RZ 2007-PR-002
FLINT HILL SCHOOL
PROFFER STATEMENT
March 29, 2007
April 16, 2007
April 27, 2007
May 18, 2007
May 23, 2007
June 1, 2007
June 7, 2007
July 5, 2007
July 25, 2007
August 14, 2007

Pursuant to Section 15.2-2303 (A) of the Code of Virginia, as amended, and subject to the Fairfax County Board of Supervisors' (the "Board") approval of rezoning application RZ 2007-PR-002, as proposed, from the R-1 District (Residential, One Dwelling Unit Per Acre) to the R-3 District ("Residential Three Dwelling Units Per Acre"), Flint Hill School (the "Applicant"), for itself and its successors and assigns, hereby proffers that development of Tax Map Parcels 47-2-((1))-36A, 37, 38 and 52A (the "Property") consisting of approximately 14.89 acres, plus an additional approximately 0.32 acre of Academic Drive right-of-way to be vacated, for a total of approximately 15.22 acres, shall be in accordance with the following proffered conditions:

1. **Substantial Conformity**. The Property shall be developed in substantial conformance with the Generalized Development Plan/Special Exception Amendment Plat ("GDP/SEA Plat") consisting of ten sheets, as prepared by Dewberry & Davis LLC and entitled "Flint Hill Lower School (East Campus)," dated January 11, 2007 and revised through July 2, 2007, as further modified by these proffered conditions.

2. **Minor Modifications**. Pursuant to Section 18-204 of the Zoning Ordinance, minor modifications from the approved GDP/SEA Plat may be permitted as determined by the Zoning Administrator. The Applicant shall have the flexibility to modify the layout shown on the development plan, provided such changes are in substantial conformance with the approved GDP/SEA Plat and proffers, and do not increase the maximum gross floor area or the maximum building heights, or decrease the amount of open space represented in the tabulation or peripheral setbacks shown on the GDP/SEA Plat to be provided on the Property.

3. **Future Amendments**. Notwithstanding that the GDP/SEA Plat is presented on one document, the Applicant reserves the right to file only Special Exception Amendments in accordance with Section 9-014 of the Zoning Ordinance without filing an amendment to the Generalized Development Plan, provided there is no increase in the maximum gross floor area or the maximum building heights, or decrease in the minimum amount of open space or peripheral setbacks as shown, and all proffered conditions are or may be satisfied, as determined by the Zoning Administrator.

4. **Permitted Uses**. Use of the Property shall be limited only to a private school of general education, nursery school and child care center. Until removed pursuant to Proffer Paragraph 8 below, use of the two temporary trailers for educational purposes and interim occupancy of the residential dwellings by school personnel may continue.

5. **Maximum Gross Floor Area**. A maximum of 165,700 square feet of gross floor area shall be permitted on the Property.

6. **Maximum Building Height**. Heights of individual buildings shall not exceed those listed on GDP/SEA PLAT Sheet 1. New Building 4 shall not exceed three stories, or 45 feet, in height.

7. **Open Space**. A minimum of approximately 8.9 acres, or 60 percent of the Property, shall remain in open space.

8. **Removal of Residential Buildings and Trailers**. All existing residential dwelling units and temporary trailers shall be removed within three months after issuance of the Non-Residential Use Permit ("Non-RUP") for new Building 4 and prior to bond release. All existing driveways to residential structures shall be removed (except the emergency access driveway on Miller Road referenced in Paragraph 12 below) and shall be completely closed by replacing the respective entrance/curb cut with curb and gutter and sidewalk, as shown on the GDP/SEA PLAT, and shall scarify such driveways and replace them with grass and/or landscaping, also within three months after issuance of the Non-RUP for new Building 4 and prior to bond release.

