

PCA 82-P-069-17  
FAIR LAKES LAND BAY V-A (RESIDENTIAL)  
PROFFER STATEMENT  
JUNE 7, 2007  
JULY 12, 2007  
AUGUST 2, 2007  
AUGUST 28, 2007  
SEPTEMBER 7, 2007  
SEPTEMBER 10, 2007  
SEPTEMBER 17, 2007  
SEPTEMBER 18, 2007  
SEPTEMBER 19, 2007  
SEPTEMBER 28, 2007  
OCTOBER 2, 2007  
OCTOBER 9, 2007

Pursuant to Section 15.2-2303A of the Code of Virginia, as amended, and subject to the Board of Supervisors approval of PCA 82-P-069-17, Fair Lakes Center Associates L.P. (the "Applicant") and the undersigned owners of the approximately 8.37 acres (known as Fairfax County Tax Map Parcels 55-2 ((1)) 6A, 8A1 (part) and 8A2 and identified as a portion of Fair Lakes Land Bay V-A), included in this application (the "Property"), proffers for themselves and their successors and assigns that development of the Property shall be in conformance with the previous proffers approved by the Board of Supervisors in PCA 82-P-069-14 and dated April 14, 2005, which proffers shall remain in full force and effect except as qualified by and subject to the following terms and conditions. In the event this application is denied, these revised proffers shall immediately be null and void and the previous proffers dated April 14, 2005 shall remain in full force and effect.

1. **Paragraph 1 shall be revised to read as follows:**

**Substantial Conformity with Conceptual Development Plan Amendments.** The subject 8.37-acre PCA Application Property shall be developed in substantial conformance with the Conceptual Development Plan Amendments previously approved by the Board of Supervisors for the respective land bay, as further modified by all relevant Proffered Conditions for Fair Lakes, as follows: (i) CDPA 82-P-069-1 consisting of one sheet prepared by Dewberry & Davis as revised through July 12, 1984 and approved by the Board of Supervisors on September 24, 1984; (ii) CDPA 82-P-069-3 consisting of one sheet prepared by Dewberry & Davis, as revised through June 26, 1987 and approved by the Board of Supervisors on July 20, 1987; (iii) CDPA 82-P-069-7 consisting of four sheets of the combined CDPA/FDPA plan prepared by Dewberry & Davis and dated September 21, 2004, as revised through January 27, 2005 and approved by the Board of Supervisors on July 25, 2005; and (iv) pending CDPA 82-P-069-03-03 consisting of ten (10) sheets of the combined CDPA/FDPA plan prepared by Dewberry & Davis and dated September 10, 2007.

2. **Paragraph 2 shall be revised to read as follows:**

**Allocation of Land Uses.** Paragraph 2 of the Previous Proffers under "Land Use" shall be revised to read as follows: Allocation of land uses as provided in the text accompanying the Conceptual Development Plan Amendment is affirmed as follows: No more than 474,826 square feet of principal and secondary uses shall be constructed on the Property.

In no event shall the amount of principle and secondary uses for the entirety of Fair Lakes exceed 8,558,005 square feet. Non-residential uses shall not exceed 6,090,002 square feet. Principle and secondary uses in Land Bays IV-A, V-A, V-B, VI-A and VII-B as contained within the application area for the following applications: (i) PCA 82-P-069-15; (ii) PCA 82-P-069-16; (iii) PCA 82-P-069-17; (iv) PCA 82-P-069-18; (v) PCA 82-P-069-19; and (vi) PCA 82-P-069-20, shall not exceed 2,435,782 square feet. However, up to 945,877 square feet in Land Bay II may be converted from non-residential to residential uses exclusive of ADUs and up to 14,200 square feet may be converted to eating establishments/fast food restaurant/personal service establishment uses in Land Bay II. Residential units shall not be fewer than 1,464.

The specific uses to be provided in the first phase of development are depicted in FDPs submitted for Land Bays I-A, I-B, V-A, VI-A and VI-B. Land Bay II shall be approximately 120 acres, and shall be developed in 1,463,616 square feet of employment, residential and eating establishment/fast food restaurant uses specified in the CDPA for Land Bays II-A and II-B. The residential square footage in Land Bay II shall not exceed 945,877 square feet which shall be exclusive of the square footage for affordable dwelling units. In addition, the residential square footage in Land Bay II shall not be counted towards, i.e., shall be deemed in its entirety to be in excess of, the fifty (50) percent limitation for residential use in the Fair Lakes PDC District as specified in Par. 5 of Sect. 6-206 of the Zoning Ordinance as well as the 2:1 ratio of primary to residential uses recommended for office-mixed use areas in the Fairfax Center Area. Residential square footage located in the remainder of Fair Lakes may be developed in excess of the fifty (50) percent (based upon the principal, non-residential uses in all of Fair Lakes) limitation set forth in Paragraph 5 of Section 6-206 of the Zoning Ordinance, as modified by the Board of Supervisors in the subject PCA application.

A mix of principal and secondary uses shall be distributed over the remainder of the site, with other retail, hotel and other residential uses to be located in Land Bays III, IV, V, VI and VII. The aggregate non-residential square footage shall not exceed 6,090,002 square feet, of which 200,000 to 855,000 square feet shall be allocated to hotel use, 200,000 to 1,295,000 square feet, exclusive of any eating establishment/fast food restaurant/personal service establishment uses in Land Bay II, to uses such as retail uses, accessory service uses, retail sales establishments, child care centers, eating establishments, financial institutions, health clubs, theaters, service stations, car washes and other principal and secondary PDC uses that are neither residential, hotel nor office/research in character, and 2,250,000 to 5,443,820 square feet to office, research and other non-retail uses. Specific uses shall be designated at the time the FDPs are submitted. For purposes of this proffer, the designation of a building as office or other employment use shall be construed to permit inclusion of fast food (e.g., delicatessen), financial institution, and other such accessory and personal service uses on the ground and/or first floor level of

such building, it being understood that the details of any drive-through and/or child care uses must be the subject of final development plan or special exception approval.

