



County of Fairfax, Virginia

To protect and enrich the quality of life for the people, neighborhoods and diverse communities of Fairfax County

May 15, 2009

David R. Gill, Esquire
McGuire, Woods LLP
1750 Tysons Boulevard, Suite 1800
McLean, Virginia 22102

Re: Proffer Interpretation for RZ 86-C-121 as applicable to Tax Map Parcel 17-1 ((17)) 4; Available Development Potential within Part 5 of RZ 86-C-121

Dear Mr. Gill:

This letter is in response to your letter dated November 6, 2008, which was received by the Zoning Evaluation Division on November 12, 2008. You have requested a determination regarding the development potential currently available regarding Tax Map parcel 17-1 ((17)) 4, which is also known as the "library park property," pursuant to the applicable zoning approvals, specifically RZ 86-C-121 and the associated Development Plan approved by the Board of Supervisors on March 9, 1987, as subsequently amended. Your letter also references the Master Conceptual Plan for Reston Town Center that was reviewed by the Planning Commission in 1992 and requests clarification of the uses and intensities referenced by that document. A copy of your letter is attached for reference.

The library park property is shown on the approved Development Plan for RZ 86-C-121 within Part 5 of the Town Center. Part 5 contains a total of 14.92 acres of land. The use and intensity limitations depicted on the approved Development Plan for Part 5 are as follows: (1) a maximum non-residential floor area of 455,000 square feet with a maximum building height of 15 stories or 180 feet, and (2) a maximum residential density of 50 dwelling units per acre or a total of 746 residential units.

No structures currently exist on the library park portion of Part 5 of the Development Plan. It is currently a passive open space area. As your letter notes, development has occurred on other portions of Part 5. Currently, an approximately 9,100 square foot child care center exists to the west of the library park property, and a 100-unit condominium residential structure exists to the east of the library park property. Further, on the easternmost portion of Part 5, an approximately 100,017 square foot portion of the existing Spectrum commercial development exists. Based upon the total land area of Part 5, as shown on the Development Plan (14.92 acres), Part 5 is currently developed at an overall density of approximately 6.7 dwelling units per acre (du/ac) and an overall intensity of approximately .17 FAR.

There are no site plans currently pending or recently approved for development within the area of Part 5 as it is defined by the approved Development Plan. Therefore, it is my determination that the overall development within Part 5 of RZ 86-C-121 as shown on the approved Development Plan is limited to a maximum of 746 dwelling units and 455,000 square feet of non-residential use. This means that based upon existing development and current site plan approvals within Part 5, approximately 646 residential

units and approximately 354,983 square feet of non-residential use remain available for development within the overall land area of Part 5, subject to obtaining all applicable land development approvals.

Your letter also references the intensities noted on the Master Conceptual Plan for the Reston Town Center reviewed and approved by the Planning Commission on March 12, 1992 as being applicable to the library park property. While the uses and intensities noted on the Master Conceptual Plan serve as a guide for development, individual parcels are not restricted to the use or intensity shown thereon. Modifications to the Master Conceptual Plan may occur with the submission, review, and approval of a Conceptual Plan in accordance with the approved proffers. The Development Plan for Part 5 as approved by the Board of Supervisors sets forth the use and intensity limitations for the 14.92 acre land area. The approved Development Plan applicable to Part 5 does not designate use or intensity with respect to specific parcels but rather to the land area as a whole. Further, according to County records, a Conceptual Plan in accordance with the accepted proffers for RZ 86-C-121 has not been submitted for the library park property. Therefore, it is my determination that the use and intensity shown on the approved Development Plan governs development of the library park property. In order to develop the site with a use at an intensity in accordance with the approved Development Plan, review and approval of a Conceptual Plan, PRC Plan and a Site Plan in accordance with the approved proffers is required. Further, it should be noted that should a PRC Plan be submitted for the library park parcel to develop the parcel at a density that exceeds 50 du/ac or at an intensity that exceeds 0.7 FAR on the site area of the parcel, written concurrence from the affected property owners within Part 5 will be required at the time of filing of the PRC Plan.

These determinations have been made in my capacity as the duly authorized agent of the Zoning Administrator. If you have any questions regarding these interpretations, please feel free to contact me at (703) 324-1290.

Sincerely,



Regina C. Coyle, Director
Zoning Evaluation Division, DPZ

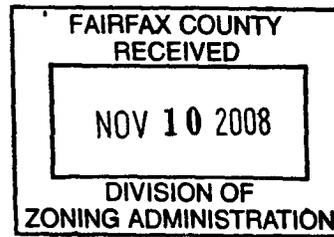
Attachments: A/S

cc: Catherine Hudgins, Supervisor, Hunter Mill District
Frank De La Fe, Planning Commissioner, Hunter Mill District
James P. Zook, Director, Department of Planning and Zoning
Eileen McLane, Zoning Administrator
R. Scott Wynn, Senior Assistant County Attorney
Ray Goins, NCC Consortium LLC c/o TC Mid-Atlantic Development, Inc.
Frank Stearns, agent for RAJ Development LLC
Mark Looney, agent for Reston Spectrum L.P, c/o Lerner Co.
Bill Buhl, Paramount c/o CMC Management
Diane Johnson-Quinn, Deputy Zoning Administrator, Permit Review Branch, ZAD, DPZ
Ken Williams, Plan Control, Land Development Services, DPWES
File: RZ 86-C-121; CPA 86-C-121

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November 6, 2008

RECEIVED
Department of Planning & Zoning

NOV 12 2008

Zoning Evaluation Division

Ms. Eileen McLane, Zoning Administrator
Zoning Administration Division
12055 Government Center Parkway, Suite 807
Fairfax, VA 22035

**RE: Determination for RZ 86-C-121 (Reston Town Center Rezoning)
as applied to Tax Map Parcel 17-1-((17))-4**

Dear Eileen:

Pursuant to Virginia Code Section 15.2-2286(4) and Fairfax County Zoning Ordinance 18-103 and 18-204(10), this letter serves as a determination request to verify several aspects of the "Reston Town Center Rezoning" as applied to tax map parcel 17-1-((17))-4 (the "Property"), commonly known as the library park parcel. Pursuant to the Reston Town Center Rezoning there are several applications pending with the County by adjacent property owners that would effectively strip all development rights from the Property without the consent, or even notice to, the owner of the Property. As discussed below, this "stripping" of density without the property owner's consent is directly contrary to the applicable land-use approvals, long-standing County policy and sound land-use decision-making.

