neighborhoods should be preserved. Commercial areas existing near the Huntington Transit Station Area should be encouraged to improve.

ANALYSIS

Conceptual/Final Development Plan/SEA Plat (CDP/FDP/SEA Plat)
(Copy at front of staff report)

Title of CDP/FDP/SEA Plat:	Conceptual/Final Development Plan & Special Exception Amendment Plat, Huntington Mews
Prepared By:	Christopher Consultants
Original and Revision Dates:	June 30, 2006; as revised through June 17, 2007

The combined CDP/FDP/SEA Plat consists of twelve (12) sheets:

- **Sheet 1 of 12** is the cover sheet. It includes the sheet index and vicinity map. It also includes a project key map to denote those areas of the site that were previously rezoned to the PDH-8 District under RZ/FDP 2004-MV-041 and those two additional parcels which are proposed to be rezoned to PDH-8 under the current application.

- **Sheet 2 of 12** includes general notes, requested waivers and modifications, a soils map and data map, angle of bulk plane diagram, stormwater management (SWM) narrative, best management practices (BMP) narrative, floodplain narrative, outfall narrative, stormwater runoff calculations, typical lot layouts (both rear loaded and front loaded units), zoning and affordable dwelling unit (ADU) tabulations, and maximum allowable density calculations.

- **Sheet 3 of 12** depicts the existing conditions on the site and the areas to be vacated and dedicated.

- **Sheet 4 of 12** is the existing vegetation map. It also includes the existing vegetation map cover type summary table.

- **Sheet 5 of 12** illustrates the proposed site layout, and includes typical street section and typical outfall ditch diagrams.

- **Sheet 6 of 12** illustrates the proposed landscape plan, as well as proposed recreation areas.

- **Sheet 7 of 12:** includes detail illustrations of the vehicular and pedestrian entrances to the development.

- **Sheet 8 of 12** illustrates proposed front and side elevations of the townhouses.

- **Sheet 9 of 12** illustrates proposed rear elevations of the townhouses.

- **Sheet 10 of 12** includes detail illustrations of the front elevations and fencing along the Huntington Avenue frontage.

- **Sheet 11 of 12** includes an illustration of proposed townhouses as viewed along Huntington Avenue, as well as a detail of the proposed fence along Huntington Avenue.

- **Sheet 12 of 12** depicts the changes between the proposed site layout and the site layout approved under RZ/FDP 2004-MV-041.

The applicant's proposal includes the following features:

- Ninety-four single-family attached dwelling units are proposed, including two affordable dwelling units (ADUs), for a density of 6.69 du/ac. All existing dwellings and structures would be removed.
- Five of the proposed units are located within the floodplain/RPA, for which the applicant proposes to fill in portions of the site. These five units will be raised 18-inches above the floodplain and be located a minimum of 15 feet from the 100-year floodplain. As a result of the proposed fill, the floodplain/RPA limits

would shift such that these units would no longer be located within the floodplain/RPA. As a consequence of the shift in the floodplain/RPA line, adoption of the VDOT Floodplain Study, the location of the floodplain line (and the RPA line) on the subject site changed and additional portions of the subject site are now located within a major floodplain. Whereas five of the proposed units under this layout would be located within the floodplain/RPA, eight of the units approved under RZ/FDP 2004-MV-041 and SE 2004-MV-035 would be located within the floodplain.

- All dwellings are a mixture of rear-load style and front-load style units with two-car garages and no intended driveway parking. This is the same as was proposed under RZ/FDP 2004-MV-041. An additional 67 surface parking spaces (including a 30-space parking lot within the floodplain) would be available throughout the development. All of the additional 67 surface parking spaces are proposed to be constructed of a pervious surface.
- As was approved with RZ/FDP 2004-MV-041, the proposed dwellings are sited with fronts of units facing Huntington Avenue, and fronts and sides (with side entrances) facing Foley Street and Hunting Creek Road.
- Consistent with that approved under RZ/FDP 2004-MV-041, the proposed units could be either 24 or 22 feet wide. ADU units would be 20 feet wide. The maximum height of the buildings is 40 feet. Minimum yards provided are five foot side yards for all end units with entry stoops and other side entry features up to one foot from the property line. For the front-loaded garage units, driveways would be a maximum of seven feet, and rear yards would be a minimum of ten feet, with a minimum of five feet from any deck to the property line. For the rear-loaded garage units, front yards would be a minimum of five feet, and the driveway at the rear would be limited to a maximum of eight feet (ten feet for the ADUs). An overhanging deck option is also illustrated which could be located up to two feet from the rear property line. All driveways are proposed to be constructed of a pervious surface.
- Consistent with that approved under RZ/FDP 2004-MV-041, rear-loaded garage units do not include rear privacy yards.
- The development would include two vehicular access points to Huntington Avenue. The existing entrance to Foley Street would remain, but would become a right-in, right-out only secondary entrance. The primary entrance to Huntington Avenue would be located at the easternmost point of the property at Hunting Creek Road, which would be terminated in a cul-de-sac.
- The applicant is providing right-of-way dedication and frontage improvements to Foley Street, including improving the entrance with a striped median to a right-in, right-out only, curb, gutter, and sidewalk along both sides of the portion of the street which will remain, termination of the public portion of the street in a cul-de-sac. That portion of Foley Street, which had been located within the floodplain/RPA/EQC, has already been vacated/abandoned.

- As was proffered under RZ/FDP 2004-MV-041, the applicant is also providing right-of-way dedication and frontage improvements to Hunting Creek Road, including curb, gutter, and sidewalk along both sides of the street, and termination of the street in a cul-de-sac. A left turn lane onto Hunting Creek Road from Huntington Avenue is also proposed.
- As was proffered under RZ/FDP 2004-MV-041, the applicant has proffered that, if permitted by VDOT, a traffic signal and pedestrian crosswalk would be provided at the westernmost entrance along Huntington Avenue. If not permitted, the signal and crossing would be provided in an alternate location, or a contribution of $150,000 would be made to the Board of Supervisors for area transportation and pedestrian improvements.
- As was proffered under RZ/FDP 2004-MV-041, the applicant has proffered to provide a bus shelter along the Huntington Avenue frontage.
- Consistent with that approved under RZ/FDP 2004-MV-041, sidewalks five feet in width are provided along both frontages of the property, as well as throughout the development. An eight foot wide wood chip or stone dust pedestrian trail loop is proposed within the RPA, which would connect to Arlington Terrace in the adjacent community.
- Open space provided totals 60% of the site, or approximately 8.42 acres.
- Approximately 50% of the site is located within the floodplain/RPA/EQC, and approximately 11.7% of the site consists of marine clay. For that reason, per Par. 2 of Sect. 2-308 of the Zoning Ordinance, the maximum density that can be achieved on this site is 6.7 du/ac.
- The applicant is dedicating to the Fairfax County Park Authority (FCPA) an approximately 6.5 acre parcel, which constitutes the majority of the floodplain/RPA/EQC area and which is contiguous to FCPA property.
- Landscaping proposed for the development includes transitional screening adjacent to the single-family detached dwellings that are adjacent (including the existing single-family detached dwelling on Parcel 77, which is surrounding by the development), street trees along Huntington Avenue, and supplemental vegetation in the remaining open space areas as well as within the disturbed portions of the floodplain/RPA/EQC.
- Barriers on the property include decorative, wrought-iron fencing along Huntington Avenue, six-foot high board-on-board fencing with brick piers along the western boundary of the property, as well as adjacent to the unconsolidated parcels.
- Proposed stormwater outfall would be located within the floodplain/RPA/EQC, and a waiver of on-site stormwater detention is requested.
- Portions of the floodplain/RPA/EQC will be disturbed for the removal of existing structures and pavement, and additional disturbance is necessary for the provision of the stormwater outfall and trail.

Land Use Analysis

The Comprehensive Plan Map shows the subject property planned for residential use at 3-4 du/ac. In addition, the site-specific Comprehensive Plan text states that, with substantial consolidation, residential development at 16-20 du/ac may be appropriate. The Plan further recommends that compatible infill development, in terms of use, type and intensity, be provided in accordance with the Policy Plan objectives.

The subject property is severely constrained by the major floodplain and the RPA associated with Cameron Run just north of the site. As noted in the Background Section, the recent adoption of a new floodplain study increased the amount of the subject site impacted by floodplain/RPA/EQC. Anticipating consolidation and the environmental site constraints, the Plan recommendation for 16-20 provides the opportunity and incentive for a residential density that could be an appropriate transition between the R-30 multi-family developments to the east and south and the R-8 townhouse/duplex developments to the west and south. Typically, developments at 16-20 du/ac are multifamily, garden style apartments or condominium developments with a significant portion of the land area devoted to common open space in order to provide active and passive recreational open space, buffers and transitions within a neighborhood, which, in this instance, consists of a range of unit types and densities.

It was previously determined during the review of RZ/FDP 2004-MV-041 that the application conformed with the Plan language. The proposed rezoning improves the previously-approved site layout by consolidating two additional parcels (Parcels 93 and 94), which were previously out of the application. The application also moves units further away from the floodplain than the plan previously approved under RZ/FDP 2004-MV-041. The proposed density of 6.69 du/ac is below the recommended Plan range of 16-20 du/ac for the application property with the amount of consolidation that has occurred, but is above the baseline density of 3-4 du/ac on the Plan Map.

Residential Development Criteria (See Appendix 15)

Fairfax County expects new residential development to enhance the community by: fitting into the fabric of the neighborhood, respecting the environment, addressing transportation impacts, addressing impacts on other public facilities, being responsive to our historic heritage, contributing to the provision of affordable housing and, being responsive to the unique site-specific

considerations of the property. To that end, the Board of Supervisors adopted the following criteria contained in Appendix 9 of the Land Use Section in the Policy Plan to be used in evaluating zoning requests for new residential development.

Where the Plan recommends a possible increase in density above the existing zoning of the property, achievement of the requested density will be based, in substantial part, on whether development related issues are satisfactorily addressed as determined by application of these development criteria. Most, if not all, of the criteria will be applicable in every application; however, due to the differing nature of specific development proposals and their impacts, the development criteria need not be equally weighted. If there are extraordinary circumstances, a single criterion or several criteria may be overriding in evaluating the merits of a particular proposal. When there has been an identified need or problem, credit toward satisfying the criteria will be awarded based upon whether proposed commitments by the applicant will significantly advance problem resolution. In applying the Residential Development Criteria to specific projects and in determining whether a criterion has been satisfied, factors such as the following may be considered: the size of the project; site specific issues that affect the applicant's ability to address in a meaningful way relevant development issues; whether the proposal is advancing the guidance found in the area plans or other planning and policy goals (e.g. revitalization). In all cases, the responsibility for demonstrating satisfaction of the criteria rests with the applicant.

Site Design

Criterion 1 of the Residential Development Criteria states that all rezoning applications should be characterized by high quality site design, and that rezoning proposals, regardless of the proposed density, should be evaluated based upon the following principles (although not all of the principles may be applicable for all developments.)

***Consolidation**:* Developments should provide parcel consolidation in conformance with any site-specific text and applicable policy recommendations of the Comprehensive Plan. The nature and extent of any proposed parcel consolidation should further the integration of the development with adjacent parcels, and the proposed consolidation should not preclude nearby properties from developing as recommended by the Plan. The site-specific language in the Comprehensive Plan addresses consolidation for the subject property. In this instance, "substantial consolidation" is achieved as described in the text, allowing for development at higher density, with over 75% of parcels outside the RPA and all of the RPA (less publicly owned land) consolidated. As noted previously in this report, the previous rezoning application (RZ/FDP 2004-MV-041) did not include three parcels. The proposed application seeks to include two of those three parcels (Parcels 93 and 94). Parcel 77, which is completely surrounded by the proposed new development, remains out of the consolidation. Staff would have strongly preferred that Parcel 77 be included in the consolidation, however the

applicant has provided appropriate transitional screening and barriers for this property. Staff believes that the inclusion of Parcels 93 and 94 within the development significantly improves the site layout by creating additional internal connections between the development and providing a uniform frontage along Huntington Avenue.

***Layout**:* The layout should: provide logical, functional and appropriate relationships among the various parts (e. g. dwelling units, yards, streets, open space, stormwater management facilities, existing vegetation, noise mitigation measures, sidewalks and fences); provide dwelling units that are oriented appropriately to adjacent streets and homes; include usable yard areas; provide logical and appropriate relationships among the proposed lots; provide convenient access to transit facilities; identify all existing and proposed utilities and stormwater management outfall areas; and encourage utility co-location where feasible.