3. **Paragraph 3 shall be revised to read as follows:**

**Final Development Plan Amendments.** Notwithstanding that CDPA 82-P-069-03-03 appears on the same development plan with FDPA 82-P-069-08-05, consisting of ten (10) sheets and described in Paragraph 1 above, it shall be understood that (i) said CDPA plan shall consist of the entire plan relative solely to points of access, general location of the proposed buildings, on-site vehicular circulation and common open space areas; and (ii) the Applicant has the option to request Final Development Plan Amendment ("FDPA") approvals from the Planning Commission in accordance with Section 16-402 of the Zoning Ordinance with respect to the remaining elements. The Applicant further retains the option to file partial Conceptual Development Plan Amendment(s) in the future.

4. **Paragraph 5 shall be revised to read as follows:**

**Maximum Residential Square Footage.** In accordance with the Board of Supervisors' approval of the modification of Paragraph 5 of Section 6-206 of the Zoning Ordinance to permit an increase in the gross floor area devoted to dwellings as a secondary use in excess of fifty (50) percent of all principal uses in the development, up to 300,000 gross square feet of residential use shall be permitted on the Property, which shall be inclusive of ADUs and/or Workforce Housing Units. The Applicant reserves the right to develop fewer square feet than the maximum gross square footage of residential uses referenced in this paragraph without the need for a PCA. The maximum number of multi-family dwelling units constructed on the Property shall not exceed 350 units, which shall be inclusive of ADUs and/or Workforce Housing Units.

5. **Paragraph 6 shall be revised to read as follows:**

**Architectural Design.** The architectural design of the multi-family building shall be in substantial conformance with the general character of the elevations and perspectives shown on Sheet 5 of the CDPA/FDPA. The Applicant reserves the right to revise the elevations as a result of final architectural design, so long as the character and quality of design remains in substantial conformance with those shown. The multi-family residential building depicted on the CDPA/FDPA shall be designed to create the appearance of a coordinated development through the use of complementary architectural styles, building materials and/or colors, i.e., to create a harmonious design with complementary yet distinctive architecture. Building materials for the multi-family residential building shall consist of masonry, brick, stone, pre-cast concrete, ground and/or split face CMU. In addition to the preceding materials, EIFS that is visually compatible with the masonry materials may be utilized on the upper floors.

6. **Paragraph 7 shall be revised to read as follows:**

## Affordable Dwelling Units/Workforce Dwelling Units.

### A. Affordable Dwelling Units ("ADUs").

1. Depending upon the type of building construction, the Applicant shall either a) provide five percent (5%) of the total number of dwelling units approved on a site plan for the multi-family residential building depicted on the CDPA/FDPA as Affordable Dwelling Units (ADUs) in accordance with Article 2 Part 8 of the Zoning Ordinance, or b) provide zero (0) ADUs if the type of construction proposed on a site plan for the multi-family residential building depicted on the CDPA/FDPA exempts the Applicant from the requirement to provide ADUs in accordance with Article 2 Part 8 of the Zoning Ordinance, but in such instance the Applicant shall increase the number of Workforce Dwelling Units it shall provide consistent with Paragraph 6(B) below.
2. ADUs shall consist of the same unit type (rental apartments or for sale condominiums) as the market rate units contained within the building housing the ADUs.

B. Workforce Dwelling Units. In addition to the provision of ADUs pursuant to Paragraph 6(A)(1)(a) above, the Applicant also shall provide seven percent (7%) of all residential units approved on a site plan for the multi-family residential building as Workforce Dwelling Units, which will be affordable to future residents who have a household income of up to 120% (consistent with the tiers set out below) of the Area Median Income ("AMI") for the Washington Metropolitan Statistical Area, as determined periodically by the U.S. Department of Housing and Urban Development. To the extent the Applicant shall be exempt from providing ADUs for the multi-family residential building depicted on the CDPA/FDPA, as stated in Paragraph 6(A)(1)(b) above, the Applicant shall provide as Workforce Dwelling Units twelve (12%) of all residential units approved on a site plan for the multi-family residential building depicted on the CDPA/FDPA. Said Workforce Dwelling Units shall be provided to persons in for-sale units, or for-rent units constructed of steel and concrete (Building Construction Types 1, 2, 3 and 4 as specified in the Virginia Uniform Statewide Building Code) whose household income (i) for at least thirty four percent (34%) of the units, is between sixty percent (60%) and eighty percent (80%) of the AMI; (ii) for at least thirty three percent (33%) of the units, is between seventy percent (70%) and one hundred percent (100%) of the AMI; and (iii) for up to thirty three percent (33%) of the units, is between seventy percent (70%) and one hundred twenty percent (120%) of the AMI.

1. Definitions. The following terms used in these Proffered Conditions shall be defined as follows, unless specifically modified:

- a) Market-Rate Units. Dwelling units approved on the Property that are not subject to either the price/rental restrictions of Part 8 of Article 2 of the Zoning Ordinance or these Proffers; and
- b) Workforce Dwelling Units. Dwelling units on the Property subject to the price/rental restrictions of this Proffer, but not subject to those of Paragraph 6(A) and Part 8 of Article 2 of the Zoning Ordinance.