Background

McGuireWoods LLP represents NCC Consortium LLC (the "Owner"), the owner of the Property. As you know, the Reston Town Center was rezoned in 1987 with a series of applications, RZ 85-C-088, RZ 86-C-119, RZ 86-C-118 and RZ 86-C-121 (collectively "Reston Town Center Rezoning") to rezone the Town Center area to PRC. Each of these rezonings was approved with a Development Plan, which generally identified the permitted land uses, densities and building heights for parcels in Town Center, but did not show development details. Instead, the proffers created a unique process whereby, as the parcels within the Town Center develop, applicants are required to submit a "Conceptual Plan" for approval to the Planning Commission to ensure development is consistent with the approved proffers and the specific "part" identified on the Development Plan.

Further, in 1992, the Planning Commission approved a three part "Master Conceptual Plan" for Reston Town Center, then under single ownership. The Master Conceptual Plan specified open space, landscaping, circulation, land-use, heights and FAR for various "parts" of the Town Center area, consistent with the underlying Reston Town Center Rezoning. The Master Conceptual Plan consolidated the numerous approved Development Plans proffered as part of the Reston Town Center Rezoning into a single governing document. Similar to the Development Plans, the Master Conceptual Plan does not show development details, but the notes on the Master Conceptual Plan still require submittal of a more detailed Conceptual Plan for individual developments, to be approved by the Planning Commission. Further, as part of the recent amendments to the PRC Districts, PRC Plan approval, which requires approval of the Board of Supervisors, still must be sought in accordance with the PRC zone.

As applied to the Property, the Reston Town Center Rezoning and approved Development Plan created a sub-area within the Town Center known as "Part 5." This Part 5 area consists of 14.92 acres. The notes on the Development Plan approved as part of the Town Center Rezoning state the "maximum gross floor area of commercial space shall not exceed 455,000 square feet" and the "maximum overall non-residential FAR shall not exceed .7." Further, the Development Plan also permits all uses allowed under the PRC zoning, which includes multi-family residential up to 50 dwelling units per acre for an area (not for a lot) designated as high density. See Section 6-308(3)(C) of the Zoning Ordinance. Thus these approvals limit the applicable density and intensity for the parcels subject to Part 5.

As importantly, the Master Conceptual Plan sheet known as the "Land Use, Heights, F.A.R." plan, allocated specific uses, density and heights to specific blocks within the Town Center, including Part 5. The table associated with this plan states that the Property (Section 89, Block 4) is planned for "Community and Recreation" uses up to a maximum non-residential FAR of 0.7. The plan also states that the remaining blocks within Part 5 are planned for "Office, Retail, Residential, Community, Recreation, and/or Parking" up to a non-residential FAR of 0.7.

Recent Applications

Since the approval of the Master Conceptual Plan was adopted, no applications had been brought forward that would purport to strip density from another property until Lerner (Reston Spectrum, LLLP) filed a Conceptual Plan Amendment (CPA 86-C-121-2-3), as required by the Master Conceptual Plan and the Reston Town Center Proffers, to utilize all remaining density within Part 5. This CPA, which only required Planning Commission approval, was approved in June 2008. It is worth noting that nominally, Lerner left enough density as part of this application to allow both the Winwood (Tax Map Parcel 17-1-((17))-3) and Diamond Condominiums (Tax Map Parcels 17-1-((31))) sites to develop at up to 0.7 FAR and 50 du/acre based on their land area. However, Lerner's application effectively strips all density from the Property, the Diamond/library

expansion parcel (Tax Map 17-1-((17))-5A) and utilizes density credits for previously dedicated streets.

Subsequently, RAJ Development, who owns the Winwood site (Section 89 Block 3), filed a combined CPA/PRC Plan to allow development of a 375 condominium building with 50,000 sq. ft. of retail and childcare. This level of development will also effectively strip density from the Site and the Diamond/library expansion parcel. In the end, there is not sufficient density within Part 5 to allow both RAJ, as proposed, and Lerner, pursuant to its approved CPA, to be developed without stripping all the density from the Property, which would result in the potential double-counting of density.

Determination Request

With this background, it is clear the Property has already been allocated an FAR of 0.7 pursuant to the Master Conceptual Plan and Proffers. Therefore please verify that no subsequent application may re-allocate the 0.7 FAR without the consent of the owner of the Property.

Discussion

Proffer D.1 of the Reston Town Center Rezoning created the Conceptual Plan approval process applicable to the Property (RZ 86-C-121). This Proffer states that development will be in "accordance" with the Development Plan, and the applicant shall, prior to submission of a site plan, prepare a conceptual plan to include, *inter alia*, "floor area ratios" and general location and type of housing units and general location of office and commercial buildings. The Proffer also requires the Conceptual Plan be approved by the Planning Commission.

The allocation of FAR pursuant to the adoption of the Mast Conceptual Plan was carefully considered and made on a block-by-block basis in order to ensure development would be consistent with the governing Proffers and the Development Plan approved by the Board. For example, the remaining blocks within Part 5 were also allocated a specific FAR of 0.7 (Section 89, Blocks 3 and 5, Section 91 on the Master Conceptual Plan). Thus, pursuant to the Proffers and the Master Conceptual Plan, the Property has already been allocated a specific FAR of 0.7

Besides the specific allocation of density pursuant to the Master Conceptual Plan and the Proffers, long-standing County policy has supported broad consent and notification requirements when density is effectively transferred from one property owner to another. This has also been the consistent position of the County in approving conceptual plans in the Town Center. For example, CPA 86-C-121-3 (the most recent Spectrum concept plan approval) included note 32 which requires the consent and/or joinder of any property owner materially affected by a subsequent amendment to the concept plan. This mirrors similar provisions in the original concept plan for the

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Spectrum development (CP 86-C-121-2, note #35) and the concept plan for the Diamond Condominiums (CP 86-C-121-14, notes #29 and 30).

This approach is also consistent with the traditional partial "PCA" request, which is analogous to a concept plan amendment, whereby the Zoning Administrator, pursuant to 18-207(6) of the Zoning Ordinance must determine that the amendment "(a) would not adversely affect the use of the property subject to the proffered conditions but not incorporated into the amendment application, (b) would not inhibit, adversely affect, or preclude in any manner the fulfillment of the proffered conditions applicable to the area not incorporated into the amendment application, and (c) would not increase the overall approved density/intensity for the development." I note that there is no record that the Spectrum or RAJ CP application ever applied for such a partial amendment determination.

The long-standing land use approval scheme in Fairfax County has been predicated on notice to and the consent of affected or aggrieved parties in order to ensure open and fair land use decision-making. This central tenet of notice and consent is reinforced in the Proffers which require members of the Reston community to review and comment on all conceptual plans. Fundamentally, the owner of Property may be stripped of the ability to fulfill the County's long-standing vision for the Property because its consent was not required for either the Lerner and/or RAJ applications.