9. **Right-of-Way Reservation Area**. As depicted on the GDP/SEA Plat, the Applicant has located all proposed school-related improvements outside of the "Proposed Area of Reservation" for possible, future right-of-way dedication. Said "Proposed Area of Reservation" shall be defined as right-of-way varying between 75 feet up to a maximum of 87 feet from the existing centerline of Route 123, as depicted on the GDP/SEA Plat, to accommodate a widened median for potential dual left turn lanes, planned additional third southbound lane, a realigned right-turn lane, on-road bike lane, and trail (the "Route 123 Improvements"), all of which shall be constructed by others. The Applicant shall dedicate all or part of said "Reservation Area" in fee simple to the Board of Supervisors within sixty (60) days after demand by the County, but only in the event that both of the following shall have occurred: (i) the Route 123 Improvements along the Route 123 frontage of the Property are shown on a transportation improvement plan approved by the County or the Virginia Commonwealth Transportation Board; and (ii) said Route 123 Improvements are funded for construction by the Virginia Department of Transportation ("VDOT"), the County, or others. In the event the widening of Route 123 to six through lanes (three northbound and three southbound) is deleted from the Fairfax County Comprehensive Plan, the Applicant shall work reasonably and in good faith with FCDOT to define what land area, if any, shall continue to be reserved for future dedication for other local transportation improvements; should no such reduced area be mutually agreed upon, then Applicant's obligation to continue to provide said "Proposed Area of Reservation" shall automatically expire and the aforesaid dedication requirement shall be voided without need for any further action. Prior to dedication, the Applicant shall be

permitted to use said area for landscaping and passive recreation in accordance with the GDP/SEA Plat.

10. **Interim Right Turn Lane**. The Applicant shall design, and shall construct contemporaneous with its construction of its adjacent athletic fields and Ring Road, a right-turn lane on southbound Route 123 at Jermantown Road on the frontage of the Property ("Interim Improvement"), subject to the following terms and conditions:

(a) Notwithstanding the reservation for future dedication discussed in Proffer 9, the Applicant shall dedicate all right-of-way necessary for the Interim Improvement, in fee simple to the Board of Supervisors, at the time of site plan approval for said Interim Improvement.

(b) Interim Improvement shall be interpreted to include, but shall not be limited to, the relocation/replacement of the existing sidewalk, fence and utilities where necessary and the installation of the replacement landscape buffer as represented on the Proposed Interim Right Turn Lane insert on Sheet 3 of the GDP/SEA Plat.

(c) The Applicant's responsibility for the cost to design and construct the Interim Improvement shall not exceed $72,500.

(d) Applicant's obligation to construct the Interim Improvement is subject to approval by VDOT, and to the execution of a separate agreement between the Applicant and the County for the Applicant to be reimbursed for all costs incurred by Applicant in the preparation of final design plans, approval, permitting and construction of the Interim Improvement in excess of $72,500 ("Reimbursement Agreement").

(e) Among other provisions, such reimbursement Agreement, if entered into, shall provide for reimbursement being made to the Applicant in interim progress payments pursuant to a schedule agreed upon in the Reimbursement Agreement, within 60 days after provision by the Applicant of reasonably sufficient documentation, as may be required by the Reimbursement Agreement, of the respective project-associated costs incurred for the respective requested progress payment, which documentation shall be reviewed and approved by FCDOT. Final scheduled payment shall be made when the Interim Improvement becomes available for use by the public; however Applicant shall continue to be responsible for completing improvements associated with final acceptance by VDOT, which further work shall be subject to reimbursement per the Reimbursement Agreement.

(f) Should the Interim Improvement Reimbursement Agreement not be diligently negotiated by the Applicant and executed by the Applicant and the County prior to site plan approval, the Applicant shall escrow with the County $72,500, minus the cost incurred by Applicant, if any, in preparation of final design plans for and approval review of the Interim Improvement (which cost amount is subject to review and approval by FCDOT), for future construction of the right-turn lane by

others, and the Applicant shall thereafter have no further obligation regarding this Proffer 10.

(g) Beginning on the date one (1) year after approval of subject rezoning, and on the same date each year thereafter, the $72,500 contribution amount referenced above shall be adjusted annually for inflation, in conformance with the Consumer Price Index, occurring subsequent to the date of subject rezoning approval and up to the date of payment.