2. Designation on Approved Site Plan. The approved site plan for the multi-family residential building depicted on the CDPA/FDPA shall designate the number of Workforce Dwelling Units and the number of market rate units to be provided in the respective building. The Applicant shall determine the interior amenities, including the number of bedrooms, for each Workforce Dwelling Unit provided. The approved site plan(s) for the respective buildings shall also contain tabulations of the total number of Workforce Dwelling Units, by bedroom count and unit size, on the Property. Whenever the calculation of the required Workforce Dwelling Units results in a fractional unit less than 0.5, then the number shall be rounded down to the next whole number, and any fractional unit of 0.5 or greater shall be rounded up to the next whole number, provided that 12% of the total number of dwelling units are either ADUS or Workforce Dwelling Units.

Approved site plans, record plats and building plans shall designate the specific units that are the Workforce Dwelling Units. If there is to be any change in the location of Workforce Dwelling Units after the original approval of a site plan, the Applicant shall be responsible for amending the approved plans and plats to reflect the designation of the alternate Workforce Dwelling Units prior to the issuance of a Residential Use Permit for the new Workforce Dwelling Units. However, in the case of a multiple family rental development that is under single ownership, the Workforce Dwelling Units need not be specifically identified. In such rental developments, the site plans, record plats and building plans shall identify the development as a rental project and shall note the total number of Workforce Dwelling Units and the number of market rate units provided. For all for-sale developments, the floor area of each Workforce Dwelling Unit shall be noted on the approved site plan, record plat and building plan.

Workforce Dwelling Units that are included on approved site plans shall be deemed features shown for purposes of Section 15.2-2232 of Va. Code Ann. and, as such, shall not require further approvals pursuant thereto in the event the Fairfax County Redevelopment and Housing Authority ("RHA") shall acquire or lease such units.

3. Workforce Dwelling Units - Size. The size of the Workforce Dwelling Units shall be not less than 450 square feet for an efficiency unit, 600 square feet for a one-bedroom unit, and 750 square feet for a two-bedroom unit.
4. Workforce Dwelling Units - Rental Rates. Notwithstanding any reference elsewhere in this Paragraph 6(B) to Section 2-811 or other provisions of the Zoning Ordinance, the maximum monthly rental, initially and for each year thereafter, at which each rental Workforce Dwelling Unit may be offered shall be the rental rate for the Washington Standard Metropolitan Statistical Area published by the Virginia Housing Development Authority ("VHDA") and/or the U.S. Department of Housing and Urban Development ("HUD") for the respective percentage of the AMI designated for such unit.

The initial AMI to determine such initial maximum monthly rent shall be determined from the date of the issuance of the first RUP for each respective Workforce Dwelling Unit. The AMI and the maximum monthly rent, as calculated above, may be adjusted once a year, as published by HUD and/or VHDA. A copy of such annual calculation shall be provided to the Fairfax County Department of Housing and Community Development ("HCD") or such other agency as may be designated by the County to oversee implementation of a Workforce Housing Program.

5. Workforce Dwelling Units - Control Period. The price for subsequent rental Workforce Dwelling Units shall be controlled for a period of fifty (50) years from the date of issuance of the first Residential Use Permit for any Workforce Dwelling Unit. For for-sale Workforce Dwelling Units, the price for the subsequent resales shall be controlled for a period of thirty (30) years after the initial sale. However, upon any resale, conveyance, and/or transfer to a new owner of such Workforce Dwelling Unit within the initial thirty (30) year period of control, the prices for each subsequent resale and/or transfer to a new owner shall be controlled for a new thirty (30) year period commencing on the date of such resale, conveyance, and/or transfer of the Workforce Dwelling unit. For any Workforce Dwelling Units that is owned for an entire thirty (30) year control period by the same individual(s), the price control term shall expire and the first sale of the Workforce Dwelling Unit after such expiration shall be in accordance with Sect. 2-812(5) of the Fairfax County Zoning Ordinance.
6. Provisions of the ADU Ordinance. The Applicant intends that the Workforce Dwelling Units shall be administered in a fashion similar to ADU Units pursuant to the below-specified provisions of Section 2-800 of the Zoning Ordinance in effect at the time of the execution of these Proffers. The following specific provisions of the Zoning Ordinance shall

apply to administration of the Workforce Dwelling Units: Sections 2-805, 2-807, 2-808, 2-810, 2-811, 2-812 (with a control period of 50 years for rental units and recording covenants committing to the abovementioned control periods), 2-813, 2-817, and 2-818, including the recordation of the appropriate restrictive covenants in the land records of Fairfax County, except where such provisions directly conflict with these Proffers. Occupants of Workforce Dwelling Units purchased or leased by the Board and/or RHA shall qualify for the household income tiers set forth in Paragraph 6(B) above. There shall be no requirement that the Workforce Dwelling Units provided shall be of proportional bedroom count to the market rate units within this development. To the extent any of these Workforce Dwelling Unit (Paragraph 6(B) et seq.) provisions conflict with any provision of the Zoning Ordinance, these Proffers shall control.

7. Alternative Administration. The Applicant reserves the right to enter into a separate binding written agreement with the appropriate Fairfax County agency as to the terms and conditions of the administration of the Workforce Dwelling Units. Such an agreement shall be on terms mutually acceptable to both the Applicant and Fairfax County and may occur after the approval of this Application. Neither the Board of Supervisors nor Fairfax County shall be obligated to execute such an agreement. If such an agreement is executed by all applicable parties, then the Workforce Dwelling Units shall be administered solely in accordance with such an agreement, and the administrative requirements of this Paragraph 6(B) shall become null and void. Such an agreement and any modifications thereto, shall be recorded in the land records of Fairfax County. In addition, if, prior to site plan approval for the multi-family residential building depicted on the CDPA/FDPA, the Fairfax County Zoning Ordinance is amended to provide specific requirements regarding Workforce Dwelling Units, the Applicant reserves the right, in its sole discretion, to opt into the new Zoning Ordinance provisions regarding Workforce Dwelling Units, and the administrative requirements of this Paragraph 6(B) shall be null and void. In any event, if this proffer conflicts with the administrative sections of the Workforce Dwelling Unit provisions of the Zoning Ordinance, this proffer shall control.