Lastly, there are also sound policy reasons supporting the approach outlined above. The current "race" approach taken by the County creates a perverse incentive for land owners to file "paper" applications for density that may never be intended to be built, thwarting the underlying purpose of the Reston Master Plan, the Reston Town Center Rezoning, and the Conceptual Master Plan. For example, approving the Spectrum CPA limits the ability of the owner of the Property to provide community or recreational uses, such an expansion of the Reston Library, on the Property, as expressly permitted by the Master Conceptual Plan and the Proffers.

As time is of the essence on this matter and that this critical issue that may impact pending applications, we respectfully request that you issue your determination as soon as is practicable. For your reference I have included copies of the Town Center Rezoning Proffers and the Master Conceptual Plan. If you have any questions or need additional information regarding this determination request, please do not hesitate to contact me.

Kindest Regards,



David R. Gill

November 6, 2008

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cc: Catherine Hudgins, Supervisor, Hunter Mill District
Frank de la Fey, Planning Commissioner, Hunter Mill District
Regina Coyle, Department of Planning and Zoning
Catherine Lewis, Department of Planning and Zoning
Ray Goins, Trammell Crow Company
Jonathan P. Rak, McGuireWoods LLP

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EXHIBIT 1

TOWN CENTER PROFFERS

COMMONWEALTH OF VIRGINIA
COUNTY OF FAIRFAX

4100 CHAIN BRIDGE ROAD
 FAIRFAX, VIRGINIA 22030



March 25, 1987

E. A. Prichard, Esquire
 Boothe, Prichard and Dudley
 8280 Greensboro Drive - Suite 900
 McLean, Virginia 22101

Re: Rezoning Application
 Number RZ 86-C-121
 (Concurrent with RZ 86-C-119,
 RZ 85-C-088 and RZ 86-C-118)

Dear Mr. Prichard:

Enclosed you will find a copy of an Ordinance adopted by the Board of Supervisors at a regular meeting held on March 9, 1987, granting, as proffered, Rezoning Application RZ 86-C-121 in the name of Reston Land Corporation, to rezone certain property in the Centreville District from the R-1, R-E, C-3 and I-5 District to the PRC District on subject parcels 17-1 ((1)) pt. 3, 17-2 ((1)) 11, 17-3 ((1)) pt. 1, 2, 3, pt. 4, 5, 5C, 5D, 5G, 6, 14, 15 and 17-4 ((1)) 7 consisting of approximately 144.64 acres.

The Board also imposed a development condition which clarifies Proffer Numbers Nineteen and Twenty-Two, under Part B. Transportation System, which states:

"That the Phase One and Phase Two Comprehensive Traffic studies which are to be prepared by the applicant shall be submitted to the Fairfax County Board of Supervisors and Fairfax County Office of Transportation for administrative review and approval".

Very truly yours,

Ethel W. Register
 Ethel W. Register, CMC, Agency Director
 Office of The Clerk to the Board

EWR:ns

cc: Lurty C. Houff Jr.
 Real Estate Division
 Gilbert R. Knowlton, Deputy
 Zoning Administrator
 Barbara A. Byron, Director
 Zoning Evaluation Division
 Fred R. Beales, Supervisor
 Base Property Mapping/Overlay

At a regular meeting of the Board of Supervisors of Fairfax County, Virginia, held in the Board Room in the Massey Building at Fairfax, Virginia, on the 9th day of March, 1987, the following ordinance was adopted:

AN ORDINANCE AMENDING THE ZONING ORDINANCE
PROPOSAL NO. RZ 86-C-121
(CONCURRENT WITH RZ 86-C-119, RZ 85-C-088 and RZ 86-C-118)

WHEREAS, Reston Land Corporation, filed in the proper form, an application requesting the zoning of a certain parcel of land hereinafter described, from the R-1, R-E, C-3 and I-5 Districts to the PRC District, and

WHEREAS, at a duly called public hearing the Planning Commission considered the application and the propriety of amending the Zoning Ordinance in accordance therewith, and thereafter did submit to this Board its recommendation, and

WHEREAS, this Board has today held a duly called public hearing and after due consideration of the reports, recommendation, testimony and facts pertinent to the proposed amendment, the Board is of the opinion that the Ordinance should be amended,

NOW, THEREFORE, BE IT ORDAINED, that that certain parcel of land situated in the Centreville District, and more particularly described as follows (see attached legal description):

Be, and hereby is, zoned to the PRC District, and said property is subject to the use regulations of said PRC District, and further restricted by the conditions proffered and accepted pursuant to Va. Code Ann., §15.1-491(a), which conditions are incorporated into the Zoning Ordinance as it affects said parcel, and

BE IT FURTHER ENACTED, that the boundaries of the Zoning Map heretofore adopted as a part of the Zoning Ordinance be, and they hereby are, amended in accordance with this enactment, and that said zoning map shall annotate and incorporate by reference the additional conditions governing said parcels.

GIVEN under my hand this 9th day of March, 1987.


Ethel W. Register, CMC, Agency Director
Office of The Clerk to the Board

RESTON LAND CORPORATION

Reston Town Center Rezoning

- A. RZ 85-C-088 (Property A)
- B. RZ 86-C-121 (Property B)
- C. RZ 86-C-118 (Property C)

Revised February 27, 1987

Pursuant to Section 15.1-491 (a) of the Code of Virginia (1950, as amended) and Section 18-203 of the Zoning Ordinance of Fairfax County (1978, as amended), the property owner and Applicant, for itself and its successors or assigns (hereinafter collectively referred to as the "Applicant") proffer that the development of the parcels under consideration, (a) shown on Fairfax County Tax Map 17-1-((1))-3 and 17-2-((1))-11 (hereinafter collectively referred to as "Property A"), (b) shown on Fairfax County Tax Map 17-1-((1))-3, 17-2 ((1))-11 (Part 13), 17-1-((1))-3 (Part 6), 17-3-((1))-1, 2, 3, 17-3-((1))-4, 5, 5C, 5D, 5G, 6, 14, 15 and 17-4 ((1))-7 (hereinafter collectively referred to as "Property B"); and (c) shown on Fairfax County Tax Map 17-1-((1))-3 (hereinafter collectively referred to as "Property C"); will be in accordance with the following conditions. These proffered conditions will be effective only if the Property is rezoned in accordance with the Applicant's request, provided however Applicant will accept I-3 rezoning on Property C in lieu of I-5.

A. DEFINITIONS

TOWN CENTER: - The 530.74 acre land area described in Appendix A.; the land area owned by Applicant in February 1982 plus land owned by others within the general boundaries of the Dulles Airport Access Road on the south, the proposed Fairfax Parkway on the west, Stevenage Drive on the north and Reston Avenue on the east with some land (as shown on plats filed with this Application) also east of Reston Avenue.

TOWN CENTER STUDY AREA: - The 448.96 acre land area described in Appendix A; the land area in Town Center owned by Applicant in February 1982 (excluding land owned by others but including land already zoned).

TOWN CENTER CORE AREA: - Property "A", 84.25 acres of the Town Center included in RZ 85-C-088.