The proposed layout of the development is an urban style, which includes units fronting onto Huntington Avenue and fronting or including side entrances along Hunting Creek Road, with garages to the rears of these units. The proposed layout improves the layout previously approved under RZ/FDP 2004-MV-041 by creating better internal circulation pattern. It also creates a better separation between the developed portion of the property and the floodplain/RPA/EQC area

***Open Space**:* Developments should provide usable, accessible, and well-integrated open space. The applicant is proposing 60% open space, or 8.42 acres, the majority of which is located within the floodplain/RPA/EQC. Small areas of open space are provided within the developed portion of the property, including a recreation area that may include a gazebo and picnic tables or benches. In addition, 6.5 acres of the floodplain/RPA/EQC area will be dedicated to the Park Authority for public open space. This area will include a trail loop connecting to the park area to the abutting communities to the east and west.

***Landscaping**:* Developments should provide appropriate landscaping in parking lots, in open space areas, along streets, in and around stormwater management facilities, and on individual lots. Landscape is proposed within the developed portion of the property, to include street trees, vegetated buffers adjacent to the peripheries and unconsolidated single-family detached parcels, and within the open space areas. In addition, supplemental vegetation is proposed within the disturbed portions of the floodplain/RPA/EQC. The applicant has proffered to a landscape plan which would be approved by Urban Forest Management, as well as a tree survey, and to provide tree protection fencing in areas adjacent to the limits of clearing and grading as finalized in conjunction with the Urban Forester.

***Amenities**:* Developments should provide amenities such as benches, gazebos, recreational amenities, play areas, walls and fences, special paving treatments, street furniture, and lighting. The applicant has provided an open space area to include some combination of gazebo, picnic tables, benches, and/or exercise equipment. In addition, a pedestrian trail loop is proposed within the floodplain/RPA/EQC which connects to portions of this community as well as to the adjacent communities to the east and west.

Neighborhood Context:

Criterion 2 of the Residential Development Criteria states that all rezoning applications for residential development, regardless of the proposed density, should be designed to fit into the community within which the development is to be located, as evidenced by an evaluation of: transitions to abutting and adjacent uses; lot sizes, bulk/mass of the proposed dwelling units; setbacks; orientation of the proposed dwelling units to adjacent streets and homes; architectural elevations and materials; pedestrian, bicycle and vehicular connections; existing topography and vegetative cover and proposed limits of clearing and grading.

The proposed development is located within a mixture of existing adjacent unit types, from single-family detached dwellings, to single-family attached dwellings, to apartments and condominiums. The proposed urban style townhouse development is compatible with the existing surrounding communities, and is appropriately buffered from the lower density residences. The proposed architecture and details of the features of the community adjacent to the adjacent residential developments are illustrated on Sheets 9-11 of the CDP/FDP/SEA Plat. The applicant has also proffered to brick front and side façades. Staff believes that the proposed development is compatible with the quality and character of the surrounding communities.

Environment:

Criterion 3 of the Residential Development Criteria states that all rezoning applications should respect the environment. Rezoning proposals, regardless of the proposed density, should be consistent with the policies and objectives of the environmental element of the Policy Plan, and will also be evaluated on the following principles, where applicable. See Appendix 7 for the Environmental Analysis, Appendix 12 for the DPWES Stormwater Planning Analysis, and Appendix 17 for a copy of the staff report for 7995-WRPA-004-1.

Preservation/Resource Protection Area: Developments should conserve natural environmental resources by protecting, enhancing, and/or restoring the habitat value and pollution reduction potential of floodplains, stream valleys, EQCs, RPAs, woodlands, wetlands and other environmentally sensitive areas.

The subject property contains a significant portion of floodplain, RPA and EQC, associated with Cameron Run.

The RPA, along Cameron Run, was first designated as such in 1993 when the CBPO was first adopted. On November 21, 2005, the Board approved SE 2004-MV-035 for a plan to construct 85 single-family attached units on the then 13.46 acre site, without locating any of the units within the floodplain or RPA. On January 30, 2007, the Director of DPWES approved a floodplain study that resulted in a revision to the floodplain designation on the site resulting in an increase in the footprint size of the floodplain and raising the elevation of the floodplain from elevation 11' NGVD '29 to elevation 14' NGVD '29. As a result of adoption of a revised floodplain elevation, the RPA boundary, by definition in the CBPO, is also redelineated to be coincident with the revised floodplain boundary. Furthermore, this change in the floodplain location resulted in eight of the 85 single-family attached dwellings approved under RZ/FDP 2004-MV-041 and SE 2004-MV-035 now being located within a major floodplain.

The applicant has filed a General RPA Encroachment Request with DPWES to place fill within the RPA and to construct only five of the previously approved dwelling units in the RPA. DPWES has reviewed this request and determined that the applicant has satisfied the required findings of CBPO Section 118-6-6 and 118-6-9.

The following is a comparison of the previously approved zoning application and the current zoning application:

	Approved plan	Current Application
# of dwelling units	85	94
Site Area (acres)	13.36	14.04
Site Area within Floodplain (acres)	5.92	7.13
Site Area within 1993 RPA (acres)	5.92	5.92
Site Area within 2007 RPA (acres)	7.13	7.13
# units in original RPA	0	0
# units in revised RPA	8	5
Disturbed Area within 2007 RPA (acres)*	2.47	2.49
Impervious Area in 1993 RPA after development (acres)	0.01	0.01
Impervious Area in 2007 RPA after development (acres)	0.42	0.29
Impervious Area in 1993 RPA prior to development (acres)	0.32	0.32

* Includes trail and storm outfall channels.

In staff's opinion, the layout proposed under the current applications is better than that approved under RZ/FDP 2004-MV-041 and SE 2004-MV-035 because less units and less impervious area would be located within the floodplain/RPA/EQC.

DPWES staff is recommending approval of RPA Exception #7995-WRPA-004-1, subject to the proposed development conditions contained in Attachment A, dated June 15, 2007, for the following reasons:

- A development plan for this site was approved by the BOS on November 21, 2005, for location of single-family attached units, all of which were to be located outside the then existing floodplain and RPA. A change to the floodplain limits was approved by the Director on January 30, 2007, which places some of the previously approved units within the RPA. However, as noted in the Background section of this report, because the CBPO explicitly states that the provision of the Act *"shall not affect vested rights of any landowner under existing law",* the applicant likely has a right to develop the site in substantial conformance with the plans approved under RZ/FDP 2004-MV-041 and SE 2004-MV-035. However, amendments to previously-approved zoning applications are permitted provided the amendment does not aggravate conflicts with the provisions of the CBPO.

- Eight of the previously approved single-family attached units now lie within the new RPA, with three additional units lying immediately adjacent to the RPA boundary. In an effort to minimize encroachment into the new RPA, the applicant has rearranged the layout of the site so that the current application shows five units within the new RPA. Staff believes that this layout is preferable from an environmental standpoint to that which could be built per the previously-approved plan.

- As illustrated by the chart above, the proposed impervious area within the RPA has been reduced from 0.42 acres to 0.29 acres and the total disturbed area has not changed. The disturbed area has not changed or been reduced because disturbance is necessary to remove the existing road and dwellings from within the RPA regardless of the proposed layout of new units. The applicant does propose to revegetate these disturbed areas to establish a quality buffer for the RPA.

- Additional fill is necessary to raise the lowest floor elevations of the proposed units in and near the floodplain/RPA to achieve the minimum elevation requirement of 18" above the floodplain, which was raised from elevation 11' NVGD '29 to elevation 14' NVGD '29, and to provide the required 15' setback distance from the floodplain. However, these fill areas will be compensated for with at least an equivalent excavation within the floodplain including removal of the existing dwellings. Regardless of the RPA boundary change, the area of the disturbance to remove the existing

dwellings is not increased and therefore staff concludes that the disturbance is the minimum necessary to afford relief.

- Many of the lots at the site are vacant or currently used as single family dwelling units. Staff believes that the limits of clearing and grading to construct the improvements in and near the RPA are the minimum necessary. Furthermore, the proposed limits of clearing and grading will allow the existing structures within the RPA to be demolished and those areas to be restored with vegetation.

- As no further encroachment into the RPA is proposed over the previously approved plan, the impervious area within the RPA is being reduced, and the applicant's proposal to revegetate additional areas within the RPA, there is no substantial detriment to water quality; in fact, an improvement to the water is expected due to the additional vegetation in and near the RPA buffer.

The resulting floodplain, RPA and EQC will be dedicated to the Fairfax County Park Authority, which is a contiguous landowner. Within this area, however, the applicant will be providing an outfall ditch for stormwater management and a stone dust or wood chip recreational trail loop, which will be field located in coordination with the Urban Forester to minimize disturbance. The applicant has proffered to revegetate the areas that have been disturbed. Subsequent to these improvements, the dedication of the area for public use will contribute to its preservation, as well as increase the area of contiguous floodplain/RPA/EQC owned by the Park Authority.

Slopes and Soils*:* The design of developments should take existing topographic conditions and soil characteristics into consideration. The Fairfax County Soils Map indicates an area of marine clays in the southwestern corner of the subject property between the existing right-of-way for Foley Street, Huntington Avenue, and the western property boundary. During review of RZ/FDP 2004-MV-041, the applicant prepared and submitted a subsurface soil exploration and soil mapping report for the site, which noted the presence of "gray fat clay" in this general area. Marine clays are noted as problem Class "A" soils and will be subject to a geotechnical study at the time of site plan submission. There is limited slope in this area of the property, which may or may not pose a hazard to onsite or offsite measures. Under the plan proffered as part of RZ/FDP 2004-LE-041, the applicant had proposed a site entrance in the southwest corner of the site, where Marine clays have been found. As a result, significant grading and the installation of a retaining wall would have been required (in addition to the review of DPWES to determine what mitigation measures, if any, would be needed). The applicant has eliminated the previously-proposed site entrance and proposed to relocate some of the proposed units in the southwest corner of the site. While a six foot (6') high retaining wall might still be needed in the southwestern corner of the site, less clearing and grading will be required in this location than was proposed under the previously-approved site layout.

It should be noted that this area of marine clay is included in the density penalty calculations for the property, along with the area of floodplain on the site. The maximum permitted density allowable on the site, based on Section 2-308 of the Zoning Ordinance, would be 6.7 du/ac.

***Water Quality/Drainage**:* Developments should minimize off-site impacts on water quality by commitments to state of the art best management practices for stormwater management and low-impact site design (LID) techniques.
Like RZ/FDP 2004-MV-041, the applicant continues to request a waiver of on-site stormwater detention, and proposes to outfall stormwater with a drainage channel and water quality swale within the floodplain/RPA/EQC. It should be noted that on May 10, 2006, DPWES waived the stormwater detention requirements for the site per 7995-WSWD-001-1. DPWES staff continues to believe that on-site detention will not provide any beneficial mitigation for increased runoff because of the site's location within the Cameron Run Watershed, and therefore, such a waiver would likely be supported (see memorandum contained in Appendix 12). The applicant is proposing to remove significant amount of impervious surface currently located within the floodplain/RPA/EQC, and is also proposing the use of innovative BMP measures including infiltration trenches under porous pavement in locations such as the visitor parking areas.

***Noise**:* Developments should protect future and current residents and others from the adverse impacts of transportation generated noise. Adverse noise impacts were not identified with this application.

***Lighting**:* Developments should commit to exterior lighting fixtures that minimize neighborhood glare and impacts to the night sky. While the applicant has not illustrated proposed outdoor light fixtures, compliance with the outdoor lighting provisions in accordance with Zoning Ordinance requirements outlined in Section 14-900 will be required.

***Energy**:* Developments should use site design techniques such as solar orientation and landscaping to achieve energy savings, and should be designed to encourage and facilitate walking and bicycling. The applicant has proffered to construct all homes to the standards of the CABO Model Energy Program.

Tree Preservation and Tree Cover Requirements:

<u>Criterion 4</u> of the Residential Development Criteria states that all rezoning applications should be designed to take advantage of the existing quality tree cover. Proposed utilities, including stormwater management and outfall facilities and sanitary sewer lines, should be located to avoid conflicts with tree preservation and planting areas.

Similar to RZ/FDP 2004-MV-041, the applicant continues to propose tree preservation primarily within the floodplain/RPA/EQC. The applicant has proffered to provide for review and approval by Urban Forest Management a landscape plan, tree preservation plan and tree survey, and has committed to provide tree protection fencing in the areas adjacent to the limits of clearing and grading. The proposed trail within the floodplain/RPA/EQC is proffered to be field located in conjunction with Urban Forest Management to minimize impacts to trees in this area. In addition, the applicant has committed to conformance to the limits of clearing and grading, as illustrated on the CDP/FDP/SEA Plat and as finalized in conjunction with Urban Forest Management, and has further proffered that the removal of existing structures will be conducted so as to minimize disturbance of existing vegetation.

Transportation:

Criterion 5 of the Residential Development Criteria states that all rezoning applications for residential development should implement measures to address planned transportation improvements and should include measures to offset their impacts to the transportation network. Regardless of the proposed density, applications will be evaluated based upon the following principles (although not all of the principles may be applicable.) See Appendix 8 for the Transportation Analysis.