7. **Paragraph 8 shall be revised to read as follows:**

Public Schools Contribution. Prior to the issuance of the building permit for the multi-family residential building, the Applicant shall contribute \$898 per dwelling unit (based upon a projected student yield of 0.076 students per dwelling unit, at \$11,630 per student) for each dwelling unit approved on the final site plan for that respective building to the Board of Supervisors for capital improvements to schools serving the Property.

8. Paragraph 9 shall be revised to read as follows:

**Recreational Facilities.**

- A. Pursuant to Paragraph 2 of Section 6-209 and Paragraph 2 of Section 16-404 of the Zoning Ordinance, the Applicant shall expend a minimum of \$955 per market-rate residential unit on on-site developed recreational facilities, as described herein. Prior to final bond release for the development depicted on the CDPA/FDPA, the balance of any funds not expended on-site for the items listed below and for the construction of the public plaza described in Paragraph 8.B below, shall be contributed to the Fairfax County Park Authority for the provision of recreational facilities located within the service area of the Property. To satisfy the above Zoning Ordinance requirement, the Applicant shall provide recreational amenities in/or adjacent to the multi-family residential building, which may include, but shall not be limited to the following:
1. Swimming pool with accessible shower facilities and changing areas;
  2. An area in front of the main lobby of the multi-family residential building, which shall include informal seating areas, landscaping, visitor parking spaces and hardscape areas;
  3. Bike racks for use by residents and visitors of the multi-family residential building; and
  4. Fitness center that includes equipment such as stationary bikes, treadmills, weight machines, and other exercise equipment.
- B. Prior to the issuance of RUPs for 50% of the dwelling units in the multi-family residential building depicted on the CDPA/FDPA, the Applicant shall construct the public plaza depicted on Sheet 4 of the CDPA/FDPA. Pedestrian connections and public access easements shall be provided to the public plaza area. This public plaza shall contain amenities consistent with those included on Sheet 4, including, but not limited to the following:
1. Benches;
  2. Trash receptacles;
  3. Landscaping;
  4. Lighting; and
  5. Hardscape areas.

C. All of the facilities and monetary contributions listed in this Paragraph 8, with the exception of those listed in Paragraph 8(A)2 and 8(A)3, shall be creditable against the contribution required by Section 16-404 of the Zoning Ordinance.

9. Paragraph 10 shall be revised to read as follows:

**Additional Park Contribution.** In addition to any recreational contributions that may be contributed pursuant to Paragraph 8, the Applicant shall contribute \$500 per market rate dwelling unit at the time of building permit approval to the Fairfax County Park Authority ("FCPA") for use at Patriot Park for development activities.

10. Paragraph 11 shall be revised to read as follows:

**Tree Preservation.** The Applicant shall submit a tree preservation plan as part of the first and all subsequent site plan submissions. The preservation plan shall be prepared by a professional with experience in the preparation of tree preservation plans, such as a certified arborist or landscape architect, and shall be subject to the review and approval of Urban Forest Management, DPWES ("UFM").

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 20 feet to either side of the limits of clearing and grading shown on the CDPA/FDPA for the entire site. The tree preservation plan shall provide for the preservation of those areas shown for tree preservation, those areas outside of (protected by) the limits of clearing and grading shown on the CDPA/FDPA, 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 trees identified to be preserved, such as: crown pruning, root pruning, mulching, fertilization, and others as necessary, shall be included in the plan.

All trees shown to be preserved on the tree preservation plan shall be protected by tree protection fence which shall be erected at the limits of clearing and grading. Tree protection fence shall consist of 14-gauge welded wire fencing, a minimum of four (4) feet in height, attached to steel posts driven eighteen (18) inches into the ground and spaced no farther than ten (10) feet apart. Other tree protection measures shall be employed to protect trees during construction, subject to the approval of UFM.

The Applicant shall conform to the limits of clearing and grading as shown on the CDPA/FDPA, subject to the installation of utilities and/or trails as determined necessary by the Director of DPWES. If it is determined necessary to install utilities and/or trails outside of the limits of clearing and grading as shown on the CDPA/FDPA, they shall be located in the least disruptive manner necessary as determined by UFM. A replanting plan shall be developed and implemented, subject to approval by UFM, for any areas outside the limits of clearing and grading that must be disturbed.

During any clearing or tree/vegetation/structure removal or transplantation of vegetation 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.

At the time of site plan approval for the multi-family residential building depicted on the CDPA/FDPA, the Applicant shall post a bond as part of the typical site improvement bond to ensure preservation and/or replacement of the trees, for which a tree value has been determined in accordance with the tree preservation plan described above (the "Bonded Trees"), that die or are dying due to unauthorized construction activities. The bond shall be equal to 100% of the replacement value of the Bonded Trees. At any time prior to final bond release for the multi-family residential building depicted on the CDPA/FDPA, 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 canopy cover as approved by UFM.

11. **Paragraph 14 shall be revised to read as follows:**

**Trails.** Trails and sidewalks shall be provided in the locations depicted on the CDPA/FDPA and shall be constructed to PFM standards, subject to the approval of DPWES. Trails located outside of the right-of-way and those providing access to the public plaza depicted on the CDPA/FDPA shall be subject to public access easements.

12. **Paragraph 16 shall be revised to read as follows:**

**Residential Transportation Demand Management.** The Applicant shall implement a Transportation Demand Management ("TDM") program to reduce residential vehicle trips during peak periods. Residents shall be advised of all TDM strategies by the TDM Coordinator, as described below. TDM coordination duties shall be carried-out by a designated agent/employer or transportation management coordinator(s) (collectively "TDM Coordinator"). The TDM Coordinator position may be a part of other duties assigned to the individual(s). This TDM Program shall only apply to the 350 multi-family residential units for which approval is requested in subject PCA 82-P-069-17.