MAXIMUM DEVELOPMENT PROGRAM: - The maximum amount of development which will be allowed in the Town Center Study Area (448.96 acres including those areas already zoned) to a commercial floor area ratio of .43 (calculated based on the aforesaid gross acreage) including the following elements:

Commercial

| | |
|---------------------------------|-------------------|
| Office/Research and Development | 7,100,000 sq. ft. |
| Retail | 315,000 sq. ft. |
| Hotel | 1,000,000 sq. ft. |
| Total Commercial | 8,415,000 sq. ft. |
| Commercial Floor Area Ratio | .43 |

Housing Units

1,400 dwelling units
(minimum)

Hospital

127 beds (minimum)

Since the Town Center Study Area includes land which is not part of the four rezoning applications under consideration, the amount of development which will be allowed on Properties A, B, C and the land included in RZ-C-119 hereinafter referred to as Property D, will be the amount which remains after deducting the amount of commercial development which occurs on those portions of the Town Center Study Area not presently under consideration.

MINIMUM DEVELOPMENT PROGRAM: - The minimum amount of development that will be allowed based on Applicant's proposed transportation plan is as follows:

Commercial

| | |
|---------------------------------|-------------------|
| Office/Research and Development | 5,500,000 sq. ft. |
| Retail | 315,000 sq. ft. |
| Hotel | 1,000,000 sq. ft. |
| Total Commercial | 6,815,000 sq. ft. |
| Commercial Floor Area Ratio | .35 |

Housing Units

1,400 dwelling units
(minimum)

Hospital

127 beds (minimum)

PHASING: - The development programs assume that the only variable is the office/research and development (hereinafter referred to as R&D) component. The phasing is therefore related to the amount of office/R&D space constructed. The phasing is:

| <u>Phase</u> | <u>Cumulative Office/Research & Development</u> |
|--------------|---|
| Phase I-A | 2,300,000 square feet |
| Phase I-B | 4,300,000 square feet |
| Phase I-C | 5,500,000 square feet |
| Phase II | 6,300,000 square feet |
| Phase III | 7,105,000 square feet |

SUPERBLOCK The land included within the boundary of Reston Avenue, Baron Cameron Avenue, proposed Fairfax Parkway and the Dulles Toll Road.

TRANSPORTATION PLAN: - The transportation plan dated July, 1986 was prepared for Applicant by JHK and Associates. The transportation plan is a comprehensive regional analysis which includes Property A, Property B, Property C, Property D and those other properties, as defined in Appendix A as the Town Center Study Area, as internal traffic generators. The balance of Properties in the Town Center Area, including the Fairfax County North Governmental Center, have been included in the regional growth predictions and are included as part of the background traffic.

TRANSPORTATION COORDINATOR: - A Transportation Coordinator will be employed within sixty days of the issuance of the first building permit on Property A or of the issuance of the first building permit in the Town Center Study Area which will bring the cumulative commercial development up to one million square feet pursuant to this application, whichever event occurs first. The Coordinator will be responsible for working with public and private transportation agencies and for developing the Transportation System Management (TSM) program for the Town Center.

TRANSPORTATION COORDINATION COMMITTEE: - A TSM Coordinating Committee for Reston will be initiated by Applicant. Employers in Reston will be represented on the committee. The committee will meet regularly and will promote the TSM programs. The committee will work with local transportation committees and to the extent possible coordinate activities.

TRANSPORTATION SYSTEM MANAGEMENT: - A program designed to reduce vehicular trips upon maximum build-out of the Town Center Study Area by approximately 25% below the office related trip generation rates, defined in the ITE Trip Generation Manual 3rd Ed. dated 1982. Table 1, attached hereto, shows the PM office trip generation rates and the targeted levels of reduction for each phase.

INTERNAL TRAFFIC STUDY: - The traffic studies to be conducted at the completion of construction of Phases I-A and I-B to determine Applicant's performance of its trip generation rate goals for the purpose of adjusting the TSM programs. The methodology for these studies is defined in Appendix B.

COMPREHENSIVE TRAFFIC STUDY: - The traffic study to be conducted at the completion of construction of Phase I-C, Phase II, and if desired by Applicant, at completion of construction of Phase III to measure both the internal trip generations as well as the growth in the external traffic via cordon line counts as defined herein. This will be the basis for determining the actual development levels for Phases II and III. The methodology for these studies is defined in Appendix B.

CORDON LINE: - The imaginary line immediately outside the Superblock where traffic will be counted to measure total traffic volume. The cordon line counts will be taken immediately outside the boundaries of the superblock; north of Baron Cameron, east of Reston Avenue, south of Sunset Hills Road and west of the proposed Fairfax Parkway. The intersections at which the cordon line counts will be taken are: (a) Baron Cameron Avenue/Reston Avenue, (b) Reston Avenue/Temporary Road, (c) Reston Avenue/Sunset Hills Road, (d) Sunset Hills Road/Fairfax Parkway, (e) Fairfax Parkway/Baron Cameron Avenue, (f) Baron Cameron Avenue/Bennington Woods Road and (g) Baron Cameron Avenue/Bracknell Drive.

FDOT: - Fairfax County Office of Transportation

VDOT: - Virginia Department of Transportation or its successor.

B. TRANSPORTATION SYSTEM

1. Applicant proffers to implement a TSM program which is intended to reduce by approximately 25 percent office related trips as defined in the ITE Trip Generation Manual. The program shall be designed to produce a 5 percent reduction at the completion of construction of Phase I-A, a 15 percent reduction at the completion of Phase I-B, a 19.4 percent reduction at the completion of construction of Phase I (A, B, & C), a 22.2 percent reduction at the completion in Phase II and a 25 percent reduction at the completion of Phase III. For Phases I-A and I-B, Applicant will be considered as having reached its TSM Goal if the rate is within 2 percent of the targeted reduction. For Phases I-C, II and III, Applicant will be considered as having obtained its TSM Goal if it is within 3 percent of its target. The TSM program components are listed in Appendix D.
2. Upon completion of construction of Phase I-A the Applicant will cause to be prepared and submitted to the FDOT an internal traffic study which will fully describe the traffic characteristics of the developed portions of the Town Center Study Area. The method for conducting this traffic study shall be as described in Appendix B attached hereto. Following review of the traffic study the TSM program for Phase I-B will be adjusted and approved by the FDOT.
3. Upon completion of construction of Phase I-B the Applicant will conduct another internal traffic study. Following review by the FDOT, the TSM program for Phase I-C will be further adjusted as approved by FDOT.
4. Phase I (A, B, and C) will not exceed 5.5 million square feet of office and/or R&D uses. Subject to the results of comprehensive traffic studies, Phase II may increase the total office/R&D use to 6.3 million square feet.