***Transportation Improvements**:* Residential development should provide safe and adequate access to the road network, maintain the ability of local streets to safely accommodate traffic, and offset the impact of additional traffic through commitments to additional improvements beyond ordinance requirements. The applicant is proposing a number of improvements to existing public streets, as well as wider entrance/exit onto Huntington Avenue from Hunting Creek Road. Right-of-way dedication, frontage improvements on both sides of the streets, and cul-de-sac termini are proposed for Foley Street and Hunting Creek Road, as are the vacation/abandonment of the remaining portion of the street that currently extends into the RPA. The applicant is modifying the entrance from Huntington Avenue onto Foley Street to become a right-in, right-out only and is proposing a second entrance to Huntington Avenue at the westernmost portion of the property. The applicant also continues to proffer to provide a signal at the new intersection with Huntington Avenue, if permitted by VDOT, and to spend up to $2,500 to adjust the signal timing at the intersection of Richmond Highway and Huntington Avenue.

Given the elimination of a previously-proffered entrance in the southwest corner of the site, vehicles traveling eastbound on Huntington Avenue can only access the site via a left turn onto Hunting Creek Road. As such, staff believes that a left-turn lane will be needed along eastbound Huntington Avenue at Hunting Creek Road. The CDP/FDP/SEA Plat depicts a left turn lane to be provided in this location. In order to further evaluate the proposed left turn lane, VDOT has asked for additional

information on the lane widths, transition lengths, and left turn lane storage for the proposed lane. VDOT has also asked the applicant to provide information on the proposed traffic volume and turning movements for the proposed development in order to see if the proposed left turn lane is adequately sized or even necessary. This issue will be finalized at the time of site plan.

***Transit/Transportation Management**:* Mass transit usage and other transportation measures to reduce vehicular trips should be encouraged by: provision of bus shelters; implementation of shuttle bus service; and participation in programs designed to reduce vehicular trips; as well as provision of trails and facilities that increase safety and mobility for non-motorized travel.

The application property is located within very close proximity of the Huntington Metro Station, and as such, significant use of mass transit is anticipated. The applicant has carried forward the proffer commitments made under RZ/FDP 2004-MV-041 to provide a bus shelter along Huntington Avenue and to Transportation Demand Management Strategies (TDMs) to reduce single-occupancy vehicle traffic during the peak hours by a minimum of 15%. The proposed measures include assigning a transportation coordinator to disseminate information regarding mass transit and carpooling and providing each new residence with two SmarTrip cards with $100 credit each which can be used for public transit including Metro.

***Interconnection of the Street Network**:* Vehicular connections between neighborhoods should be provided, and local streets within the development should be connected with adjacent local streets to improve neighborhood circulation; when appropriate, and existing stub streets should be connected to adjoining parcels. During review of RZ/FDP 2004-MV-041, staff had requested a vehicular interparcel connection between this development and the existing community to the west, aligned with Farrington Avenue. Ultimately, the application was approved without such a connection and this connection is not proposed under the current site layout. However, the applicant continues to proffer that, in the event of future redevelopment of the community to the west, a vehicular connection to Farrington Avenue could be established along the 20-foot wide sanitary sewer easement located between the subject site and Farrington Avenue.

***Streets**:* Public streets are preferred. If private streets are proposed in single-family detached developments, the applicant shall demonstrate the benefits for such streets.

The applicant is proposing a combination of existing public streets and new private streets throughout the single-family attached development, and the applicant has proffered to construct the private streets to public street depth standards.

***Non-motorized Facilities**:* Non-motorized facilities should be provided, such as connections between adjoining neighborhoods; connections to natural and recreational areas; internal trail systems; and trails connecting off-site. Driveways to residences should be of adequate length to accommodate passenger vehicles without blocking walkways. If construction of sidewalks/trails on a single side of the street is proposed, the applicant should demonstrate the public benefit of a limited facility.

The development proposal includes five foot (5') wide sidewalks within the development and along the Huntington Avenue and Hunting Creek Road frontages. Because of the more urban design of the community, including a significant portion of rear-loaded dwellings, driveways are not intended to accommodate parking of vehicles, and therefore are proffered to be restricted to a maximum length of 7-8, with 10 feet for the ADUs, to discourage parking of a vehicle while overhanging the sidewalk (the applicant made the same proffer commitment with RZ/FDP 2004-MV-041). Since the approval of RZ/FDP 2004-MV-041, the Zoning Ordinance has been amended to increase the parking requirement for single-family attached dwellings from 2.3 spaces per dwelling unit to 2.7 spaces per dwelling unit. The proposed application meets this new requirement; the number of visitor parking spaces available throughout the development has increased from that provided under the previously-approved layout. Pedestrian access is facilitated both on and offsite, including sidewalks along the frontages of all streets, and pedestrian connections to the abutting communities to the east and west via the proposed recreational trail within the floodplain/RPA/EQC.

***Alternative Street Designs**:* Under specific design conditions for individual sites or where existing features such as trees, topography, etc. are important elements, modifications to the public street standards may be considered. This criterion is not applicable to this development.

Public Facilities:

Sanitary Sewer Analysis (Appendix 9)

The application property is located in the Cameron Run (J-1) Watershed. It would be sewered into the Alexandria Sanitation Authority Treatment Plant. Based on current and committed flow, there is excess capacity available at this time. An existing 8-inch line pipe located in an easement and within the property is adequate for the proposed use at this time.

Fire and Rescue Analysis (Appendix 10)

The application property is served by the Fairfax County Fire and Rescue Department Station # 11, Penn Daw. The subject property currently meets fire protection guidelines.

Water Analysis (Appendix 11)

The application property is located within the Fairfax Water Service Area. Adequate domestic water service is available at the site from existing 2-inch, 6-inch, and 10-inch water mains located at the property. Depending on the configuration of the on-site water mains, additional water main extensions may be necessary to satisfy fire flow requirements and accommodate water quality concerns. In addition, Fairfax Water notes that site plans for Huntington Mews Section 1 and 2 have been approved by Fairfax Water but that any changes resulting from this application will require a revised site plan to be reviewed and approved by Fairfax Water.

Stormwater Planning Analysis (Appendix 12)

As described in the Environmental section above, the applicant is requesting a waiver of on site stormwater detention, and is proposing to outfall the stormwater with a drainage channel and water quality swale. DPWES staff has stated that on-site detention would not provide any beneficial mitigation for increased runoff because of the site's location within the Cameron Run Watershed, and therefore such a waiver would likely be supported. The applicant is proposing to remove significant amount of impervious surface currently located within the floodplain/RPA/EQC, and is also proposing the use of innovative BMP measures including infiltration trenches under porous pavement in certain locations.

Schools Analysis (Appendix 13)

A methodology approved by the Board of Supervisors, after input and recommendation by the School Board, is used as a guideline for determining the impact of additional students generated by the new development. The number of new students generated by the proposed rezoning is six elementary school students, one intermediate school student, and one high school student, or eight total students. The total number of students generated by the proposed development is 19 elementary students, five intermediate students, and eleven (11) high school students, or 35 total students. While Fairfax County Public Schools (FCPS) recognizes that most of the subject site was rezoned to the PDH-8 District in 2005, FCPS also notes that no development has occurred as of yet and the previously proffered commitments to address school impacts have not been implements. Therefore, FCPS is viewing this application as a new rezoning application and as such, requests a contribution of $93,040 (eight students x $11,630 per student) to benefit the school pyramid which students of this development will attend.

Park Authority Analysis (Appendix 14)

The proposed development would include 94 dwellings (two of which are ADUs), which will add approximately 257 residents to the Mount Vernon District. The residents of this development will need access to outdoor recreational facilities such as playground/tot lots, basketball, tennis and volleyball courts and athletic fields. Based on the Zoning Ordinance requirements, the applicant is required to provide $955 per non-ADU unit for recreational facilities to serve the development population. Based on the proposal for 92 non-ADU dwellings, the Zoning Ordinance-required contribution is $87,860. As these funds may be spent wholly or partially on site, the funds offset only a portion of the impact of the new residents generated by this development. In order to offset the additional impact caused by the proposed development, the applicant was also asked to provide an additional $68,080 to the Park Authority for recreational facility development.

Due to the proximity of the floodplain/RPA/EQC on the subject property to contiguous Park Authority-owned land, the applicant was asked to dedicate the floodplain/RPA/EQC land to FCPA. FPCA has also requested the opportunity to work with the developer on an alternative design for the proposed drainage channels in the area to be dedicated to FCPA in order to make sure that the design is aesthetically appropriate for a park site. In addition, FCPA has requested that the applicant remove any debris or waste currently located within the proposed dedication area prior to dedication. FCPA would like dedication to occur only after FCPA has inspected the property, but prior to the issuance of the final Residential Use Permit (RUP).

The Park Authority has requested that the applicant proffer to maintain the proposed stormwater outfall within the area proposed to be dedicated to the Park Authority, however, it should be noted that it may not be an appropriate responsibility for a Homeowner's Association to maintain a portion of publicly owned and used property.

<u>Criterion 6</u> of the Residential Development Criteria states that residential development impacts public facility systems (i.e., schools, parks, libraries, police, fire and rescue, stormwater management and other publicly owned community facilities). All rezoning applications are expected to offset their public facility impact. Schools and parks have been identified as the public facilities needs associated with this application.

The applicant has proffered to contribute $87,390 to public schools. This figure represents $52,500, which was previously proffered under RZ/FDP 2004-MV-041 and paid under the previously-approved site plan, plus an additional $34,890.00 ($11,630.00 per new student) for the additional units proposed under the current application. In addition to the required $955 per non-ADU dwelling unit (a

maximum of $82,860), which is proffered to FCPA if not used on-site, the applicant has proffered a contribution of $94,000 to FCPA for the future development of the Cameron Run Stream Valley Trail. The applicant has also proffered to dedicate 6.5 acres of the floodplain/RPA/EQC, contiguous to FCPA-owned property, for public open space use. The applicant has also proffered to provide a 20 foot wide public access easement from the terminus of Foley Street to the trail entrance to the proposed FCPA property.

Affordable Housing:

Criterion 7 of the Residential Development Criteria states that ensuring an adequate supply of housing for low and moderate income families, those with special accessibility requirements, and those with other special needs is a goal of the County. The applicant can elect to fulfill this criterion by providing affordable units that are not otherwise required by the ADU Ordinance, or a contribution to the Housing Trust Fund or, a monetary and/or in-kind contribution to another entity whose mission is to provide affordable housing in Fairfax County, equal to 0.5% of the value of all of the units approved on the property except those that result in the provision of ADUs.

The applicant is providing two ADUs on site as required.

Heritage Resources:

Criterion 8 of the Residential Development Criteria states that heritage resources are those sites or structures, including their landscape settings that exemplify the cultural, architectural, economic, social, political, or historic heritage of the County or its communities. Such sites or structures have been 1) listed on, or determined eligible for listing on, the National Register of Historic Places or the Virginia Landmarks Register; 2) determined to be a contributing structure within a district so listed or eligible for listing; 3) located within and considered as a contributing structure within a Fairfax County Historic Overlay District; or 4) listed on, or having a reasonable potential as determined by the County, for meeting the criteria for listing on, the Fairfax County Inventories of Historic or Archaeological Sites.

The applicant has proffered to document the dwellings on Parcels 64, 93 and 94, which are all of significant historic value, before demolition. In addition, it is noted that archaeological resources may be located on site, and a Phase I archaeological survey is requested (and a Phase II and III if warranted), for undeveloped portions of the property proposed to be disturbed.

ZONING ORDINANCE PROVISIONS (See Appendix 16)

Maximum Density/Bulk Regulations

The maximum density permitted in the PDH-8 District is 8 du/ac. The applicant's proposed development would be at a density of 6.69 du/ac, which is below the maximum permitted density, and is also below the adjusted maximum permitted density of 6.7 du/ac (94 units) in accordance with Par. 2 of Sect. 2-308 of the Zoning Ordinance, regarding properties containing floodplain and marine clay soils. Approximately 50% of the site is located within the floodplain/RPA/EQC, and approximately 11.7% of the site consists of marine clay.

The applicant exceeds the required minimum district size of 2 acres. In the PDH-8 District there are no minimum lot size requirements or minimum setback requirements for single-family attached dwellings, except that the application is subject to the standards set forth in Part 1 of Article 16, as described further below. The required open space is 22%, and the applicant is proposing to provide 60%.

WAIVERS AND MODIFICATIONS

- Modification of transitional screening and barrier requirements along the northern and western property lines where the subject site abuts single-family detached dwellings to that depicted on the CDP/FDP/SEA Plat.