A. **Components of the TDM Program:** The TDM Program shall include the following components:

1. **TDM Goal:** The TDM program shall be implemented to reduce by fifteen percent (15%) (the "TDM Goal") the A.M. and P.M. weekday peak hour vehicular trips associated with the proposed residential use, defined as the peak hour of travel between 6:00 A.M.-9:00 A.M. and 4:00 P.M.-7:00 P.M. respectively, derived from trip generation rates and/or equations applicable to 350 multi-family residential units as set forth in the Institute of Transportation Engineers, Trip Generation, 7th Edition (Land Use Code 230-Residential Condominium and Townhouse).

2. **TDM Program:** In order to meet the TDM Goal set forth in this Proffer, the Applicant shall implement this TDM Program, which may be amended, subject to approval of FCDOT, without the necessity of a PCA. Strategies shall include, but not limited to, the following initiatives that shall be implemented by the Applicant:
- a) Within three (3) months following issuance of the initial RUP for residential use on the Property, the Applicant shall designate an individual to act as the TDM Coordinator for the Property whose responsibility shall be to implement the TDM Strategies, with on-going coordination with FCDOT. The TDM Coordinator shall be responsible for coordination and communication with FCDOT, the Fair Lakes League and the Umbrella Owners Association for the Property. Upon designation of a TDM Coordinator, the contact information of the TDM Coordinator shall be provided to FCDOT within 10 days of such designation and updated within 10 days after changes occur in said designation;
  - b) Participation in the Fairfax County Ride Share Program and other trip reduction programs sponsored by FCDOT;
  - c) Dissemination of materials regarding Metrorail, Metrobus, Fairfax Connector, ride-sharing, teleworking and other relevant transit options in sale/leasing packages;
  - d) Provision of information of potential carpool and vanpool options that may be available to residents;
  - e) Provision of transit maps, schedules and other relevant transit option information to residents through posting in the common-area of the multi-family residential building, a newsletter or use of a community website;
  - f) The multi-family residential building shall be hardwired with broadband, high capacity data/network connections, or equivalent wireless access;
  - g) Each resident of the multi-family residential building shall be provided access to a common area that shall be provided with business facilities, which may include, but not be limited to a fax machine, photocopier, and desktop computers with internet access;
  - h) The Fair Lakes community web site shall include information on the TDM program and on multi-modal transportation options;
  - i) Coordination with the Fair Lakes League and the Owner's Association(s) regarding potential TDM programs that may be implemented for existing uses; and

- j) Provision of conveniently located bicycle parking in the structured parking area serving the multi-family residential building.
3. **TDM Budget:** Upon designation of the TDM Coordinator, the Applicant shall (i) establish a TDM Account for the purpose of funding the implementation of the TDM Strategies stated in this proffer, and (ii) initiate the TDM fund with a \$10,000 contribution. The TDM Account shall be managed by the TDM Coordinator. A line item for further funding of the TDM Account shall be included in the Owner's documents, which shall provide that that the TDM Account will not be eliminated and that TDM funds will not be utilized to pay the salary of the TDM Coordinator or for any other non-TDM related purpose. The TDM Account shall be funded by the Owners with a minimum annual contribution of \$10,000 per year in addition to any TDM Remedy which may be contributed to the TDM Account pursuant to Paragraph 12(A)(5) below. The annual contribution may be provided to a larger, more inclusive Fair Lakes TDM Program, to further the goals set forth in this Paragraph, if such a TDM Program is created that includes the multi-family residential building depicted on the CDPA/FDPA.
4. **Monitoring:** Twelve (12) months following issuance of the initial RUP for residential use in the multi-family residential building depicted on the CDPA/FDPA, the effectiveness of the TDM program shall be evaluated using surveys and/or traffic counts prepared by the TDM Coordinator in cooperation with, and as approved by FCDOT. The TDM Coordinator shall submit an Annual Report to FCDOT based upon said surveys and/or traffic counts, in order to facilitate determination by FCDOT of what trip reduction has been achieved. The Applicant shall conduct such surveys and/or traffic counts for three (3) years following the initial survey. After build-out of the multi-family residential building approved pursuant to the subject PCA, the Applicant shall then conduct surveys and/or traffic counts annually until it is demonstrated through two (2) consecutive annual surveys and/or traffic counts that the TDM Goal has been achieved.
5. **TDM Remedy:** In the event that the TDM Goal has not been achieved pursuant to the aforesaid two consecutive surveys and/or traffic counts, then the Applicant shall meet with FCDOT to review the TDM Program for the purpose of identifying additional strategies and programs that may be implemented to assist in achieving the TDM Goal for the multi-family residential building depicted on the CDPA/FDPA. Until the TDM Goal has been met for two consecutive annual surveys and/or traffic counts, the Applicant shall contribute annually to the TDM account \$50 per residential unit for which a RUP has been issued in the multi-family residential building depicted on the CDPA/FDPA, which remedy amounts shall be utilized on additional TDM strategies as approved by FCDOT.