Subject to the results of a second comprehensive traffic study, Phase III may increase the total office/R&D use to 7.1 million square feet. The TSM program in its entirety will be continued after the Town Center build-out notwithstanding that Phases II and/or III may not be completely developed (i.e. if the buildout is 5.5 million square feet, the TSM programs will target a goal of a 19.4 percent reduction.) Applicant will perpetuate the TSM programs by appropriate written agreements with third parties to and including but not limited to lease agreements, covenants and/or operation and management of same by the Property Owners Association to be created per Section C, Paragraph 8.6 on page 17 of these proffers. Applicant may further adjust the TSM programs to find the most cost-effective solutions as long as the trip generation reductions are maintained, subject to FDOT approvals. In the event that following buildout of 7.1 million square feet of office and/or R&D Applicant fails to continue the TSM programs as previously approved by FDOT and Applicant's trip generation reductions are no longer met, Fairfax County may issue no further non-residential use permits until the TSM programs are again successfully implemented.

5. Cordon Analysis. Applicant will conduct a comprehensive traffic study upon completion of construction of Phase I-C, which will include detailed surveys of individual development sites to determine trip generation characteristics, as well as traffic counts at a cordon line immediately surrounding the Superblock. For study purposes, an imaginary cordon line will be established immediately outside the Superblock for the purpose of counting traffic which is generated by or passes through the Superblock. Traffic counts will consist of the outbound PM traffic movements counted at the public street intersections within the cordon line surrounding the Superblock. These are: (a) Baron Cameron Avenue/Reston Avenue, (b) Reston Avenue/Temporary Road, (c) Reston Avenue/Sunset Hills Road, (d) Sunset Hills Road/Fairfax Parkway, (e) Fairfax Parkway/Baron Cameron Avenue, (f) Baron Cameron Avenue/Bennington Woods Road and (g) Baron Cameron Avenue/Bracknell Drive. Traffic counts will be compared to the numbers as forecast in Table 4.

6. The cordon analysis will be submitted to the Fairfax County Board of Supervisors and FDOT for administrative review and approval. The volume of

traffic counted crossing the cordon will be compared with the number of trips estimated for that time period. The methodology for determining the estimated number of trips at any time is described in Appendix C. If the actual and estimated number of trips counted is within five percent of the forecast number, Applicant will be permitted to complete the buildout of Phase II of Town Center Study Area. If the actual number of trips exceeds the forecast number by more than five percent, Applicant proffers to reduce the development in Phase II by an amount of development equivalent to the difference between the actual number and estimated number of trips divided by the difference between 14,885 trips and the estimated number of trips multiplied by 800,000 square feet as adjusted below. If the actual number of trips exceeds the estimated number by more than five percent and if the traffic studies show that Applicant has met its estimates for trip generation, then the Applicant will be allowed to discount half of the effect of the increased external traffic in the above calculations. (An example of the applications of this formula is shown in Table 2. attached hereto. The method for determining the estimated number of trips at any time is defined in Appendix C.) If the actual number of trips crossing the cordon line exceeds the estimated number (14,885) by more than five percent and the traffic studies show Applicant has not met its estimates for trip generation, Applicant will not be issued any additional building permits for office and/or R&D use so long as the actual number of trips crossing the cordon line exceeds the estimated number (14,885) by more than five percent and the estimates for trip generation have not been met.

7. Upon completion of construction of Phase II (as adjusted), Applicant will conduct another comprehensive traffic study including a cordon analysis. Following review of this study by the FDOT and a comparison of the number of trips counted at the Cordon Line with the estimated number of trips, the proportion of remaining development that can be completed will be calculated. Should this procedure result in permitting less than the number of square feet proposed by Applicant at build-out, the Applicant may supply additional transportation improvements, not previously proffered which would provide sufficient capacity to accommodate additional development. The capacity of such additional improvements would be determined using standard

transportation planning techniques as approved by the FDOT. Applicant may also conduct additional traffic surveys including cordon analyses at any time prior to reaching a build-out and, depending upon the results, Applicant may propose additional TSM actions and improvements which will allow for continued development not exceeding the maximum development program subject to FDOT approval. For purposes of this section, the additional capacity provided by a single arterial lane equals 1,000 vehicles per hour at the PM peak hours.

8. Fairfax Parkway (Springfield Bypass) Reservation - Subject to VDOT approval of the alignment of the Fairfax Parkway substantially consistent with the attached plats prepared by Reston Land Corporation and dated October, 1984. Applicant proffers to dedicate or convey to Fairfax County or VDOT a right-of-way 160 feet wide for the Fairfax Parkway through those portions of Reston shown on the plat. Applicant shall also reserve land at the northwest quadrant of the Fairfax Parkway and Sunset Hills Road for a northbound to westbound loop (the 4.1339 acre Parcel as shown on the attached plat as prepared by Gulf Reston, Inc., dated June 21, 1978 and numbered 84-025-5), land at the southeast quadrant of same intersection for a free flow slip ramp (in accordance with the Development Plans for RZ 86-C-121) and land at the southeast quadrant of the Fairfax Parkway and Baron Cameron for a standard diamond exit ramp (in accordance with the Development Plans for RZ 86-C-118). Applicant agrees, subject to final design approval by VDOT, to expand the reservation for the northbound to eastbound free flow slip ramp in the southeast quadrant of the Fairfax Parkway and Sunset Hills Road to conform to Byrd, Tallamy and MacDonald's design of this interchange with the Fairfax Parkway all as shown on sheets 44 and 45 of Project Number 000-029-249, PE 103 dated 3 February 1987. However, Applicant's obligation to construct any portion of the Fairfax Parkway pursuant to these proffers shall not include any grade-separated interchanges. Provided however that Applicant will cost-share with VDOT or Fairfax County the construction of grade-separated interchanges at Sunset Hills Road and/or Baron Cameron Avenue if such grade-separated improvements are made concurrent with Applicant's construction of the portions of the Fairfax Parkway which would contain the aforesaid interchanges. Applicant's

contribution to such cost-sharing shall be limited to and not exceed the cost if such intersections were built at-grade. Applicant will dedicate or convey such right-of-way within sixty days after request of the Board of Supervisors following a binding commitment of funds for construction of the segment for which right of way is requested in accordance with the attached plans.

9. Phased Transportation Improvements - Phase I. The phasing of transportation improvements will be tied to the amount of office/R&D space built in the Town Center Study Area in accordance with Table 3, attached hereto. Phase I-A shall include up to but not exceeding 2,300,000 square feet of office/R&D space in the Town Center Study Area. During development of Phase I-A, Applicant will construct, at Applicant's expense, the following road improvements: (as shown on Figure 11 of the Reston Town Center Transportation study dated July, 1986.)