11. **Pedestrian Improvements with Right Turn Lane**. In conjunction with its construction of the Interim Improvement pursuant to Proffer 10 above, the Applicant shall provide pedestrian upgrades on the Route 123 southbound approach leg at Jermantown Road consisting of crosswalk striping, ADA ramps in conformance with VDOT standards both near and far side, and pedestrian countdown signals, to the extent any of said upgrades has not already been installed by others. Notwithstanding the project reimbursement discussed in Proffer 10, the cost of these pedestrian improvements shall be borne by the Applicant.

12. **Miller Road Right-Of-Way Dedication**. The Applicant shall dedicate and convey to the Board in fee simple two feet of additional right-of-way, for a total of 27 feet from the existing centerline, along the Miller Road frontage of the Property. Said dedication shall be made at the time of site plan approval for the contiguous development area, or upon demand by Fairfax County, whichever occurs first.

13. **Miller Road Emergency Access**. An access for emergency vehicles only shall be provided from Miller Road to the internal cul-de-sac next to new Building 4, as shown on the GDP/SEA Plat in accordance with County Fire Marshal regulations. Said access shall remain gated at all times and shall not be used for School purposes, other than for emergency ingress/egress.

14. **Miller Road Sidewalk**. The Applicant shall construct within the existing right-of-way a 5-foot wide concrete sidewalk across the Miller Road frontage of the Property, as depicted on the GDP/SEA PLAT.

15. **Vacation**. Prior to final approval of any site plan or permit, and release of the record plat for recordation, for any development section which includes development on an area of right-of-way to be abandoned/vacated, the Applicant shall obtain vacation and/or abandonment of the relevant portion of Academic Drive identified on the GDP/SEA Plat as area to be vacated ("Subject Road"). Prior to filing any site plan the Applicant shall initiate and diligently pursue such vacation and/or abandonment of Subject Road by the County. In the event the County does not approve the vacation and/or abandonment of Subject Road, or in the event that the Board's approval of such vacation and/or abandonment is overturned by a court of competent jurisdiction, development of the land underlying Subject Road and the Property pursuant to RZ 2007-PR-002 shall require a proffered condition amendment unless the Zoning Administrator for Fairfax County determines that the absence of the vacation and/or abandonment does not preclude development of the Property in substantial conformance with the Generalized

Development Plan approved by the Board in RZ 2007-PR-002. Landowner acknowledges and accepts that such amendment may result in a 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 ROW vacation and/or abandonment request.

16. **Limits of Clearing and Grading**. The Applicant shall conform to the limits of clearing and grading shown on the GDP/SEA Plat, subject to allowances specified in these proffered conditions and the installation of utilities and/or trails, if necessary, as approved by DPWES. All limits of clearing and grading shall be protected by temporary fencing, a minimum of four feet in height, as described below. The temporary fencing shall be installed prior to any work being conducted on the site, and signage identifying "Keep Out - Do Not Disturb" shall be provided on the temporary fence and made clearly visible to construction personnel. Any necessary disturbance beyond that shown on the GDP/SEA Plat shall be coordinated with the Urban Forest Management Division, DPWES ("Urban Forester") and accomplished in the least disruptive manner reasonably possible given engineering, cost, and site design constraints as determined by the Urban Forester. Any area protected by the limits of clearing and grading that must be disturbed due to the installation of trails and/or utilities shall be replanted with a mix of native vegetation to ultimately return the area as nearly as reasonably possible to its condition prior to the disturbance, as determined by the Urban Forester.

17. **Tree Preservation**. The Applicant shall submit a Tree Preservation Plan as part of the first, and all subsequent, site plan submissions. Said 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 review and approval by the Urban Forester. 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 that are within 25 feet on either side of the limits of clearing and grading shown on the GDP/SEA Plat for the entire site. The tree preservation plan shall provide for the preservation of those areas shown for tree preservation on the GDP/SEA Plat, those areas outside of the limits of clearing and grading shown on the GDP/SEA Plat, and those additional areas within 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 provided.