The applicant is requesting a modification of the transitional screening and barrier requirements in two specific locations where the site abuts single-family detached dwellings. The required transitional screening between single-family attached and detached housing is a 25 foot wide vegetated strip. The first location is where the proposed single-family attached dwellings abut Parcel 77 to the south. The applicant has requested a modification of the transitional screening to permit landscaping to occur only within 15 feet of the 25-foot wide transitional screening yard between the northern property line of Parcel 77 and the beginning of the rear yards of the proposed single-family attached dwellings as depicted on the CDP/FDP/SEA Plat. The second location is where the proposed single-family attached dwelling would abut the existing single-family detached dwelling on Tax Map Parcel 83-1 ((1)) 61 to the west. The CDP/FDP/SEA Plat illustrates a 15 foot wide transitional screening area, between the units and the property boundary. Due to the topography on this portion of the site, a retaining wall is required, and therefore a four-foot high fence is requested to be located on top of the retaining wall, which is illustrated at a maximum height of six feet. In both these instances, staff believes that sufficient screening for the adjacent residential property would be provided with this proposal, and as such supports the requested modification per Par. 3 of Sect. 13-304.

- Waiver of the requirement for a minimum 200 square foot privacy yard for single-family attached dwelling units.

The applicant is also requesting a waiver of the requirement for a 200 square foot privacy yard for single-family attached dwellings. The applicant is proposing an urban dwelling style with the majority of the units in a rear loaded garage configuration, with the peripheral units fronting onto Huntington Avenue and Hunting Creek Road. A significant portion of the rear of the property is being preserved as open space, which will have a recreational trail and be dedicated to the Park Authority, and an additional open space area that will remain on the HOA property will include passive recreation features such as a gazebo, picnic tables and benches, and/or exercise equipment. Therefore, staff supports the requested waiver.

OTHER ZONING ORDINANCE REQUIREMENTS

P-District Standards

The requested proposal must comply with, among others, the Zoning Ordinance provisions found in Section 16-101, General Standards, and Section 16-102, Design Standards.

Section 16-101- General Standards

General Standard 1 states that the planned development shall substantially conform to the adopted comprehensive plan with respect to type, character, and intensity of use and public facilities. Planned developments shall not exceed the density or intensity permitted by the adopted comprehensive plan, except as expressly permitted under the applicable density or intensity bonus provisions.

The proposed PDH-8 development is proposed at a density of 6.69 dwelling units per acre, which falls well below the Comprehensive Plan density range of 16-20 du/ac with consolidation as proposed, but above the baseline range of 3-4 du/ac. However, staff believes that the subject application includes a design which is compatible with and provides a transition between the adjacent properties' mixture of unit types and densities; therefore this standard has been satisfied.

General Standard 2 states that the design should result in a development achieving the stated purpose and intent of the planned development district more than would development under a conventional zoning district. Development under the PDH-8 zoning district permits a greater level of flexibility for development of a community for the purpose of allowing a larger open space/tree preservation area than might be provided with a conventional zoning district. In this instance, with a significant portion of the property (approximately 50%) located within a floodplain/RPA/EQC, a greater flexibility in the developed portion of the site can

be achieved, while preserving the floodplain/RPA/EQC than would otherwise occur with a conventional zoning district. A development design is proposed which staff believes achieves the goals set forth in the Comprehensive Plan with respect to transition and compatibility, while preserving natural features to the extent feasible. Therefore, this standard has been satisfied.

General Standard 3 states that the planned development shall efficiently utilize the available land, and shall protect and preserve to the extent possible all scenic assets and natural features such as trees, streams and topographic features. As stated above, there is approximately 60% open space provided on-site, the majority of which includes the floodplain/RPA/EQC, which is proposed to be dedicated to the Park Authority. Therefore, this standard has been satisfied.

General Standard 4 states that the planned development shall be designed to prevent substantial injury to the use and value of existing surrounding development, and shall not hinder, deter or impede development of surrounding undeveloped properties in accordance with the adopted Comprehensive Plan. This proposed single-family attached residential development represents an appropriate addition to the surrounding residential communities including multi-family residential, single-family attached (duplex), and the remaining single-family detached dwellings. Although it would be desirable to include Parcel 77 within this application, the proposed application consolidates two additional parcels, which were previously not included in this development. Therefore, staff believes that this standard has been satisfied.

General Standard 5 states that the planned development shall be located in an area in which transportation, police and fire protection, other public facilities and public utilities, including sewerage, are or will be available and adequate for the uses proposed; provided, however, that the applicant may make provision for such facilities or utilities which are not presently available. As demonstrated in the public facilities analysis, adequate public facilities infrastructure is available to support the proposed development. Therefore, this standard has been satisfied.

General Standard 6 states that the planned development shall provide coordinated linkages among internal facilities and services as well as connections to major external facilities and services at a scale appropriate to the development.

The property includes several two vehicular access points into the development, including the existing Foley Street entrance from Huntington Avenue, which will be converted to a right-in, right-out only entrance, and a second entrance to Huntington Avenue further west which offers improved site distance. The existing public streets of Hunting Creek Road and Farrington Avenue are being improved, and pedestrian connections are provided within and between the development and adjacent properties. The applicant is also proposing to provide a left turn lane onto Hunting Creek Road from eastbound Huntington Avenue. Therefore, this standard has been satisfied.

Section 16-102 Design Standards

Design Standard 1 states that, in order to complement development on adjacent properties, at all peripheral boundaries of the planned development district, the bulk regulations and landscaping and screening provisions shall generally conform to the provisions of that conventional zoning district which most closely characterizes the particular type of development under consideration. The most similar conventional zoning district to the PDH-8 District is the R-8 District for ADU developments. The bulk standards for single-family attached dwellings in the R-8 District in the front yard are controlled by an angle of bulk plane of 15 degrees, with the yard not less than 5 feet, the side yard is controlled by an angle of bulk plane of 15 degrees, with the yard not less than 10 feet, and the rear yard is controlled by an angle of bulk plane of 30 degrees, with the yard not less than 20 feet. In addition, a 200 square foot rear privacy yard is required for all single-family attached dwelling units.

The proposed yards in this development would include minimum five-foot front yards (with a maximum of seven feet for front-loaded unit driveways) and five-foot side yards for all end units, with stoops for side-entry units located within one foot of the property line. Rear yards would be a minimum of 10 feet for the front-loaded units, and no greater than eight feet (10 feet for ADUs) for the rear-loaded units where the rear yard includes a driveway (not intended for parking.) In addition, decks on front-loaded units could extend up to five feet of the rear property line. Decks on rear-loaded units could extend up to two feet of the rear property line. The maximum building height for single-family dwellings in the R-8 District is 40 feet for ADU developments, and the proposed units would be a maximum of 40 feet.

Design Standard 2 states that other than those regulations specifically set forth in Article 6 for a particular P district, the open space, off-street parking, loading, sign and all other similar regulations set forth in this Ordinance shall have general application in all planned developments.

The open space provided is approximately 60% of the site, or 8.4 acres, inclusive of the property within the floodplain/RPA/EQC proposed to be dedicated to the Park Authority. This exceeds the minimum Zoning Ordinance requirement of 22%. A network of pedestrian connections is provided with this proposal to connect the community to adjacent communities and for recreational purposes within the floodplain/RPA/EQC. The applicant is providing parking primarily within unit garages, with additional visitor parking available, as illustrated on the CDP/FDP. The applicant has proffered to dwellings having two car garages with covenants to ensure that the parking spaces remain and are not converted to living space, and the minimum parking requirement is slightly exceeded overall. Therefore, this standard has been satisfied.

Design Standard 3 states that streets and driveways shall be designed to generally conform to the provisions set forth in this Ordinance and all other County ordinances and regulations controlling same, and where applicable, street systems shall be designed to afford convenient access to mass transportation facilities. In addition, a network of trails and sidewalks shall be coordinated to provide access to recreational amenities, open space, public facilities, vehicular access routes, and mass transportation facilities. The development would be served by a mixture of existing public streets and an internal network of private streets connecting those public streets. An extensive network of sidewalks and trails is also provided throughout the development. Therefore, this standard has been satisfied.

OTHER ZONING ORDINANCE REQUIREMENTS:

Special Exception Requirements (See Appendix 16)

- **General Special Exception Standards** (Sect. 9-006)

General Standard 1 states that the proposed use shall be in harmony with the adopted Comprehensive Plan. The Comprehensive Plan calls for residential development at 3-4 du/ac with option for 16-20 du/ac for this property, which is surrounded by residential property, with single-family attached dwellings and open space proposed. Therefore, this standard has been satisfied.

General Standard 2 states that the proposed use shall be in harmony with the purpose and intent of the applicable Zoning District regulations. This application is in harmony with the purpose and intent of the PDH-8 District, which permits single-family attached residential development and meets the purpose and intent of the P District as discussed previously . Therefore, this standard has been satisfied.

General Standard 3 states that the proposed use shall be such that it will be harmonious with and will not adversely affect the use or development of neighboring properties. The proposed townhouse community represents a transition between the multi-family residential communities to the east and the duplex communities to the west; therefore staff believes that this standard has been satisfied.

General Standard 4 states that the proposed use shall be such that pedestrian and vehicular traffic associated with the use will not be hazardous or conflict with existing and anticipated traffic in the neighborhood. Staff believes that the proposed pedestrian and vehicular circulation patterns are appropriate for the proposed development, as described further in the analysis above; therefore this standard has been satisfied.

General Standard 5 states that the Board shall require landscaping and screening in accordance with Article 13. Transitional screening and barriers are provided where required with the exception of the waiver and modification request that is supported by staff. Therefore, this standard has been satisfied.

General Standard 6 states that open space shall be provided in accordance with that specified for the subject zoning district. The applicant is providing 60% open space, which exceeds the requirement in the PDH-8 District of 22%; therefore this standard has been satisfied.

General Standard 7 stipulates that adequate drainage, utilities and parking and loading shall be provided to serve the site. As discussed in the analysis above, adequate utilities are available, parking which slightly exceeds the Zoning Ordinance requirement is being provided on-site, and drainage is also being effectively addressed with the proposed site design. Therefore, this standard has been satisfied.

General Standard 8 states that signs shall be governed by Article 12, but that the Board may impose stricter requirements than those provided in the Ordinance. This standard is not applicable.

- **Category 6 Standards, Provisions for Uses in a Floodplain** (Sect. 9-606)

This standard indicates that the Board may approve a special exception for the establishment of a use in a floodplain in accordance with the provisions of Part 9 of Article 2 (See Appendix 16 and below for these provisions). Staff has determined that the requested application meets the requirements of Part 9 of Article 2.

- **Floodplain Regulations- Use Limitations** (Sect. 2-905)

Standard 1 states that except as may be permitted by Par. 6 and 7 of Sect. 903, any new construction, substantial improvements, or other development, including fill, when combined with all other existing, anticipated and planned development, shall not increase the water surface elevation above the 100-year flood level upstream and downstream, calculated in accordance with the provisions of the Public Facilities Manual. Based on its initial analysis, DPWES does not believe that the proposed fill will increase the water surface elevation above the 100-year flood level. Staff has proposed a development condition which states that prior to

approval of a grading plan, it must be demonstrated to DPWES that the proposed construction, including fill, when combined with all other existing, anticipated, and planned development, shall not increase the water surface elevation above the 100-year flood level upstream and downstream. Therefore, this standard has been satisfied.

Standard 2 states that except as may be permitted by Par. 8 of Sect. 903, the lowest elevation of the lowest floor of any dwellings proposed within the development shall be eighteen (18) inches or greater above the water-surface elevation of the 100-year flood level calculated in accordance with the provisions of the Public Facilities Manual. With the adoption of the VDOT floodplain study, the base flood elevation of the site was raised from elevation 11' NGVD to elevation 14' NGVD '29. Staff has proposed a development condition which states that the elevation of the lowest part of the lowest floor of all dwellings on the property shall be not less than 18 inches above the base flood elevation, and that all mechanical, electrical, and utility equipment must be at or above the flood level. In addition, the CDP/FDP/SEA Plat illustrates that the finished floor elevation for the duplex structure will be at least 18 inches above the 100-year floodplain elevation. Therefore, this standard is satisfied.

Standard 3 states that all uses shall be subject to the provisions of Par. 1 of Sect. 602, which states that, notwithstanding the provisions of Sect. 601, no building shall be erected on any land and no change shall be made in the existing contours of any land, including any change in the course, width or elevation of any natural or other drainage channel, in any manner that will obstruct, interfere with, or change the drainage of such land, taking into account land development that may take place in the vicinity under the provisions of this Ordinance, without providing adequate drainage in connection therewith as determined by the Director in accordance with the provisions of the Public Facilities Manual. Based on its initial analysis, DPWES believes that the proposed application will provide adequate drainage for the development. Staff has proposed a development condition which states that stormwater drainage shall be directed to ditches through the use of pipes, swales, or other devices, as determined by DPWES, and all fill areas shall be stabilized, graded, or have drains installed such that normal rainfall will not flow over the filled area onto adjacent properties, as determined by DPWES. Therefore, this standard has been satisfied.