- (a) a southbound to eastbound loop in the SW quadrant of Reston Avenue and the Dulles Access Road with relocation of the ramps in the SW and SE Quadrants, all subject to Federal Aviation Administration (FAA) and VDOT approval.
- (b) a northbound left turn lane across the Reston Avenue Bridge over the Dulles Access Road, subject to FAA and VDOT approval.
- (c) reconstruct Sunset Hills Road to a 4-lane divided section from Town Center Parkway to Herndon Town Line.
- (d) widen westbound approach of Sunset Hills Road to Reston Avenue from Old Reston Avenue.
- (e) East-West Connector Road as a 4-lane divided section from Reston Avenue to Alley Street and improve intersection with Reston Avenue.
- (f) Vail Avenue as a 4-lane section from Reston Avenue to Alley Street and improve intersection with Reston Avenue.

10. Applicant will make application to FAA (or its successors) for permission to construct those improvements which require FAA approval, concurrent with the site plan approval process for the first building in Property A but no later than December 31, 1987. These proffers are given with the expectation that FDOT and VDOT will use their best efforts to assist in obtaining such FAA approvals. Applicant shall use its best efforts to secure all required FAA approvals to and including but not limited to (1) timely filing of Final Plans (2) timely preparing and filing any Final Revisions to Final Plans and (3) timely application for all necessary construction and grading permits. If after applying for permission pursuant to the above and using its best efforts Applicant has not obtained FAA approvals within eighteen (18) months after initial application for all necessary construction and grading permits above, Applicant will inform FDOT that the approvals have not been received and then if FAA approvals are not received within the next six (6) months, Applicant will nevertheless be allowed to continue with the development of the Phase I.

11. All of the above described improvements ((except 9 (a) & 9 (b) if timely FAA approval is not received)) will be substantially completed and placed in service prior to the issuance of a non-residential use permit the which will raise the cumulative total of office and/or R&D space in the Town Center Study Area to 2.3 million square feet.

12. Applicant will conduct the Phase I-A internal traffic study no later than completion of 2.3 million square feet of office and/or R&D space.

13. Fairfax Parkway Construction - Within six months following the opening of Fairfax Parkway bridge over the Dulles Airport Access Road for traffic, Applicant will complete and place in service Fairfax Parkway as a 4-lane divided section between the north ramps of the Dulles Access road and Sunset Hills Road. Prior to the commencement of construction on this segment of the Parkway, Applicant will dedicate, or cause to be dedicated, the 160' right-of-way from Sunset Hills Road to the southern boundary of Reston as more particularly shown on the attached plats. As a part of the construction Applicant will also construct, at Applicant's expense, an at-grade signalized intersection at Sunset Hills Road and Fairfax Parkway.

14. Phase I-B Development - During Phase I-B of development, which will include up to 2,000,000 additional feet of office and/or R&D space bringing the aggregate to 4,300,000 square feet, Applicant will construct the following road improvements at Applicant's expense:

- (a) reconstruct Reston Avenue by adding one lane in each direction, from the ramps north of Dulles Airport Access Road to Temporary Road.
- (b) the East-West Connector Road to a 4-lane divided section from Alley Street to Town Center Parkway.
- (c) Town Center Parkway to a 4-lane divided section from Bowman Towne Drive to East-West Connector Road.
- (d) reconstruct the intersection at Baron Cameron Avenue and Reston Avenue.
- (e) Fairfax Parkway to a 4-lane divided facility from Sunset Hills Road to the East-West Connector.
- (f) East-West Connector to a 4-lane divided facility from Town Center Parkway to the Fairfax Parkway.
- (g) First Street as a 2-lane section from the East-West Connector to Bowman Towne Drive.

15. Applicant will substantially complete and place in service all of the above improvements prior to the issuance of a non-residential use permit which will raise the cumulative total of office and/or R&D space in the Town Center Study Area to 4.3 million square feet.

16. Applicant will conduct the Phase I-A internal traffic study not later than completion of 4.3 million square feet of office and/or R&D space.

17. Phase I-C Development- During Phase I-C development, which will include up to 1,200,000 additional feet of office and/or R&D space bringing the aggregate to 5,500,000 square feet, Applicant will construct the following road improvements at Applicant's expense:

- (a) a southbound lane across the Reston Avenue Bridge over the Dulles Airport Access Road between the northern and southern ramps, subject to FAA approval

(b) a southbound auxilliary lane from Sunset Hills Road to the ramp north of the Dulles Access Road.

(c) Fairfax Parkway to a 4-lane divided section from the East-West Connector to Baron Cameron Avenue.

18. Applicant will substantially complete and place in service the above improvements prior to the issuance of a non-residential use permit which will raise the cumulative total of office and/or R&D space in the Town Center Study Area above 5.5 million square feet.

19. Applicant will conduct the Phase I comprehensive traffic study, including a cordon count, no later than the completion of construction of 5.5 million square feet of office and/or R&D space. Pursuant to the methodology in Appendix B, the comprehensive traffic study will be subject to FDOT approval. Applicant's ability to proceed with development of Phase II will be conditioned on the results of this study and its formula analysis as set forth in Table 2. The development capacity of Phase II will be set by said formula. However, once this development capacity has been determined, Applicant may elect at its sole discretion to cease development should the allowable development capacity defined by said formula not justify the additional transportation improvements.

20. Phase II Development - During Phase II development which will include up to 800,000 additional feet of office and/or R&D space bringing the aggregate to 6,300,000 square feet, Applicant will construct the following road improvements at Applicant's expense:

(a) Town Center Parkway as 4-lane divided section from East-West Connector to Sunset Hills Road.

b) two additional lanes of Reston Avenue, one in either direction, from the East-West Connector to Baron Cameron Avenue.

(c) complete Vail Avenue and remainder of core area streets.

21. Applicant will substantially complete and place in service the above listed improvements prior to the issuance of a non-residential use permit

which will raise the cumulative total of office and/or R&D space in the Town Center Study Area above 6.3 million square feet, as adjusted.

22. Applicant will conduct a Phase II comprehensive traffic study including a cordon count, no later than the completion of construction of 6.3 million square feet of office and/or R&D space. Pursuant to the methodology in Appendix B, the comprehensive traffic study will be subject to FDOT approval. Applicant's ability to proceed with development of Phase III shall be conditioned on the results of this study and the formula analysis as set forth in Table 2. The development capacity of Phase III will be set by said formula. However, once this development capacity has been determined, Applicant may elect at its sole discretion to cease development should the allowable development capacity defined by said formula in its opinion not justify the additional transportation improvements.

23. Phase III Development - During Phase III development which will include up to 805,000 square feet of office space bringing the aggregate to 7,105,000 square feet, Applicant will construct the following road improvements at Applicant's expense:

----- (a) First Street from Vail Avenue to Sunset Hills Road as a two-lane section.

(b) two additional lanes of the Fairfax Parkway, one in either direction from the Dulles Airport Access Road to the East-West Connector.