18. **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 UFMD, DPWES, representative to determine where adjustments to the clearing limits can be made to increase the area of tree preservation and/or to increase the survivability of trees at the

edge of the limits of clearing and grading, and such adjustment shall be implemented. The Applicant shall work with UFMD, DPWES to attempt to make best efforts to preserve select trees along Miller Road, given various requirements in that area. Trees that are identified as dead or dying may be removed as part of the clearing operation. Any tree that is so designated shall be removed using a chain saw and such removal shall be accomplished in a manner that avoids damage to surrounding trees and associated understory vegetation. If a stump must be removed, this shall be done using a stump-grinding machine in a manner causing as little disturbance as possible to adjacent trees and associated understory vegetation and soil conditions.

19. **Tree Preservation Fencing**: All trees shown to be preserved on the tree preservation plan shall be protected by tree protection fence. Tree protection fencing in the form of four (4) foot high, fourteen (14) gauge welded wire attached to six (6) foot steel posts driven eighteen (18) inches into the ground and placed no further than ten (10) feet apart, or super silt fence to the extent that required trenching for super silt fence does not sever or wound compression roots which can lead to structural failure and/or uprooting of trees shall be erected at the limits of clearing and grading as shown on the demolition, and phase I & II erosion and sediment control sheets, as may be modified by the "Root Pruning" Proffer 20 below. All tree protection fencing shall be installed after the tree preservation walk-through meeting, but prior to any clearing and grading activities, including the demolition of any existing structures. The installation of all tree protection fencing shall be performed under the supervision of a certified arborist, and accomplished in a manner that does not harm existing vegetation that is to be preserved. Three (3) days prior to the commencement of any clearing, grading or demolition activities, but subsequent to the installation of the tree protection devices, the UFMD, DPWES, shall be notified and given the opportunity to inspect the site to ensure that all tree protection devices have been correctly installed. If it is determined that the fencing has not been installed correctly, no grading or construction activities shall occur until the fencing is installed correctly, as determined by the UFMD, DPWES.

20. **Root Pruning**. The Applicant shall root prune, as needed to comply with the tree preservation requirements of these proffers. All treatments shall be clearly identified, labeled, and detailed on the erosion and sediment control sheets of the subdivision plan submission. The details for these treatments shall be reviewed and approved by the UFMD, DPWES, accomplished in a manner that protects affected and adjacent vegetation to be preserved, and may include, but not be limited to the following:

- 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 UFMD, DPWES, representative shall be informed when all root pruning and tree protection fence installation is complete.

21. **Bonds, Cash, Letter of Credit**. The Applicant shall retain a professional arborist with experience in plant appraisal, to determine the replacement value of all trees ten (10) inches in diameter or greater located on the Application Property that are shown to be saved on the Tree Preservation Plan. These trees and their value shall be identified on the Tree Preservation Plan at the time of the initial submission of the first 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.

At the time of site plan approval, the Applicant shall post cash bond or letter of credit payable to the County of Fairfax to ensure preservation or replacement of the trees, that are designated on the Tree Preservation Plan to be saved, that die or are dying due to unauthorized construction activities not permitted on the approved plan. Any trees shown to be preserved on the Tree Preservation Plan that die or are dying due to unauthorized construction activities shall be replaced with trees of a species and size acceptable to the UFM, DPWES, and reasonably ensured of surviving. The value of the trees shall be determined using the Trunk Formula Method referenced above. Any letter of credit shall be equal to 30% of the replacement value of the Bonded Trees. Any cash bond shall consist of 20% of the replacement value of the Bonded Trees. At any time prior to final bond release for the site plan, should any Bonded Trees die, be removed, or are determined to be dying, a meeting shall be conducted between UFM and the Applicant's certified professional arborist in an effort to determine the cause of dying and whether or not it is due to unauthorized construction activities (meaning that the Applicant did not follow the Approved Development Plan and Proffers).