Standard 4 states that no structure or substantial improvement to any existing structure shall be allowed unless adequate floodproofing as defined in the Public Facilities Manual is provided. No basements are proposed. Staff has proposed a development condition which states that all construction shall be in conformance with Section 3107.0 Flood-Resistant Construction of the Virginia Uniform Statewide Building Code (VUSBC 1977), and that a statement certifying all floodproofing proposed shall be provided with the Building Permit application. Therefore, this standard has been satisfied.

Standard 5 states that to the extent possible, stable vegetation shall be protected and maintained in the floodplain. In addition to tree preservation proffered with the rezoning application, a SE development condition is proposed which states that trees and other indigenous vegetation shall be preserved on the site during the construction process to the maximum extent feasible, as determined by Urban Forest Management. Therefore, this standard has been satisfied.

Standard 6 states that there shall be no storage of herbicides, pesticides, or toxic or hazardous substances as set forth in Title 40, Code of Federal Regulations, Parts 116.4 and 261.30 et seq., in a floodplain. A development condition to this effect has been proposed; therefore, this standard has been satisfied.

Standard 7 states that for uses other than those enumerated in Par. 2 and 3 of Sect. 903, the applicant shall demonstrate to the satisfaction of the approving authority the extent to which: there are no other feasible options available to achieve the proposed use; the proposal is the least disruptive option to the floodplain; and the proposal meets the environmental goals and objectives of the adopted comprehensive plan for the subject property. On November 21, 2005, the Board approved SE 2004-MV-035 for a plan to construct 85 single-family attached units on the then 13.46 acre site, without locating any of the units within the floodplain or RPA. On January 30, 2007, the Director of DPWES approved a floodplain study that resulted in a revision to the floodplain designation on the site resulting in an increase in the footprint size of the floodplain and raising the elevation of the floodplain from elevation 11' NGVD '29 to elevation 14' NGVD '29. As a result of adoption of a revised floodplain elevation, the RPA boundary, by definition in the CBPO, is also redelineated to be coincident with the revised floodplain boundary. Furthermore, this change in the floodplain location resulted in eight of the 85 single-family attached dwellings approved under RZ/FDP 2004-MV-041 and SE 2004-MV-035 now being located within a major floodplain. As previously proposed under RZ/FDP 2004-MV-041 and SE 2004-MV-035, disturbance in the floodplain is proposed for removal of existing structures and pavement, construction of a pervious surface trail, and provision of stormwater outfall facilities. As noted in the Environmental Analysis, because a development plan for this site was previously approved by the BOS in 2005, the applicant likely can develop the subdivision in substantial conformance with the previously-approved applications. In an effort to minimize encroachment into the new floodplain/RPA, the proposed site layout now depicts only five units within the new floodplain/RPA. Staff believes that this layout is preferable to that which could be built per the previously-approved plan. In addition, a net reduction in impervious surface area within the floodplain/RPA/EQC will result from this proposed site layout (from 18,295 SF to 12,632 SF). Therefore, this standard has been satisfied.

Standard 8 states that nothing herein shall be deemed to prohibit the refurbishing, refinishing, repair, reconstruction or other such improvements of the structure for an existing use provided such improvements are done in conformance with the Virginia Uniform Statewide Building Code and Article 15 of this Ordinance. This standard is not applicable.

Standard 9 states that nothing herein shall be deemed to preclude public uses and public improvements performed by or at the direction of the County. This standard is not applicable.

Standard 10 states that notwithstanding the minimum yard requirements specified by Sect. 415 above, dwellings and additions thereto proposed for location in a floodplain may be permitted subject to the provisions of this Part and Chapter 118 of the Code. Five of the proposed dwellings will be located within the floodplain/RPA. The applicant has requested an RPA Encroachment Request (7995-WRPA-004-1). DPWES supports this request and concludes that this standard has been satisfied.

Standard 11 states that all uses and activities shall be subject to the provisions of Chapter 118 of the Code. The applicant has filed an RPA Encroachment Request (7995-WRPA-004-1). As stated in the Environmental Analysis, DPWES supports this request and believes that this standard has been satisfied.

Standard 12 states that when as-built floor elevations are required by federal regulations or the Virginia Uniform Statewide Building Code for any structure, such elevations shall be submitted to the County on a standard Federal Emergency Management Agency (FEMA) Elevation Certificate prior to approval of the final inspection. If a non-residential building is being floodproofed, then a FEMA Floodproofing Certificate shall be completed in addition to the Elevation Certificate. In the case of special exception uses, the Elevation Certificate shall show compliance with the approved special exception elevations. Staff has proposed a development condition which states that as-built floor elevations for the residences shall be submitted in accordance with the Virginia Uniform Statewide Building Code (VUSBC 2000) on a standard FEMA Elevation Certificate prior to approval of the framing inspection, therefore this standard has been satisfied.

Summary of Zoning Ordinance Provisions

All applicable standards have been satisfied with the proposed development conditions.

CONCLUSIONS AND RECOMMENDATIONS

Staff Conclusions

Staff believes that the proposal is in conformance with the Comprehensive Plan and is in conformance with the applicable Zoning Ordinance provisions, with the implementation of the proposed proffers and development conditions. Staff believes that the proposed site layout improves the previously-approved site layout by consolidating two additional parcels, which were previously out of the application. The application also moves units further away from the floodplain than the plan previously approved under RZ/FDP 2004-MV-041, as well as reducing the amount of impervious surface located within the floodplain/RPA/EQC.

Recommendations

Staff recommends approval of RZ 2006-MV-031 and the Conceptual Development Plan, subject to the execution of proffers consistent with those contained in Appendix 1.

Staff recommends approval of FDP 2006-MV-031, subject to the Board of Supervisors' approval of RZ 2006-MV-031 and the Conceptual Development Plan.

Staff recommends that the transitional screening and barrier requirements along those portions of the northern and western property lines where the site abuts single-family detached dwellings be modified to that shown on the CDP/FDP/SEA Plat.

Staff recommends approval of waiver of the requirement for a minimum 200 square foot privacy yard for single-family attached dwelling units.

Staff recommends approval of SEA 2004-MV-035, subject to the proposed development conditions contained in Appendix 2.

Staff recommends approval of RPA Exception #7995-WRPA-004-1, subject to the proposed development conditions, dated June 15, 2007, and contained in Attachment A of Appendix 17.

It should be noted that it is not the intent of staff to recommend that the Board, in adopting any conditions proffered by the owner, relieve the applicant/owner from compliance with the provisions of any applicable ordinances, regulations, or adopted standards.

The approval of this rezoning and special exception amendment does not interfere with, abrogate or annul any easement, covenants, or other agreements between parties, as they may apply to the property subject to this application.

It should be further noted that the content of this report reflects the analysis and recommendations of staff; it does not reflect the position of the Board of Supervisors.

APPENDICES

1. Draft Proffers
2. Proposed SEA Development Conditions
3. Affidavit
4. Statement of Justification
5. Previously-approved proffers and CDP conditions for RZ/FDP 2004-MV-041 *(a copy of the previously-approved CDP/FDP is contained on Sheet 12 of the proposed CDP/FDP for the pending zoning applications)*
6. Previously-approved development conditions for SE 2004-MV-035
7. Environmental Analysis
8. Transportation Analysis
9. Sanitary Sewer Analysis
10. Fire and Rescue
11. Fairfax County Water Authority
12. Stormwater Planning Analysis
13. Fairfax County Public Schools
14. Fairfax County Park Authority
15. Residential Development Criteria
16. Zoning Ordinance Provisions
17. Staff Report for 7995-WRPA-004-1
18. Glossary

PROFFERS
KB HOME Virginia Inc. d/b/a KB HOME Mid-Atlantic – Huntington Mews
RZ 2006-MV-031

June 18, 2007

Pursuant to Section 15.2-2303(a) of the Code of Virginia, 1950, as amended, the owners and KB HOME Virginia Inc. d/b/a KB HOME Mid-Atlantic (hereinafter referred to as the "Applicant") for themselves, their successors, and assigns in RZ 2004-MV-041 filed for property identified as Tax Map 83-1 ((1)) 56, 56A, 57, 57B, 62A, 62B, 63-65, 67, 68, 68A, 69, 69A, 70, 70A, 71, 71A, 72, 72A, 73, 73A, 74, 74A, 76, 76A, 78-80, 82, 83, 85, 88; 83-1 ((18)) 1, 1A, 2, 2A, 3, 4; 83-3 ((1)) 93-99 (hereinafter referred to as the "Application Property") hereby proffers to the following, provided that the Board of Supervisors ("BOS") approves a rezoning of the Application Property to the PDH-8 District in conjunction with a Conceptual Development Plan/Final Development Plan/Special Exception Plat ("CDP/FDP/SEA Plat") for residential development.

1. CONCEPTUAL DEVELOPMENT PLAN/FINAL DEVELOPMENT PLAN/SPECIAL EXCEPTION PLAT

a. Subject to the provisions of Section 16-204 of the Fairfax County Zoning Ordinance (hereinafter referred to as the "Zoning Ordinance"), development of the Application Property shall be in substantial conformance with the CDP/FDP/SEA Plat, consisting of twelve (12) sheets prepared by Christopher Consultants, Ltd., dated June 30, 2006, as revised through June 18, 2007.

b. Pursuant to Paragraph 4 of Section 16-403 and Section 18-204 of the Zoning Ordinance, minor modifications from the CDP/FDP/SEA Plat may be permitted, as determined by the Zoning Administrator. The Applicant reserves the right to make minor modifications to the layout shown on the CDP/FDP/SEA Plat, without requiring approval of a Proffered Condition Amendment ("PCA")/Final Development Plan Amendment ("FDPA"), provided such changes are in substantial conformance with the CDP/FDP/SEA Plat as determined by the Zoning Administrator, so long as such changes do not increase the total number, type, or general location of units; decrease the number of access points, amount of open space, or peripheral setbacks; or reduce the limits of clearing and grading.

c. Notwithstanding the fact that the CDP/FDP/SEA Plat is presented on twelve (12) sheets and is the subject of Paragraph 1(a) above, it shall be understood that the CDP shall be limited to the points of access; the location and amount of open space; the limits of clearing and grading; the location and limits of the Resource Protection Area ("RPA"); the tree preservation areas; and the total number, general location, and type of units. The Applicant has the option to request FDPAs for elements other than the aforementioned CDP elements from

the Planning Commission for all of, or a portion of, the CDP/FDP/SEA Plat in accordance with the provisions set forth in Section 16-402 of the Zoning Ordinance.

2. TRANSPORTATION

a. Subject to Virginia Department of Transportation ("VDOT") and Fairfax County Department of Public Works and Environmental Services ("DPWES") approval, the Applicant shall construct frontage improvements along the Application Property's frontage, as shown on the CDP/FDP/SEA Plat. Specifically, the Applicant shall construct the following improvements: on Huntington Avenue, replacement of the five (5)-foot wide concrete sidewalk along the frontage of the Application Property and construction of a striped median at its intersection with Foley Street; on Hunting Creek Road, the construction of curb and gutter improvements on both sides, including a five (5)-foot wide concrete sidewalk on the development side (west side) of the road and curb and gutter and pavement within the existing right-of-way adjacent to the property at the corner of Hunting Creek Road and Huntington Avenue; and on Foley Street, curb and gutter improvements on both sides and a five (5)-foot wide concrete sidewalk along the Application Property's frontage. The frontage improvements shall be completed prior to the issuance of the 43rd Residential Use Permit ("RUP") for the Application Property or at such later time as may be approved by the Zoning Administrator, based upon demonstration of diligent efforts to satisfy the above-referenced deadline.

b. Subject to VDOT and DPWES approval, the Applicant shall dedicate and convey in fee simple to the BOS property along the Application Property's Foley Street and Hunting Creek Road frontages, as shown on the CDP/FDP/SEA Plat, for the construction of improvements. Unless already dedicated, dedication shall be made at the time of site plan approval or upon demand of either Fairfax County or VDOT, whichever should first occur. The Applicant reserves density credit, as may be permitted by the provisions of Paragraph 4 of Section 2-308 of the Zoning Ordinance, for all such dedications, whether such dedications occur prior to or at the time of site plan approval.

c. The Applicant shall construct five (5)-foot wide concrete sidewalks within the residential development, as shown on the CDP/FDP/SEA Plat.

d. The private streets shown on the CDP/FDP/SEA Plat shall be constructed of materials and with a pavement depth consistent with the Public Facilities Manual ("PFM") standards for public streets. Initial purchasers shall be advised of the requirement to maintain private streets and estimated costs prior to entering into a contract of sale. This requirement to maintain the private streets as constructed and the estimated maintenance costs shall be included in the Homeowners' Association ("HOA") documents for the Application Property.