24. Transportation proffers are made by Applicant with the expectation and understanding that in the event right-of-way, construction or contributions toward construction of parts of the transportation improvements described in Table 3 are provided by others, Applicant will receive full benefit and credit of such contributions in furtherance of its requirements to perform under these proffers.

25. Applicant will construct at its own expense traffic signals throughout the Town Center Superblock at such time as such signals are warranted and approved by VDOT. Such signals shall be interconnected and shall provide for efficient movement of traffic within the Town Center Study Area.

26. Applicant will make best efforts to obtain right of way needed for street widening which is not owned by Applicant. In the event Applicant is unsuccessful, Applicant will request condemnation of the same by Fairfax County at Applicant's expense. This proffer (Section B, paragraph 26) shall become null and void should Fairfax County not use its condemnation powers.

27. Notwithstanding the above adjustments in office and/or R&D development, Applicant will have rights to develop the full 315,000 or more square feet of retail, 1,000,000 square feet of hotel and 1400 or more dwelling units.

28. Applicant proffers to construct intersections in the Town Center consistent with those shown on Figure 12, Page 43, of the Transportation Plan dated July, 1986, as attached hereto. Turn lanes will be provided at such time that the contiguous approach roadway is built or when the intersection warrants signalization. Detailed engineering studies will be conducted for each intersection and should engineering or environmental factors require design modification, Applicant reserves the right to provide the equivalent needed capacity at other locations subject to VDOT and FDOT approval.

29. Applicant will reserve up to 10 feet of right of way on the north boundary of Part 13 of RZ 86-C-121 for further dedication or conveyance to Fairfax County or VDOT for widening of Temporary Road as may be required by detailed engineering, geometric design, and traffic studies and subject to VDOT approval. Applicant will reconstruct Temporary Road from Old Reston Avenue to North Shore Drive to a four-lane undivided facility if required by VDOT consistent with this reservation and subject to future traffic studies. Should VDOT not require this widening by December 31, 2000, this reservation will expire and become null and void and of no further force and effect.

C. DEVELOPMENT PLAN FOR RZ 85 C-088

1. The Town Center Core Area (Property A) will be developed as a mixed use center in general conformity to the Development Plan. The Development Plan prepared by Reston Land Corporation dated February 26, 1986 and revised January 1987 consists of eight sheets of which six are described as follows:

a. Conceptual Plan - The Conceptual Plan shows the generalized location of the various buildings in the Town Center Core Area; their proposed uses, proposed building heights; and provides an overview of the interrelationship of all the components.

b. Master Plan - The Master Plan shows the generalized location of the various buildings in the Town Center Core Area and their proposed uses and provides an overview of the interrelationship of all the components.

c. Phase I Development Plan - The Phase I Development Plan shows the proposed surface parking for Phase I. As development proceeds, parking garages will be substituted for surface lots.

d. Landscape Plan - The Landscape Plan shows the location of the urban parks, the continuity of the urban streetscapes throughout the Urban Core and the increased intensity of landscaping proposed for the highly pedestrian "Market Street". (Although these plans do not reflect the revisions in building sites and to streets 1.a, 1.b, 1.c, and 1.e, they are representative of the quality and character of the Landscape Plan proposed.)

e. Pedestrian Circulation/Parking Garage Entrance-Exit Plan - The Pedestrian Circulation/Parking Garage Entrance-Exit Plan shows the primary and secondary circulation patterns, the pedestrian linkages to the surrounding area and the circulation from the parking structures to the buildings. It also shows the proposed entrances and exits from the parking structures. (Although these plans do not reflect the revisions in building sites and to streets 1.a, 1.b, 1.c and 1.e, they are representative of the quality and character of the Pedestrian Circulation/Parking Garage Entrance-Exit Plan proposed.)

f. Right of Way/Traffic Circulation Plan - The Urban Core shows the urban grid street pattern that will differentiate the Urban Core from the rest of Reston with its meandering streets.

2. The building locations, the height and bulk of buildings and their relationship to each other, the street network and the distribution of uses on the site will be in conformity to the Development Plan, except as modified in accordance with and subject to applicable Fairfax County ordinances.

3. No building in the Town Center Core Area (Property A) shall exceed 275 feet in height from the base elevation of the building.

4. The total floor area ratio for office and commercial buildings in the Town Center Core Area shall not exceed .95 floor area ratio or 3,465,000 square feet of the total commercial space of which approximately 315,000 square feet shall be retail commercial, approximately 2,150,000 square feet shall be office space, and approximately 1,000,000 square feet shall be hotels. The amount of retail in the Town Center Core Area shall be a minimum of 250,000 square feet. Should Applicant elect to increase the retail space in excess of 315,000 square feet, the amount of office and/or hotel shall be reduced by like amounts so as to maintain the maximum 3,465,000 square foot total. Applicant reserves the right to elect to consider ground floor retail in the hotel as either hotel or retail space.

5. The number of dwelling units in the Town Center Core Area (Property A) shall not be fewer than 600. The dwelling units in such core area shall be part of the commitment by Applicant to include at least 1400 dwelling units (excluding Jonathan's Keep and Part 13 of RZ-86-C-121) in the Town Center Study Area. Such dwelling units may be on both a for-sale and rental basis but shall not be included as part of any FAR calculations.

6. Parking Garages - All parking garages shall be designed to include architectural features and building materials which will minimize the appearance of bulk. All set back areas shall be landscaped and all top decks will include planters for shrubs and flowers. All landscaping shall be submitted to the County Arborist for review and approval and shall be approved by an Architectural Review Board described in 8.a below. As shown on the Development Plan, entrances and exits will be so directed as not to impede traffic flows.

7. Architecture - Applicant will cause all commercial buildings and parking garages to be designed by skilled architects in keeping with the high architectural standards of the Reston community. Prior to submission of site plans, Applicant will cause architectural renderings to be prepared

for each building and approved by an Architectural Review Board described in 8.a below for the Town Center Core Area. Copies of all approved renderings shall be submitted to the Fairfax County Planning Commission for review and comment concurrent with site plan review.

8. Architectural Control - Prior to the commencement of construction of any building on Property A, Applicant will cause to be prepared and recorded a set of covenants running with the land which will:

a) create an Architectural Review Board of which at least two members shall be registered architects which will be empowered to approve or disapprove the external appearance, height and bulk of all commercial and residential buildings, including parking garages and all landscape plans and street furniture.

b) create a Property Owners Association which will be empowered to collect dues from property owners which will be sufficient in total to pay for the maintenance of private streets and ways, walkways, lighting, landscaping, street furniture, signs, fountains, ponds and the art cultural center to be constructed by Applicant.

c) require Architectural Review Board approval of all changes in the external appearance of buildings and landscaping.