If the decision of the UFM representative is that the death or dying of trees was caused by unauthorized construction activities, the Applicant shall replace such trees at its expense. The replacement trees shall be of a species and canopy cover as approved by UFM consistent with the Tree Preservation Plan and County practice. Upon release of the bond for the site plan, the Tree Bond required by this Proffer shall be returned/released to the Applicant. These replacement measures shall not apply to trees otherwise protected by these proffers that die or begin to die as a result of factors not related to unauthorized construction activities.

22. **Demolition of Existing Structures**. The demolition of all existing features and structures within areas protected by the limits of clearing and grading shown on the GDP/SEA Plat shall be 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 the UFMD, DPWES.

23. **Site Monitoring**. During any clearing or tree/vegetation/structure removal on the Applicant Property, a representative of the Applicant shall be present to monitor the process and ensure that the activities are conducted as proffered and as approved by the UFMD. 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 UFMD approvals.

The monitoring schedule shall be described and detailed in the Landscaping and Tree Preservation Plan, and reviewed and approved by the UFMD, DPWES.

24. **Landscaping**. Landscaping shall be generally consistent with the quality, quantity and the locations shown on the GDP/SEA Plat. At the time of planting, the minimum caliper for the respective trees shall be as follows: canopy, including street trees, shall be three (3) inches, and ornamental deciduous shall be one and one-half (1 ½) inch. At the time of planting, the minimum height for evergreen trees shall be seven (7) feet. Actual types and species of vegetation shall be determined pursuant to more detailed landscape plans submitted at the time of the first and all subsequent submissions of site plans for each respective section, for review and approval by the UFM, DPWES. Such landscape plans shall provide tree coverage and species diversity consistent with the PFM criteria, as determined by the UFM, DPWES.

25. **Buffers**. A landscaped buffer, consisting of both existing vegetation and supplemental plantings, shall be provided around the perimeter of the Property in areas depicted on, and in substantial conformance with, the GDP/SEA Plat. Along the Route 123 "Area of Proposed Reservation" referenced in Proffer #9 above, until such time as said area may be dedicated in the future, existing vegetation shall remain and may be supplemented by the Applicant. The proposed landscaping along the Route 123 "Area of Proposed Reservation" that is depicted on the GDP/SEA PLAT shall be installed at such time in the future as the "Area of Proposed Reservation" has been dedicated in accordance with Proffer #9 above and construction by others of the road improvements facilitated by said dedication has been completed.

26. **Tree Preservation and Planting Fund**. At the time of site plan approval for Building 4, the Applicant shall contribute $3,000.00 to the County to be placed in the "Tree Preservation and Planting Fund" established by the County specifically for the preservation and/or planting of trees within the Providence District.

27. **Fencing**. With the exception of the entrance to the Campus on Academic Drive, the perimeter of the site shall be fenced as it currently exists and as otherwise depicted on the GDP/SEA Plat. Said existing fence shall not be replaced, but shall be used to provide in part the perimeter fence.

28. **Lighting**. All lighting, including of signage, shall be provided in accordance with the requirements of Part 9 of Article 14 of the Zoning Ordinance. All exterior lighting shall be fully shielded and directed downward to minimize glare on surrounding parcels.

29. **Stormwater Management**. In accordance with County engineering requirements and subject to approval by DPWES of necessary waivers and/or modifications, the existing dry pond shall be retrofitted and converted to an extended detention Stormwater Management/Best Management Practice ("SWM/BMP") facility, generally in the location depicted on the GDP/SEA Plat. The Applicant may utilize alternative measures, including innovative BMPs, as supplemental designs to help satisfy County SWM/BMP requirements, subject to the approval of DPWES and the Urban Forester and if in substantial conformance with the GDP/SEA Plat. Said pond shall be modified in the

general location shown on the development plan and in accordance with all applicable PFM design requirements, as determined by DPWES. An increase in the amount of clearing and/or grading for this facility from that shown on the development plan (to include clearing and grading associated with any spillways, outfall pipes, and/or maintenance roads) may be permitted only if the increase is required to meet PFM requirements as determined by DPWES and the change is in substantial conformance with the GDP/SEA Plat and proffers.