Further, the developer shall establish an initial reserve fund for the maintenance of private streets in the amount of $3,600.00 with the HOA prior to the conveyance of the first dwelling unit on the Application Property.

e. The Applicant shall construct an eight (8)-foot wide woodchip or stone dust trail in the open space, as shown on the CDP/FDP/SEA Plat. The location of the trail and the selection of material types will be field located in conjunction with Urban Forest Management ("UFM") and the Fairfax County Park Authority ("FCPA") in order to minimize disturbance in the RPA. Such trail shall connect to the sidewalks addressed in Paragraph 2 (c) above and shall also connect to Arlington Terrace within the neighboring Huntington Community in order to provide a future connection to the planned Cameron Run Stream Valley Trail, as shown on the CDP/FDP/SEA Plat. (For the purposes of these proffers, the Huntington Community consists of the community of duplex homes located along Farrington Avenue and other streets located immediately west of and abutting the Application Property.) The Applicant shall provide a public access easement over the sidewalk from Farrington Avenue to Foley Street. The Applicant shall also provide a twenty (20)-foot wide public access easement to connect the terminus of Foley Street to the trail located within the open space, as shown on the CDP/FDP/SEA Plat. Within the public access easement from Foley Street to the trail located in the open space, the Applicant shall be permitted to plant trees, construct sidewalks, and locate utilities in the least disruptive manner.

f. Notwithstanding the submission for processing of any applications, plan, or plats in furtherance of the development of the Application Property, and unless already vacated, the Applicant acknowledges that no such application, plan, or plat shall be approved by Fairfax County until or unless the vacation of right-of-way proposed as part of the Application Property is approved by the BOS and is final. In the event that such vacation is not approved by the BOS, or in the event that the Board's approval is overturned by a court of competent jurisdiction, any development of the Application Property under the PDH-8 District shall require a PCA and the Applicant acknowledges that such amendment may result in loss of density. The Applicant hereby waives any right to claim or assert a taking or any other cause of action that otherwise may have arisen out of a Board decision to deny in whole or in part the right-of-way vacation.

g. In order to address an existing public safety concern, the Applicant shall install a traffic signal with a pedestrian signal head and pedestrian crosswalk across Huntington Avenue of a design and at a location that is subject to the approval of VDOT based upon a traffic signal warrant analysis to be prepared by the Applicant and submitted to VDOT. The Applicant shall diligently pursue the approval of the traffic signal and pedestrian crosswalk with VDOT and the affected homeowner's associations (including the Berkshire Homeowners'

Association, Berkshire East Homeowners' Association, Hunting Creek Club Condominiums, and Huntington Community Association), and the Applicant will provide documentation to DPWES of its efforts in that regard. Unless already paid, and in the event that VDOT is unable to identify a location for the traffic signal and crosswalk along the frontage of the Application Property prior to the time of the final site plan approval for the first section of the Application Property, then the Applicant shall contribute the sum of $150,000.00 to the BOS to be placed in a fund to be utilized for transportation and pedestrian improvements along Huntington Avenue in the area between Route 1 on the east and Telegraph Road on the west. Using the rezoning approval date as the base date, this cash contribution shall be adjusted according to the construction cost index, as published in the Consumer Price Index, as reported by the United States Department of Labor, Bureau of Labor Statistics. In no event shall the Applicant have any responsibility for obtaining off-site easements and/or right-of-way as a condition to the construction and installation of the crosswalk and traffic signal.

h. The Applicant shall provide a bus stop, a bus shelter, and a public access easement for the purpose of maintaining the bus shelter facility in a manner as represented on the CDP/FDP/SEA Plat. The exact location of the bus stop and bus shelter shall be determined by the Applicant, Fairfax County Department of Transportation ("DOT"), and VDOT prior to, or in conjunction with, DPWES site plan review. In the event that a traffic signal and/or a pedestrian crossing are constructed in conjunction with the Application, as addressed in Paragraph 2(g) above, the bus stop and bus shelter shall be collocated with the traffic signal and/or the pedestrian crossing. Notwithstanding any relocation of the traffic signal and/or pedestrian crossing by VDOT, the Applicant shall not be required to apply for a PCA/FDPA for the relocation of the bus stop and bus shelter. The HOA shall be responsible for trash pick-up related to the bus shelter, as addressed in Paragraph 10 below.

i. <u>Transportation Demand Management ("TDM") Strategies</u>. Mass transit, ride-sharing, and other transportation strategies will be utilized to reduce vehicular trips during peak hours. All residents of the residential development shall be advised of this transportation strategy. Transportation coordination duties shall be the responsibility of the HOA, shall be set forth in the HOA documentation, as addressed in Paragraph 10 below, and shall be carried out by a committee of the HOA. The goal of the strategies is to achieve a 15% reduction in peak hour vehicular trips. The following is a list of strategies that shall be implemented; other strategies may also be implemented, in coordination with the DOT:

i. Designating a committee of the HOA to act as the transportation coordinator for the Application Property whose responsibility will be to implement the TDM strategies with ongoing coordination with the DOT

on an approval basis to provide for opportunities for adjustment of the program. The HOA, through its designated transportation coordinator, shall on an annual basis conduct a survey of the residents which shall estimate the percentage reduction in peak hour vehicular trips and prepare an annual report, in coordination with, and for review and approval of DOT. In the event the 15% reduction is not being achieved, the HOA, through its designated transportation coordinator, shall implement additional strategies as recommended by DOT;

ii. Dissemination of information regarding Metrorail, Metrobus, ridesharing, and other relevant transit options in residential sales packages;

iii. Making Metro maps, schedules, marketing materials, and forms, as well as information on other relevant transit options, available to owners either in an HOA newsletter to be published on a regular basis and not fewer than four (4) times per calendar year or on an HOA web site;

iv. Providing a sidewalk system designed to encourage/facilitate pedestrian circulation, as more particularly shown on the CDP/FDP/SEA Plat;

v. Providing broadband, high capacity data/network connections in all dwellings to facilitate working at home;

vi. Providing two (2) SmarTrip Cards per household, on a one time basis at settlement for the initial purchase of dwellings on the Application Property. Each SmarTrip card shall include a pre-paid value of $100.00.

j. Unless already paid, the Applicant shall pay $2,500.00 to adjust the signal timing, phasing, and cycle length at the intersection of Route 1 and Huntington Avenue to improve traffic flow. The Applicant shall make this contribution at the time of final site plan approval. Using the rezoning approval date as the base date, this cash contribution shall be adjusted according to the Consumer Price Index, as reported by the United States Department of Labor, Bureau of Labor Statistics.

3. TREE PRESERVATION, LANDSCAPING, AND OPEN SPACE

a. Tree Preservation Plan. The Applicant shall submit a tree preservation plan as part of the first and all subsequent site plan submissions. The tree 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 shall be subject to the review and approval of UFM, DPWES.

The tree preservation plan shall consist of a tree survey that includes the location, species, size, crown spread and condition rating percentage of all

trees 10 inches in diameter and greater, and 25 feet to either side of the limits of clearing and grading shown on the CDP/FDP/SEA Plat 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 CDP/FDP/SEA Plat 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, such as: crown pruning, root pruning, mulching, fertilization, and others as necessary, shall be included in the plan.

b. Protection of Existing Understory Vegetation and Soil Conditions in Tree Preservation Areas. The Applicant shall clear the proposed open space of dead trees and noxious plant materials, as approved by the UFM, DPWES, and in accordance with Chapter 118 of the Chesapeake Bay Preservation Ordinance.

All tree preservation-related work occurring in or adjacent to tree preservation areas shall be accomplished in a manner that minimizes damage to vegetation to be preserved, including any woody, herbaceous or vine plant species that occurs in the lower canopy environment, and to the existing top soil and leaf litter layers that provide nourishment and protection to that vegetation. Removal of any vegetation, if any, or soil disturbance in tree preservation areas, including the removal of plant species that may be perceived as noxious or invasive, such as poison ivy, greenbrier, multi-floral rose, etc. shall be subject to the review and approval of UFM, DPWES.

The use of equipment in tree preservation areas will be limited to hand-operated equipment such as chainsaws, wheel barrows, rakes, and shovels. Any work that requires the use of motorized equipment, such as tree transplanting spades, skid loaders, tractors, trucks, stump-grinders, etc., or any accessory or attachment connected to this type of equipment shall not occur unless pre-approved by UFM, DPWES.

c. Tree Preservation Walk-Through. The Applicant shall retain the services of a certified arborist or landscape architect, and shall have the limits of clearing and grading marked with a continuous line of flagging prior to the walk-through meeting. During the tree preservation walk-through meeting, the Applicant's certified arborist or landscape architect shall walk the limits of clearing and grading with an UFM, 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. Trees that are identified specifically by UFM in writing as dead or dying may be removed as

part of the clearing operation. Any tree that is so designated shall be removed using a chain saw and such removal shall be accomplished in a manner that avoids damage to surrounding trees and associated understory vegetation. If a stump must be removed, this shall be done using a stump-grinding machine in a manner causing as little disturbance as possible to adjacent trees and associated understory vegetation and soil conditions. The Applicant shall notify the Mount Vernon District Supervisor ten (10) days in advance of the tree preservation walk through meeting, and the Mount Vernon District Supervisor, or his representative, shall be given the opportunity to attend the tree preservation walk through meeting.

d. 1) Limits of Clearing and Grading. The Applicant shall conform strictly to the limits of clearing and grading as shown on the CDP/FDP/SEA Plat, subject to allowances specified in these proffered conditions and for the installation of utilities and/or trails, as determined necessary by the Director of DPWES, as described herein. If it is determined necessary to install utilities and/or trails in areas protected by the limits of clearing and grading as shown on the CDP/FDP/SEA Plat, they shall be located in the least disruptive manner necessary as determined by UFM, DPWES. A replanting plan shall be developed and implemented, consistent with the installed utilities and/or trails and any easements associated therewith, subject to approval by UFM, DPWES, for any areas protected by the limits of clearing and grading that must be disturbed for such trails or utilities.

2) Tree Protection Fencing. All trees shown to be preserved on the tree preservation plan shall be protected by tree protection fencing. 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 & II erosion and sediment control sheets, as may be modified by the proffer pertaining to "Root Pruning" 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 UFM, and accomplished in a manner that does not harm existing vegetation that is to be preserved. Ten (10) days prior to the commencement of any clearing, grading, or demolition activities, but subsequent to the installation of the tree protection devices, the UFM, DPWES and the Mount Vernon District

Supervisor shall be notified and given the opportunity to inspect the site to ensure that all tree protection devices have been correctly installed. If it is determined that the fencing has not been installed correctly, no grading or construction activities shall occur until the fencing is installed correctly, as determined by UFM, DPWES. At the discretion and direction of the Mount Vernon District Supervisor, the adjacent and abutting property owners shall be notified by United States Mail no later than five (5) days prior to the commencement of any clearing, grading, or demolition activities and invited to a meeting with the Mount Vernon District Supervisor to inspect the site to ensure that all tree protection devices have been correctly installed.

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

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

f. Demolition of Existing Structures. Unless an exception is approved by UFM, DPWES, the demolition of all existing features and structures within areas protected by the limits of clearing and grading areas shown on the CDP/FDP/SEA Plat 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.

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

Supervisor shall be notified of the name and contact information of the Applicant's representative responsible for site monitoring at the tree preservation walk-through meeting.

h. Reforestation Plan. A reforestation plan shall be submitted for the area within the floodplain limits. This plan shall be submitted concurrently with the first and all subsequent site plan submissions for review and approval by UFM, DPWES, and shall be implemented as approved. The plan shall propose an appropriate selection of species based on existing and proposed site conditions to restore the area to a native forest cover type. The reforestation plan shall include but not be limited to the following:

- Plant list detailing species, sizes and stock type of trees and other vegetation to be planted;
- Soil treatments if necessary;
- Mulching specifications;
- Methods of installation;
- Maintenance;
- Mortality threshold;
- Monitoring; and
- Replacement schedule.

i. Tree Value Determination. The Applicant shall retain a professional arborist with experience in plant appraisal to determine the replacement value of all trees 10 inches in diameter or greater located within 25 feet of the outer edge of the limits of clearing and grading, as shown on the CDP/FDP/SEA Plat. These trees and their value shall be identified on the tree preservation plan at the time of the first submission of the site plan. 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 Plant Appraisal published by the International Society of Arboriculture, subject to review and approval by UFM, DPWES.

j. Tree Bonds. At the time of site plan approval, the Applicant shall both post a cash bond and 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 that die or are dying due to unauthorized construction activities. The letter of credit shall be equal to 50% of the replacement value of the bonded trees. The cash bond shall consist of 33% of the amount of the letter of credit.

At any time prior to final bond release, should any bonded trees die, be removed, or are determined to be dying by UFM due to unauthorized construction activities, the Applicant shall replace such trees at its expense. The replacement trees shall be of equivalent species and ten (10) year canopy

cover as approved by UFM. At the time of approval of the final RUP, the Applicant shall be entitled to request a release of any monies remaining in the cash bond and a reduction in the letter of credit to an amount equal to 20% of the total amounts originally committed.