13. Paragraph shall be revised to read as follows:

**Noise Attenuation.** The Applicant shall provide the following noise attenuation measures:

- A. In order to reduce interior noise to a level of approximately 45 dBA Ldn, units in the multi-family residential building which are projected to be impacted by highway noise from Fair Lakes Circle and Interstate 66 having levels projected to be above 65 dBA Ldn, shall be constructed with the following acoustical measures:
1. Exterior walls shall have a laboratory sound transmission class (STC) rating of at least 39.
  2. Doors and glazing shall have a laboratory STC rating of at least 28 unless glazing constitutes more than 20% of any façade exposed to noise levels above Ldn 65 dBA.
  3. If glazing constitutes more than 20% of an exposed façade, then the glazing shall have an STC rating of at least 39.
  4. All surfaces should be sealed and caulked in accordance with methods approved by the American Society for Testing and Materials (ASTM) to minimize sound transmission. Any units requiring mitigation shall be identified on the site plan.
- B. Prior to the issuance of building permits for dwelling units in the multi-family residential building, alternative interior noise attenuation measures and public plaza noise attenuation measures may be provided subject to the implementation of a refined noise study as reviewed and approved by DPWES after consultation with the Department of Planning and Zoning.
14. **Fairfax Center Area Road Fund Contribution.** The Applicant shall contribute to the Fairfax Center Area Road Fund in accordance with the "Procedural Guidelines" adopted by the Board of Supervisors on November 22, 1982, as amended as of the time of each such payment, subject to credits for all creditable expenses, as determined by FCDOT and DPWES.
15. **Landscaping.** Landscaping shall be generally consistent with the quality, quantity and the locations shown, respectively, on the "Landscape Detail" included as Sheet 4 of the CDPA/FDPA. At the time of planting, the minimum caliper for trees shall be as follows: large deciduous trees shall be at least three (3) inch caliper, and large evergreen trees shall be at least eight (8) feet in height. Actual types and species of vegetation shall be determined pursuant to more detailed landscape plans submitted at the time of all site plans, for review and approval by UFM. Preference shall be given by the Applicant to utilizing native species to the extent feasible. This shall not be construed, however, to preclude the use of non-native species. Such landscape plans shall provide tree coverage and species diversity consistent with the PFM criteria, as determined by UFM.

Trees planted in areas which are less than eight (8) feet in width and/or do not meet the minimum planting area required (before any approved modification) by the Public Facilities Manual ("PFM") may be counted towards satisfying the minimum tree cover requirement provided that structural soils or structural cells are incorporated as specified herein. The Applicant shall provide structural soils or structural cells with a minimum depth of 24 inches. The minimum width of areas of structural soils or structural cells shall be eight (8) feet, which may extend beneath any paved surface, so long as a minimum of 130 square feet is provided for Category IV trees and 90 square feet is provided for Category III trees, as such trees are identified in the PFM. Such planting areas shall be interconnected to the extent feasible, as determined by UFM. Geotextile fabric shall be provided between the structural soil or structural cells and the surrounding media as required by the specific application. The residual opening in the planting area may be mulched, landscaped or covered by a tree grate. At the time of site plan submission, the Applicant shall provide written documentation, including information about the composition of the structural soil or specifications regarding the structural cells to UFM indicating that a qualified and appropriately licensed "company" provided the structural soil or structural cells. The Applicant shall provide 72-hour notice to UFM prior to installation of the soil to allow verification of the composition of the structural soil or structural cells and verification that the structural soil or structural cell is the correct mix and is installed correctly. The Applicant shall provide written confirmation from a certified arborist and/or landscape architect demonstrating and verifying installation of structural soil or structural cells.

16. **Building Heights.** The maximum building height of the proposed multi-family residential building shall not exceed the building height indicated on the CDPA/FDPA. Mechanical equipment located on the roof shall be contained within the penthouse or shall be screened from view from Fair Lakes Circle and Fair Lakes Parkway on all four sides in a manner consistent with the architecture of the building.
17. **Transportation Improvements.** The following road improvements shall be provided by the Applicant, subject to and as approved by VDOT and DPWES. However, upon demonstration by the Applicant that, despite diligent efforts by the Applicant, provision of a respective improvement has been unreasonably delayed by others or by circumstances beyond the control of the Applicant, the Zoning Administrator may agree to a later date for the completion of each such improvement:
  - A. **Fair Lakes Circle/Fair Lakes Parkway (west)/Fair Valley Drive Intersection Improvements (Intersection 3).**
    1. **Fair Lakes Parkway Westbound Left Turn Lane.** At the time of final site plan approval for the last of the buildings depicted on subject application (PCA 82-P-069-17) and on the CDPA/FDPAs associated with PCA 82-P-069-15 (Land Bay V-A--Office), PCA 82-P-069-16 (Land Bay V-B) and PCA 82-P-069-19 (Land Bay VII-B), the Applicant shall evaluate the need for a second left turn lane from westbound Fair Lakes parkway onto southbound Fair Lakes Circle. If, prior to said evaluation, DPWES and FCDOT determine that this improvement is necessary at the time of site

plan approval for any of the buildings depicted on the above CDPA/FDPAs, then the Applicant shall construct this improvement prior to the issuance of the initial Non-RUP or RUP for the building depicted on said CDPA/FDPA. If this improvement is deemed to not be necessary, then prior to issuance of the initial Non-RUP or RUP for said final building referenced in the first sentence of this Paragraph 17(A)(1), the Applicant shall contribute the cost of constructing this improvement to the Board of Supervisors for use in the Fair Lakes Parkway/Fairfax County Parkway interchange project, VDOT project 7100-029-353. Should this interchange project be fully funded by the time of said contribution, then any funds contributed pursuant to this proffer shall be used by the County for other Fairfax Center Road Fund projects.

2. Fair Lakes Circle Northbound Exclusive Right Turn Lane. Prior to the issuance of the initial RUP for dwelling units in the multi-family residential building depicted on the CDPA/FDPA, the Applicant shall restripe the northbound approach on Fair Lakes Circle to provide a dedicated left turn lane, and shared left turn/through lane, and an exclusive right turn lane.