30. **Landscaping around the Stormwater Management Pond**. In order to create a more natural appearance to the proposed stormwater management pond, a landscape plan shall be submitted, as part of the first site plan submission, showing extensive landscaping in all possible planting areas of the pond in accordance with PFM requirements, to the maximum extent permitted by DPWES.

31. **Low Impact Development ("LID")**. The Applicant shall provide low impact development features such as, but not limited to, bio-retention basins/filters, percolation trenches, vegetated swales, rainstore and /or reforestation, as approved by DPWES. This series of LID techniques shall help satisfy the stormwater management requirements for both the two (2) year and ten (10) year design storms.

32. **Soils**. All new development that may be located on problem soils on site shall provide appropriate engineering measures to ensure against geotechnical hazards, as determined by DPWES.

33. **Asbestos Compliance Plan**. The Applicant shall submit a detailed soil analysis to DPWES regarding the presence and level of on-site asbestos. Should DPWES determine that a potential health risk exists due to the presence of asbestos-containing rock and/or naturally-occurring asbestos on the Property, the Applicant shall: (i) first submit a compliance plan subject to review and approval of the Health Department; (ii) take appropriate measures as determined by the Health Department to alert all construction personnel as to the potential health risks; and (iii) commit to appropriate construction techniques, as determined by DPWES in coordination with the Health Department, to minimize said potential risk. Such techniques may include, but are not limited to, dust suppression measures during all blasting and drilling activities, covered transportation of removed materials presenting this potential risk, and appropriate disposal of same.

34. **Density Credit**. All intensity of use attributable to any land areas that may be dedicated and/or conveyed to the Board or any other County agency shall be subject to the provisions of Paragraph 4 of Section 2-308 of the Zoning Ordinance, and is hereby reserved to the residue of the Property.

35. **Architectural Treatment.** The architectural design of the proposed Building 4 shall be consistent with the general character of the elevations shown on the Sheet 7 of the GDP/SEA Plat. The Applicant reserves the right to revise the elevations as a result of final architectural design, so long as the character and quality of the final design is consistent with that shown. Building materials for Building 4 shall be compatible with the existing education buildings (Buildings 1 and 2, and the front elevation of Building 3)

located on the Property. Building materials may include, but shall not be limited to, the following: masonry, glass, pre-cast concrete, ground and/or split face CMU, and/or fiber cement board.

36. **Building 3 HVAC.** Applicant shall take such steps as are financially reasonable to reduce the noise emitted by the HVAC equipment serving Building 3 and located on the north side of Building 3.

37. **Counterparts**. To facilitate execution, this Proffer Statement may be executed in as many counterparts as may be required. It shall not be necessary that the signature on behalf of all the parties to the Proffer Statement appear on each counterpart of this Proffer Statement. All counterparts of this Proffer Statement shall collectively constitute a single instrument.

38. **Successors and Assigns**. Each reference to "Applicant" in this Proffer Statement shall include within its meaning, and shall be binding upon, Applicant's successor(s) in interest, assigns, and/or developer(s) of the Property or any portion of the Property.

[SIGNATURES ON FOLLOWING PAGES]

FLINT HILL SCHOOL
Applicant and Title Owner of Parcels
47-2-((1))-36A, 37, 38 and 52A

By: _____
Name: JOHN T. HAZEL, JR.
Title: PRESIDENT

BOARD OF SUPERVISORS OF FAIRFAX COUNTY, VIRGINIA
Title Owner of approximately 0.32 acre of
Academic Drive Right-of-Way

By: _____
Name: ANTHONY H. GRIFFIN
Title: COUNTY EXECUTIVE