Any funds remaining in the letter of credit or cash bond will be released two (2) years from the date of release of the Application Property's conservation escrow, or sooner, if approved by UFM, DPWES.

k. The Applicant shall provide a tree transplanting plan as part of the first and all subsequent submissions of the site plan for review and approval by the UFM, DPWES. The plan shall be prepared by a professional with experience in the preparation of tree transplanting plans, such as a certified arborist or landscape architect. The plan shall address the transplanting of the existing trees on the site. The use of motorized equipment, such as tree transplanting spades, skid loaders, tractors, trucks, stump grinders, etc., or any accessory or attachment connected to this type of equipment, shall be permitted with the approval of UFM, DPWES.

l. With respect to Lot 77, which is located off-site, landscaping within the twenty-five (25) foot transitional screening area shall be limited to fifteen (15) feet from the Lot 77 lot line and shall be approved by the UFM, DPWES.

4. RECREATIONAL FACILITIES

The Applicant shall comply with Paragraph 2 of Section 6-110 and Paragraph 2 of Section 16-404 of the Zoning Ordinance regarding developed recreational facilities for the residential uses. The Applicant proffers that the minimum expenditure for the recreational facilities shall be $955.00 per residential unit. The Applicant shall receive credit for on-site recreational facilities that may include, but not be limited to, trails in the open space, a pedestrian connection to the adjacent Huntington Community (Arlington Terrace and Farrington Avenue), outdoor seating internal to the development, and a gazebo/picnic area. The balance of any funds not expended on-site shall be contributed to the FCPA for park improvements to Huntington Park, located in close proximity to the Application Property on the south side of Cameron Run.

At the time of site plan approval, the Applicant shall also contribute the sum of $94,000.00 to the FCPA for the future development of the Cameron Run Stream Valley Trail. Using the rezoning approval date as the base date, this cash contribution shall be adjusted according to the construction cost index, as published in the Consumer Price Index, as reported by the United States Department of Labor, Bureau of Labor Statistics.

The Applicant shall make the above-referenced contributions for recreational facilities at the time of site plan approval.

5. STORMWATER MANAGEMENT/BEST MANAGEMENT PRACTICES

a. In lieu of constructing an on-site stormwater management pond, the Applicant intends to process a waiver of standard on-site stormwater management detention requirements. If the waiver is approved, the Applicant shall provide on-site storm drainage improvements through construction of a grassy swale stormwater drainage channel, which will connect to an on-site concrete channel, which continues off-site, as shown on the CDP/FDP/SEA Plat, and discharges stormwater into Cameron Run. The Applicant shall prepare and submit a Water Quality Impact Assessment ("WQIA") relative to the drainage channel as part of final site plan review.

b. In the event that DPWES does not approve a waiver of standard on-site stormwater management detention requirements, the Applicant shall apply for a PCA/FDPA to establish an on-site stormwater management pond, which may result in a loss of density.

c. The innovative best management practices ("BMP") measures, as shown on the CDP/FDP/SEA Plat, are natural filtration through indigenous plantings throughout the open space area, a grass swale, and the utilization of permeable porous brick pavers in the common parking areas, as shown on the CDP/FDP/SEA Plat. Other innovative BMP measures may be substituted, as determined by DPWES. Any innovative BMP measures shall be maintained in accordance with the PFM or other policies established for innovative BMP measures, as determined by DPWES. Said maintenance responsibilities shall be addressed in an agreement to be reviewed and approved by the County Attorney's Office, which agreement shall be incorporated into the HOA documentation. Purchasers shall be advised in writing prior to entering into a contract of sale that the HOA shall be responsible for the maintenance of all of the innovative BMP measures. Maintenance procedures shall be included in the HOA documents, which shall also specify that the HOA is responsible for the maintenance of the innovative BMP measures. Further, the developer shall establish an initial reserve fund for the maintenance of innovative BMP measures for a period of twenty (20) years, in the amount of $20,000.00, with the HOA, prior to conveyance of the first dwelling unit on the Application Property. The amount of the initial reserve fund is based upon engineering calculations, which are based upon information contained in "Fairfax County – LID BMP Fact Sheet – Permeable/Porous Pavements," dated February 28, 2005.

In the event that the proposed innovative BMP measures are not approved by DPWES and alternative water quality management measures are required which affect the site design, the Applicant shall request an administrative interpretation of site design modifications. If such modifications are deemed by the Zoning Administrator, agents, or assigns to be too extensive to be granted

by administrative approval, the Applicant shall file a PCA to address alternative water quality measures.

d. The Applicant will provide storm drainage and floodplain easements at the time of site plan approval, subject to the review and approval of DPWES.

e. To address an existing off-site storm drainage condition, the Applicant shall perform grading and shall install a storm drainage inlet on parcels 83-1 ((1)) 61 and 83-1 ((14)) (E) 2B, as depicted on Exhibit 1 to these proffers. The Applicant's obligation is subject to the approval of the owners of the above-referenced parcels and the granting of any necessary easements.

6. AFFORDABLE HOUSING

The Applicant shall construct two (2) affordable dwelling units, as defined by Fairfax County Housing and Community Development, on-site concurrent with the construction of other units within the same buildings, as shown on the CDP/FDP/SEA Plat.

7. DESIGN

a. The architectural design of individual units shall substantially conform to the architectural style of the elevations, as shown on Sheets 7, 8, 9, 10 and 11 of the CDP/FDP/SEA Plat, and shall include brick fronts and brick sides, except for gables and pediments. All dwelling units and additions on the Application Property shall be constructed at least fifteen (15) feet from the proposed floodplain boundary, as shown on the CDP/FDP/SEA Plat.

b. All homes constructed on the Application Property shall comply with the Council of American Building Officials ("CABO") Model Energy Code for energy efficient homes, or its equivalent, for either electric or gas energy systems, as applicable.

c. All homes shall contain a two (2)-car garage and driveways, as shown on the CDP/FDP/SEA Plat. All driveways shall be eight (8) feet or less in length. The driveways shall be constructed of either concrete/brick pavers or bomanite surfaces.

d. A covenant shall be recorded in the land records of Fairfax County which provides that garages shall only be used for a purpose that will not interfere with the intended purpose of garages (i.e., the parking of vehicles). This 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 inure to the benefit of the HOA (which shall be established by the Applicant pursuant to these proffers) and Fairfax County. Said use restriction for garages shall be included in the HOA documentation prepared in conjunction with the proposed

development. Initial purchasers shall be advised of the use restriction prior to entering into a contract of sale.

e. Fences, which are six (6) feet in height, except as otherwise noted below, and which are either board-on-board or brick pier and board-on-board construction, shall be installed on the Application Property, as generally shown on the CDP/FDP/SEA Plat. The exception shall be the section of fencing that buffers certain contiguous off-site parcels, identified as Tax Map 83-1 ((14)) (E) 2A and 2B, which shall be six (6) feet in height and iron rod construction. Such fencing shall be constructed to adequately buffer the unconsolidated parcel, identified as Tax Map 83-1 ((1)) 77, and the adjacent Huntington Community, as shown on the CDP/FDP/SEA Plat.

f. Privacy fences, which are six (6) feet in height and board-on-board construction, may be constructed at the back of front-loading garage units, as shown on the CDP/FDP/SEA Plat, to create private yards for those units.

g. The minimum front yards for the rear load units shall be five (5) feet, as shown on the CDP/FDP/SEA Plat. The minimum rear yards for the front load units shall be ten (10) feet, as shown on the CDP/FDP/SEA Plat. The minimum side yards shall be five (5) feet. Side entrance features may be located within the five (5)-foot side yard setbacks, but shall be located at least one (1) foot from the property lines, as shown on the CDP/FDP/SEA Plat.

h. Decks of varying widths and depths may be installed on all front-load garage units no closer than five (5) feet to the rear property line and no closer than two (2) feet to the rear property line on the rear-load garage units. The maximum size of the deck for each individual unit shall be disclosed in the HOA documents and in all applicable sales promotional materials and sales contracts, including graphic depiction in all applicable sales materials, which displays the individual lot and deck sizes for each individual unit.

i. The Applicant shall provide amenities, such as lighting, benches, and trash receptacles on the Application Property, as noted on Sheet 5 of the CDP/FDP/SEA Plat.

j. Parking shall be provided in accordance with the tabulations, as noted on Sheet 1 of the CDP/FDP/SEA Plat. Signage shall be placed at the entrance to the “Additional Parking” lot that is located on the northern portion of the Application Property at the terminus of Hunting Creek Road, which notifies users of the parking lot that it is located within a floodplain and is subject to flooding.

8. LIGHTING

Outdoor lighting on the private streets and common areas shall include full cutoff fixtures and shall be directed downward and inward to minimize glare onto adjacent residential properties. Street lighting shall not exceed a height of ten (10) feet measured from the grade level to the top of the mounting structure. All lighting shall be compliant with Section 14-900 of the Zoning Ordinance.

9. PUBLIC FACILITIES

The Applicant has already made a contribution of $52,500.00 to the BOS for transfer to the Fairfax County School Board for the addition of 33 homes above the number of homes that had existed (52) prior to the approval of rezoning application RZ 2004-MV-041. In addition, per the Residential Development Criteria Implementation Motion adopted by the BOS on September 9, 2002, effective January 7, 2003, as revised, at the time of site plan approval, the Applicant shall contribute the sum of $34,890.00 ($11,630.00 per new student generated by the additional nine (9) homes requested in this Application), based on the County's adopted ratio of 0.356 students per new single family attached dwelling unit approved in a rezoning action) to the BOS for transfer to the Fairfax County School Board. These funds shall be allocated by the BOS for capital improvements contained in the adopted Capital Improvement Program ("CIP") for public schools within Fairfax County. If approved by the BOS or its authorized agent, the Applicant may make an in-kind contribution for capital improvements to the Fairfax County School Board equal to, or greater in value than, the cash contribution, as determined by the BOS or its authorized agent.

10. HOMEOWNERS' ASSOCIATION

The Applicant shall establish an HOA for the proposed development to own, manage, and maintain all common areas, including, but not limited to, open space areas, trails, sidewalks, private streets, outdoor seating, a gazebo/picnic area, and landscaping. The requirement to maintain the aforementioned, including the maintenance of innovative BMP measures, as addressed in Paragraph 5(c) above, and trash pick-up related to the bus shelter, as addressed in Paragraph 2(h) above, and maintenance of the private streets, as addressed in Paragraph 2(d) above, shall be the responsibility of the HOA and shall be included in the HOA documentation. The HOA documentation shall also include minimum yard requirements, maximum deck sizes permitted for the proposed development, the utilization of TDM strategies, as addressed in Paragraph 2(i) above, the setback requirement from the floodplain boundary, as addressed in Paragraph 7(a) above, and the use restriction of garages, as addressed in Paragraph 7(d) above. In accordance with the Virginia Property Owners' Association Act, Section 55 of the Code of Virginia, purchasers shall be advised of these requirements and restrictions prior to entering into a contract of sale through a disclosure package that contains the HOA documentation.

In the event that, and at such time as, the unconsolidated parcel depicted on the CDP/FDP/SEA Plat and identified as Tax Map 83-1 ((1)) 77 is redeveloped, the HOA shall provide the owners of the redeveloped parcel with a disclosure package that contains the HOA documentation, as described above, which shall include the option for the owners of the

redeveloped parcel to join the HOA. If an owner of the redeveloped parcel chooses to join the HOA, such owner shall be subject to all of the rights and obligations, in the same manner and to the same extent, as the owners of parcels within the proposed development.

11. HERITAGE RESOURCES

The Applicant shall provide one (1) copy of a Phase I Archaeology Survey of the undeveloped portions of the Application Property to the Park Authority Resource Management Division within thirty (30) days of the study or survey completion. If potentially significant archaeological resources are discovered, Phase II testing and Phase III data recovery shall be performed by the Applicant as may be recommended by the Park Authority Resource Management Division. Copies of subsequent studies shall also be forwarded to the Park Authority Resource Management Division within thirty (30) days of the study or survey completion.

Particular heritage resources, which are located at Tax Map 83-1 ((1)) 64 and Tax Map 83-3 ((1)) 93 and 94, have been identified by Staff. For the purpose of recording and documenting relevant historic information prior to demolition, the Applicant shall cause the houses located on those parcels to be photographed and documented, prior to its demolition, 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, written documentation, and a description of the house, its construction, its occupants, and significant events that occurred on the property shall be accomplished to a standard as required for a VDHR "Intensive Level Survey" using the VDHR Preliminary Information Form, and shall be completed prior to demolition of the existing house. Said documentation shall include a sketch plan drawing as indicated in the Historic American Building Survey ("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 the Fairfax County Department of Planning and Zoning ("DPZ"). The Applicant shall provide written documentation to DPZ that required documentation has been submitted to the Virginia Room. A minimum of thirty (30) days prior to the demolition of the house, the Applicant shall provide DPZ with written notice and shall permit representatives of DPZ, the History Commission, and the FCPA access to the house during said thirty (30)-day period. Said representatives shall be required to sign waivers of liability for their presence on the property, as may be requested by the Applicant. The aforementioned efforts relative to the heritage resource located on those parcels shall not limit additional efforts with regard to heritage resources located elsewhere on the Application Property as may be deemed appropriate for the Phase I Archaeology Survey or subsequent studies, as referenced above.