B. Fair Lakes Circle/Fair Lakes Parkway (east)/Fair Lakes Court Intersection Improvements (Intersection 6).

1. Fair Lakes Parkway Eastbound Right Turn Lane. Prior to the issuance of the initial RUP for dwelling units in the multi-family residential building depicted on the CDPA/FDPA, the Applicant shall modify the existing right turn lane from eastbound Fair Lakes Parkway onto southbound Fair Lakes Circle to include a yield sign and a traffic control median, subject to the approval of DPWES.
2. Fair Lakes Parkway Westbound Left Turn Lane. At the time of final site plan approval for the last of the buildings depicted on subject application (PCA 82-P-069-17) and on the CDPA/FDPAs associated with PCA 82-P-069-15 (Land Bay V-A--Office) and PCA 82-P-069-16 (Land Bay V-B), the Applicant shall evaluate the need for a second left turn lane from westbound Fair Lakes Parkway onto southbound Fair Lakes Circle. If, prior to said evaluation, DPWES and FCDOT determine that this improvement is necessary at the time of site plan approval for any of the buildings depicted on the above CDPA/FDPAs, then the Applicant shall construct this improvement prior to the issuance of the initial Non-RUP or RUP for the building depicted on said CDPA/FDPA. If this improvement is deemed to not be necessary, then prior to issuance of the initial Non-RUP or RUP for said final building referenced in the first sentence of this Paragraph 17(B)(2), the Applicant shall contribute the cost of constructing this additional left turn lane to the Board of Supervisors for use in the Fair Lakes Parkway/Fairfax County Parkway interchange project, VDOT project 7100-029-353. Should this interchange project be fully funded by

the time of said contribution, then any funds contributed pursuant to this proffer shall be used by the County for other Fairfax Center Road Fund projects.

3. Fair Lakes Circle Northbound Left Turn Lane. Prior to the issuance of the initial RUP for dwelling units in the multi-family residential building depicted on the CDPA/FDPA, the Applicant shall, in lieu of constructing, contribute the cost of constructing an additional northbound lane to provide dual left turn lanes, a single through lane, and an exclusive right-turn lane to the Board of Supervisors for use in the Fair Lakes Parkway/Fairfax County Parkway interchange project, VDOT project 7100-029-353. Should this interchange project be fully funded by the time of site plan approval for the multi-family residential building depicted on the CDPA/FDPA, then any funds contributed pursuant to this proffer shall be used by the County for other Fairfax Center Road Fund projects.
4. Fair Lakes Circle Northbound Free Flow Right Turn Lane. Prior to the issuance of the initial RUP for dwelling units in the multi-family residential building depicted on the CDPA/FDPA, the Applicant shall construct an accepting lane on eastbound Fair Lakes Parkway to create (i) a free flow right turn lane from northbound Fair Lakes Circle onto eastbound Fair Lakes Parkway and (ii) a continuous third/right turn lane from this intersection to the next intersection to the east (Market Commons Drive).

C. West Ox Road/Fair Lakes Parkway Intersection Improvements (Intersection 7).

1. Fair Lakes Parkway Westbound Left Turn Lane. Prior to the issuance of the initial RUP for dwelling units in the multi-family residential building depicted on the CDPA/FDPA, the Applicant shall construct a second left turn lane from westbound Fair Lakes Parkway onto southbound West Ox Road and extend the length of the existing and proposed left turn bays by decreasing the length of the adjacent existing eastbound Fair Lakes Parkway left turn bay prior to the issuance of the initial RUP for the multi-family residential building depicted on the CDPA/FDPA.
2. West Ox Road Southbound Right Turn Lane. If the construction of an exclusive right turn lane from southbound West Ox Road onto westbound Fair Lakes Parkway is deemed to not be necessary by DPWES and FCDOT at the time of site plan approval, then the Applicant shall contribute the cost of such improvement to the Board of Supervisors for use in the Fair Lakes Parkway/Fairfax County Parkway interchange project, VDOT project 7100-029-353. Should this interchange project be fully funded by the time of site plan approval for the multi-family residential building depicted on the CDPA/FDPA, and if the exclusive right turn lane on southbound West Ox Road is deemed to not be

necessary, then any funds contributed pursuant to this proffer shall be used by the County for other Fairfax Center Road Fund projects.

- D. Fair Lakes Circle/Roger Stover Drive Left Turn Lane Improvement. Prior to the issuance of the initial RUP for dwelling units in the multi-family residential building depicted on the CDPA/FDPA, the Applicant shall extend the length of the existing left turn lane into the Property from eastbound Fair Lakes Circle at its intersection with Roger Stover Drive, if deemed necessary by VDOT. If the extension of this left turn lane is not deemed necessary by VDOT at the time of site plan approval, then any obligation under this proffer shall expire.
- E. Traffic Signal Warrant Study. Prior to approval of the initial site plan for the multi-family residential building depicted on the CDPA/FDPA, the Applicant shall submit a traffic signal warrant study to VDOT for the intersection on Fair Lakes Circle and the entrance to the CGI property (Tax Map Parcel 55-2 ((1)) 14A), which shall include the development proposed on the CDPA/FDPA and in PCA 82-P-069-15 (Land Bay V-A--Office) and PCA 82-P-069-16 (Land Bay V-B). At the time of building permit approval for the multi-family residential building depicted on the CDPA/FDPA, if VDOT has not made a determination that said signal is warranted or has deemed the warrants to have been met, then the Applicant shall post a bond in an amount, as determined by DPWES, necessary to cover the cost of the traffic signal, including pedestrian countdown crossing controls, subject to VDOT approval. If the warrants have not been met by the time of the issuance of building permits for all of the buildings depicted on the CDPA/FDPAs associated with this application (PCA 82-P-069-17), PCA 82-P-069-15 (Land Bay V-A--Office), and PCA 82-P-069-16 (Land Bay V-B), then any obligation under this proffer shall expire and the bond for the traffic signal shall be released.
- F. Off-Site Trail Improvements. Prior to the issuance of the initial RUP for dwelling units in the multi-family residential building depicted on the CDPA/FDPA, the Applicant shall provide a trail improvement on the east side of Fair Lakes Circle from the easternmost Fair Lakes Circle intersection with Fair Lakes Parkway, westerly for approximately 1200 feet. This trail improvement shall consist of a five (5) foot wide sidewalk.
- G. Off-Site Crosswalk Improvements. Prior to issuance of the initial RUP for dwelling units in the multi-family residential building depicted on the CDPA/FDPA, the Applicant shall provide painted crosswalk improvements at the intersections of Fair Lakes Circle/Roger Stover Drive and at the intersection on Fair Lakes Circle west of its intersection with Roger Stover Drive. All off-site crosswalk improvements located within the right-of-way shall be provided subject to VDOT approval.
- H. Signal Modifications. The Applicant shall modify traffic signals at the intersections improved by these proffers, as deemed necessary, and subject to the approval of VDOT.