12. GEOTECHNICAL STUDY

The Applicant acknowledges the presence of marine clay soils on a portion of the Application Property. The Applicant shall submit a geotechnical study for the Application

Property at the time of site plan submission, which geotechnical study shall be prepared by a certified geotechnical engineer. The Applicant shall perform mitigation measures, as recommended by the geotechnical study and required by DPWES.

The Applicant shall prepare reports to document the existing conditions of the contiguous off-site properties prior to the commencement of any grading or development activities on the Application Property. Any portion of the contiguous off-site properties or structures on such properties that may be damaged or may have shifted as a result of the Applicant's and/or Applicant's contractor's or subcontractor's grading and/or construction activity, shall be repaired and stabilized by a bonded and insured licensed state contractor paid for by the Applicant, subject to the contiguous off-site property owner's consent and granting of access. Such repairs and stabilization shall be commenced within ninety (90) days of written notification to the Applicant by a contiguous off-site property owner specifying the damage done by the Applicant's and/or Applicant's contractor's or subcontractor's grading and/or construction activity, unless reasonable additional time is needed to determine an appropriate course of action for repair. Upon receipt of said written notice, the Applicant and the contiguous off-site property owner shall meet to inspect the damage claim, compare the damage claim with an existing condition report, and determine the appropriate course of action for repair. If repair is warranted under the requirements of this proffer, such repair shall be diligently pursued and completed without unreasonable delay and within no more than ninety (90) days after commencement of the repairs, unless reasonable additional time is required because of the nature of the repairs. Any repair required pursuant to the requirements of this proffer shall be insured with a General Liability Policy, as described in Proffer 17 below. If, despite good faith efforts by both parties, an appropriate course of action for repair cannot be agreed upon, then the parties shall submit the matter to arbitration under the rules of the American Arbitration Association before taking any other action. The foregoing responsibility of the Applicant shall begin upon the commencement of development and shall remain in effect until two (2) years after final bond release.

13. DEDICATION OF OPEN SPACE

The Applicant shall dedicate approximately, but no less than, 6.5 acres of open space to the FCPA in fee simple, as shown on the CDP/FDP/SEA Plat. Such dedication shall occur prior to bond release for development of the Application Property or upon demand of Fairfax County, whichever first occurs.

14. REMEDIATION PROGRAM

If contaminants are detected in concentrations requiring remedial action, a remediation program shall be performed in accordance with all applicable Federal, State, and County requirements. Sufficient documentation of completion of the remediation program (with the exception of long-term follow-up monitoring efforts, if necessary), or an appropriate corrective action plan consistent with the proposed development, as determined by DPWES in conjunction with the reviewing agencies, shall be provided to DPWES prior to final site plan approval.

The Applicant shall remove and dispose of any hazardous or environmentally injurious materials discovered on the Application Property in accordance with all applicable State, Federal, and County requirements.

15. ASBESTOS

If DPWES determines that a potential health risk exists due to the presence of asbestos-containing materials on the Application Property, then the Applicant shall:

a. Take appropriate measures, as determined by the Health Department, to alert all construction personnel as to the potential health risks; and

b. Commit to appropriate techniques, as determined by DPWES in coordination with the Health Department and the Applicant, relative to the removal and disposal of the asbestos-containing materials in accordance with all applicable State, Federal, and County requirements.

16. GENERAL LIABILITY POLICY

During development, General Liability insurance coverage, with a limit of $1,000,000.00 per occurrence with a $3,000,000.00 aggregate, insuring against on and off-site property damage resulting from faulty and/or negligent grading and/or construction by the Applicant and/or Applicant's contractor or subcontractor on the Application Property, shall be obtained by the Applicant. Fairfax County shall be included as an additional insured party in the insurance policy required under this proffer, and Fairfax County, as the additional insured, shall be given a forty-five (45) day notice of any proposed changes to the policy. All contractors and subcontractors working on the Application Property or contiguous off-site properties, as described in Proffer 17 above, shall also be required to obtain and maintain general liability insurance coverage in a commercially reasonable amount. The Applicant and/or Applicant's contractor and subcontractor working on the Application Property or contiguous off-site properties, as described in Proffer 17 above, shall provide certificates of insurance as proof of coverage to Fairfax County, upon request.

17. SUCCESSORS OR ASSIGNS

These proffers shall bind and inure to the benefit of the Applicant and his or her successors and assigns.

18. 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 BEGIN ON THE FOLLOWING PAGE]

Applicant/Contract Purchaser of Tax Map 83-1 ((1)) 56, 56A, 57, 57B, 62A, 62B, 63-65, 67, 68, 68A, 69, 69A, 70, 70A, 71, 71A, 72, 72A, 73, 73A, 74, 74A, 76, 76A, 78-80, 82, 83, 85, 88; 83-1 ((18)) 1, 1A, 2, 2A, 3, 4; 83-3 ((1)) 93-99

KB HOME Virginia Inc. d/b/a KB HOME Mid-Atlantic

_____

By: Mark Kinsley
Its: President

[SIGNATURES CONTINUE ON THE FOLLOWING PAGE]

Title Owner of Tax Map 83-1 ((1)) 56, 56A, 57, 57B, 62A, 62B, 63-65, 67, 68, 68A, 69, 69A, 70, 70A, 71, 71A, 72, 72A, 73, 73A, 74, 74A, 76, 76A, 78-80, 82, 83, 85, 88; 83-1 ((18)) 1, 1A, 2, 2A, 3, 4; 83-3 ((1)) 95-99

MHI-HUNTINGTON, L.L.C.

By: KB Home Virginia, Inc., its Sole Manager and Member

_____

By: Mark Kinsley
Its: President

[SIGNATURES CONTINUE ON THE FOLLOWING PAGE]

Title Owner of Tax Map 83-3 ((1)) 93

ROBERT M. VANDERZEE

By: MHI-Huntington, L.LC., his Agent and Attorney-in-Fact

By: KB Home Virginia, Inc., its Sole Manager and Member

_____

By: Mark Kinsley
Its: President

[SIGNATURES CONTINUE ON THE FOLLOWING PAGE]

Title Owner of Tax Map 83-3 ((1)) 94

WILLIAM HAMBLET, JR.

By: MHI-Huntington, L.LC., his Agent and Attorney-in-Fact

By: KB Home Virginia, Inc., its Sole Manager and Member

_____

By: Mark Kinsley
Its: President

ELLEN B. HAMBLET

By: MHI-Huntington, L.LC., her Agent and Attorney-in-Fact

By: KB Home Virginia, Inc., its Sole Manager and Member

_____

By: Mark Kinsley
Its: President

[SIGNATURES END]

APPENDIX 2

PROPOSED DEVELOPMENT CONDITIONS

SEA 2004-MV-035

July 5, 2007

If it is the intent of the Board of Supervisors to approve SEA 2004-MV-035 located at Tax Map 83-1 ((1)) 56, 56A, 57, 57B, 62A, 62B, 63-65, 67, 68, 68A, 69, 69A, 70, 70A, 71, 71A, 72, 72A, 73, 73A, 74, 74A, 76, 76A, 78-80, 82, 83, 85, 88; 83-1 ((18)) 1, 1A, 2, 2A, 3, 4; 83-3 ((1)) 93-99 to allow uses in a floodplain pursuant to Sect. 2-904 of the Fairfax County Zoning Ordinance, staff recommends that the Board condition the approval by requiring conformance with the following development conditions, which incorporate and supersede all previous conditions.

1. This Special Exception Amendment is granted for and runs with the land indicated in this application and is not transferable to other land.

2. This Special Exception Amendment is granted only for the purpose(s), structure(s) and/or use(s) indicated on the Special Exception Plat approved with the application, as qualified by these development conditions.

3. Any plan submitted pursuant to this Special Exception Amendment shall be in substantial conformance with the approved Special Exception Amendment Plat titled Conceptual/Final Development Plan & Special Exception Amendment Plat, Huntington Mews and prepared by Christopher Consultants, which is dated June 30, 2006 and revised through June 18, 2007, and these conditions.

4 A Hold Harmless agreement shall be executed with the County for all adverse effects which may arise as a result of the location of the house and appurtenant structures within a floodplain area.

5. Trees and other indigenous vegetation shall be preserved on the site during the construction process to the maximum extent feasible, as determined by Urban Forest Management.

6. The limits of clearing and grading, as shown on the SEA Plat shall be strictly observed and enforced. No more land shall be disturbed than is necessary for the proposed construction within the RPA, as depicted on the SEA Plat, including the proposed fill, the construction of units, the removal of existing structures and pavement, to construct the stormwater outfall channel, and for installation of the pervious surface trail, as determined by DPWES. Any encroachment into or disturbance of the RPA not shown on the Plat shall be considered a violation of the CBPO and is subject to penalties of Article 9 of the CBPO, as determined by DPWES.

7. If deemed necessary by DPWES, a geotechnical report and a grading plan shall be submitted to DPWES prior to site plan approval. Plans shall be implemented

as required by DPWES.

8. The US Army Corps of Engineers shall be consulted in writing prior to the submission of a grading plan to determine whether or not any action is required to ensure compliance with § 404 of the Clean Water Act. Any required actions shall be completed prior to grading the site. If any necessary permissions are not granted or the required actions are not completed, this Special Exception shall be null and void.

9. Stormwater drainage shall be directed to ditches through the use of pipes, swales, or other devices, as determined by DPWES. All fill areas shall be stabilized, graded, or have drains installed such that normal rainfall will not flow over the filled area onto adjacent properties, as determined by DPWES.

10. Prior to approval of a grading plan, it shall be demonstrated to DPWES that the proposed disturbance, when combined with all other existing, anticipated, and planned development, shall not increase the water surface elevation above the 100-year flood level upstream and downstream.

11. Disclosure of potential flood hazards due to the location of a portion of the site within the 100-year floodplain shall be made in writing to any potential home buyers prior to establishment of a sales contract and be included in the HOA Documents.

12. There shall be no storage of herbicides, pesticides, or toxic or hazardous substances as set forth in Title 40, Code of Federal Regulations, Parts 116.4 and 261.30 et seq., within the floodplain.

13. Prior to the approval or issuance of any plan, plat or permit, a Water Quality Impact Assessment and demonstration of conformance with the water quality control requirements of the CBPO shall be submitted subject to the review and approval of this DPWES.

14. In accordance with Par. 2 of Sect. 2-905 of the Zoning Ordinance, the elevation of the lowest part of the lowest floor of dwellings proposed on the property shall be not less than 15.5 feet, 18 inches above the base flood elevation of 14.0 feet. In addition, all mechanical, electrical, and utility equipment shall be at or above the flood level.

15. Trees and indigenous vegetation within the limits of clearing and grading shall be preserved on the site during the construction process to the maximum extent feasible as determined by the UFM, DPWES.

16. As-built floor elevations for the residence shall be submitted in accordance with Section 3107.12.1 of the Virginia Uniform Statewide Building Code (VUSBC 2000) on a standard FEMA Elevation Certificate prior to approval of the framing inspection.

17. All construction shall be in conformance with the requirements for Flood-Resistant Construction of the most recent edition of the Virginia Uniform

Statewide Building Code. A statement certifying all floodproofing proposed, and indicating its compliance with all County, State, and Federal requirements shall be provided with the Building Permit application. This certification shall be signed, sealed, and indicate the address of the certifying professional and it shall cover all structural, electrical, mechanical, plumbing, water and sanitary facilities connected with the use.

18. Erosion and sediment control measures shall be installed at all stages of construction. Super-silt fence shall be required along the limits of any clearing and/or grading within the RPA, and shall remain in place, and be properly maintained, for the duration of the land disturbing activity within the RPA until such time that the disturbed area is completely stabilized as determined by the Environmental and Facilities Inspection Division site inspector.

19. All building supplies and construction equipment shall be located and stored only within the area designated as disturbed area on the SEA Plat.

This approval, contingent on the above noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be himself responsible for obtaining the required Residential Use Permit through established procedures, and this Special Exception shall not be valid until this has been accomplished.

Pursuant to Sect. 9-015 of the Zoning Ordinance, this special exception shall automatically expire, without notice, thirty (30) months after the date of approval unless the use has been established or construction has commenced and been diligently prosecuted as evidenced by the issuance of a residential use permit. The Board of Supervisors may grant additional time to establish the use or to commence construction if a written request for additional time is filed with the Zoning Administrator prior to the date of expiration of the special exception. The request must specify the amount of additional time requested, the basis for the amount of time requested and an explanation of why additional time is required.