- I. **Bus Shelter.** The Applicant shall provide one (1) bus shelter with an all-weather pedestrian connection to the adjacent trail prior to the issuance of the initial RUP for the dwelling units in the multi-family residential building depicted on the CDPA/FDPA, with no requirement for a turnoff lane or additional road improvements, along Fair Lakes Circle in the vicinity of the proposed residential building depicted on the CDPA/FDPA, whose final location shall be determined by the Applicant in cooperation with the Director of DPWES and FCDOT Transit Services at the time of building permit issuance for the said residential building, only (i) if a bus shelter has not been constructed by that time by others, and (ii) if it is determined that scheduled public or private bus service shall utilize said shelter. If the shelter is provided, the Applicant shall assume maintenance of the bus shelter area, including trash removal, and the maintenance responsibility shall be provided for in the Owners Association documents.
- J. **Fairfax County Parkway/Fair Lakes Parkway Interchange Contribution.** In addition to those funds contributed to the Fairfax Center Area Road Fund in accordance with Paragraph 14 above, the Applicant shall contribute an additional one thousand dollars (\$1000) per dwelling unit to the Board of Supervisors to be utilized on the Fair Lakes Parkway/Fairfax County Parkway interchange project, VDOT project 7100-029-353. This additional contribution shall be made to the Board of Supervisors at the same time and in the same proportion as said Fairfax Center Area Road Fund contribution. Should this interchange project be fully funded by the time of site plan approval for the multi-family residential building depicted on the CDPA/FDPA, then these funds shall be used by the County for other Fairfax Center Road Fund projects.
- K. **Transportation Improvements by Others.** To the extent any of the above-mentioned transportation improvements or transportation related monetary contributions (except the contribution in Paragraph 17(J), immediately above) are constructed, bonded for construction or contributed by others pursuant to PCA 82-P-069-15, PCA 82-P-069-16, PCA 82-P-069-19, and PCA 82-P-069-20 prior to the approval of a site plan for the multi-family residential building depicted on the CDPA/FDPA, then the Applicant shall be relieved of the commitment to construct or contribute towards each such constructed, bonded or otherwise satisfied transportation improvement.
18. **Parking Garage Expansion.** The parking garage expansion depicted on the CDPA/FDPA shall be constructed at a maximum height of forty (40) feet and shall consist of an architectural treatment that is in substantial conformance with the existing garage, as determined by DPWES.
19. **Plaza Parking Spaces.** The surface parking spaces located in the plaza area on top of the multi-family residential building's parking structure shall be reserved by the Applicant for short term and/or accessible parking purposes. Appropriate signage shall be provided by the Applicant notifying users of the purpose of these parking spaces.

20. **Signage.** Signage shall be provided in accordance with Article 12 of the Zoning Ordinance and in conformance with the Fair Lakes Comprehensive Sign Plan, as may be amended.
21. **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 and/or developer(s) of the site or any portion of the site.
22. **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.

FAIR LAKES CENTER ASSOCIATES L.P.  
(Applicant)

BY: Fair Lakes Retail Center, Inc.  
Its General Partner

BY: William E. Peterson  
NAME: William E. Peterson  
TITLE: Vice President

SRI SEVEN FAIR LAKES LLC  
(Title Owner of Parcel 55-2-((1))-8A1)

BY: \_\_\_\_\_  
NAME: \_\_\_\_\_  
TITLE: \_\_\_\_\_

EAST MARKET RETAIL L.C.  
(Title Owner of Parcel 55-2-((1))-6A)

BY: East Market Retail Manager, Inc.,  
its Managing Member

BY: William E. Peterson  
NAME: William E. Peterson  
TITLE: Vice President

FAIR LAKES TWO L.L.C.  
(Title Owner of Parcel 55-2-((1))-8A2)

BY: Fair Lakes Two, Inc., its Manager

BY: William E. Peterson  
NAME: William E. Peterson  
TITLE: Vice President

FAIR LAKES CENTER ASSOCIATES L.P.  
(Applicant)

BY: Fair Lakes Retail Center, Inc.  
Its General Partner

BY: \_\_\_\_\_  
NAME: \_\_\_\_\_  
TITLE: \_\_\_\_\_

SRI SEVEN FAIR LAKES LLC  
(Title Owner of Parcel 55-2-((1))-8A1)

BY:  \_\_\_\_\_  
NAME: RONNIE E. RAGOFF  
TITLE: Vice President

EAST MARKET RETAIL L.C.  
(Title Owner of Parcel 55-2-((1))-6A)

BY: East Market Retail Manager, Inc.,  
its Manager

BY: \_\_\_\_\_  
NAME: \_\_\_\_\_  
TITLE: \_\_\_\_\_

FAIR LAKES TWO L.L.C.  
(Title Owner of Parcel 55-2-((1))-8A2)

BY: Fair Lakes Two, Inc., its Manager

BY: \_\_\_\_\_  
NAME: \_\_\_\_\_  
TITLE: \_\_\_\_\_