9. Landscaping - The Town Center Core Area will be extensively landscaped as illustrated in the development plan. The plan is an illustration of the approximate location and quantity of planting. All landscape plans shall be approved by the County Arborist and the Architectural Review Board and shall be in general harmony throughout the Town Center Study Area and shall be submitted to Fairfax County Planning Commission for review and comment concurrent with site plan review.

10. Open Space - The Town Center Core Area will contain at least 15% of open space, which shall include walkways, pedestrian plazas, minor parks and ponds.

11. Art and Cultural Center - Applicant will construct at Applicant's expense an art and cultural center having a floor area of approximately 8,000 square feet. It may be a separate building or within a larger building. As part of the 8,000 square feet commitment, a separate room not to exceed 800 square feet will be made available on a lease basis to Fairfax

County (at cost exclusive of land costs) for exhibition of Fairfax County art and artifacts. This room may or may not be part of the art and cultural center at the discretion of Applicant. Should Fairfax County elect not to lease such room, it will be utilized by Applicant for art and cultural uses.

D. DEVELOPMENT PLAN FOR RZ 86-C-121

1. Property B will be developed in accordance with the Development Plans dated November, 1986 and revised January, 1987. Prior to submission of a preliminary site plan to DEM for any part of Property B (144.64 acres included in RZ-C-121) Applicant proffers to cause to be prepared a conceptual plan to include:

- a vehicular traffic circulation plan including approximate location of entrances
- minor streets in approximate location
- pedestrian walkways and trails
- landscaping and screening
- open space
- recreation and community facilities
- location of a time-transfer transit hub
- floor area ratios
- height limits
- general location and type of housing units
- general location office and commercial buildings
- general location of parking structures

Applicant will afford members of the Reston community an opportunity to review and comment upon the conceptual plan prior to initial submission of the same to Fairfax County for review. Concurrent with the ongoing community input process, Applicant will submit the plan to the Fairfax County Office of Comprehensive Planning for review and the Fairfax County Planning Commission for review and approval. Once the overall preliminary site plan is approved, Applicant will submit preliminary and final site plans for review pursuant to Fairfax County Zoning Ordinances on a site by site basis.

E. DEVELOPMENT PLAN FOR RZ 86-C-118

1. Property C will be developed in accordance with the Development Plan dated November, 1986 and revised January, 1987. Prior to submission of

a site plan for review to DEM for any part of Property C (86.27 acres included in RZ-C-118) Applicant proffers to cause to be prepared a conceptual plan to include:

- a vehicular traffic circulation plan including approximate location of entrances
- minor streets in approximate location
- pedestrian walkways and trails
- landscaping and screening
- open space
- recreation and community facilities
- location of a time-transfer transit hub
- floor area ratios
- height limits
- general location and type of housing units
- general location office and commercial buildings
- general location of parking structures

Applicant will afford members of the Reston community an opportunity to review and comment upon the conceptual plan prior to initial submission of the same to Fairfax County for review. Concurrent with the ongoing community input process, Applicant will submit the plans to the Fairfax County Office of Comprehensive Planning for review and the Fairfax County Planning Commission for review and approval. Once the conceptual plan is approved, Applicant will submit site plans for review pursuant to Fairfax County Zoning Ordinances on a site by site basis.

F. DEVELOPMENT PLANS FOR ALL CASES
(RZ-85-C-988, RZ-86-C-121, RZ-86-C-118)

1) The total floor area ratio for office and commercial buildings in the Town Center Study Area shall not exceed .43 floor area ratio (calculated on the basis of 448.96 gross acres) or 8,415,000 square feet of the total commercial space of which approximately 315,000 square feet shall be retail commercial, approximately 7,105,000 square feet shall be office space, and approximately 1,000,000 square feet shall be hotels. The amount of retail in the Town Center Core Area shall be a minimum of 250,000 square feet. Should Applicant elect to increase the retail space in the Town Center Study Area in excess of 315,000 square feet, the amount of office and/or hotel shall be reduced by like amounts so as to maintain the maximum 8,415,000 square foot total. Applicant reserves the right to elect to consider ground floor retail in the hotel as either hotel or retail space.

2) The number of dwelling units in the Town Center Study Area (excluding Jonathan's Keepe and Part 13 of RZ 86-C-121) shall not be fewer than 1400. The 600 dwelling units in such core area shall be part of the commitment by Applicant to include at least 1400 dwelling units in the Town Center Study Area. Such dwelling units may be on both a for-sale and rental basis but shall not be included as part of any FAR calculations.

3) Applicant will use its best efforts to encourage and promote the development of residential dwelling units in the Town Center Study Area. Applicant anticipates that 150 dwelling units will be developed concurrent with the first 1,100,000 square feet of commercial space in the Town Center Core Area; 150 additional dwelling units with the next 1,100,000 square feet of commercial space in the Core Area; and 300 additional dwelling units with the buildout of the Core Area. Applicant will commit subject to obtaining building permits and all necessary governmental approvals, that a minimum of 500 dwelling units in addition to Jonathan's Keepe will be under construction by the later of 1993 or the completion of 5,500,000 million square feet of office and/or R&D space provided such commitment will not require such residential construction to be greater than 25% of the annual rate of residential construction in Reston after 1990. When Applicant has developed 5,500,000 square feet of office and/or R&D space Applicant will, prior to commencing any additional office/R&D, identify and designate sites for the balance of the minimum 1400 dwelling units uncommitted and proceed with diligence to plan and market the additional dwelling sites, all of which shall be offered for sale within 5 years from the date Applicant has completed 5,500,000 million square feet of office/R&D space.

4) W&OD Trail Crossings - Subject to the approval of the Northern Virginia Regional Park Authority, the Applicant will construct at Applicant's expense grade-separated street crossings of the W&OD Trail at Reston Avenue, Town Center Parkway and South First Street. (South First Street only if Applicant develops Phase III per Table 3.) Applicant proffers to tunnel the W&OD Trail under Reston Avenue subject to Northern Virginia Regional Park Authority approval. Applicant understands and expects that VDOT and Fairfax County shall use their best efforts to assist in obtaining the necessary Park Authority approvals, but acknowledges and understands that it shall

have the sole obligation for obtaining same. Such crossings would be constructed concurrent with the improvements that create the crossings.

5) Parking Garages - All parking garages shall be designed to include architectural features and building materials which will minimize the appearance of bulk. All set back areas shall be landscaped and all top decks will include planters for shrubs and flowers. All landscaping shall be submitted to the County Arborist for review and approval and shall be approved by an Architectural Review Board as established for subject property. Entrances and exits will be so directed as not to impede traffic flows.

6) Parking - Parking will be provided in accordance with Fairfax County zoning ordinance requirements. Applicant may seek reductions in parking consistent with the zoning ordinance Applicant's TSM program and subject to the Board of Supervisors' approval. Applicant will comply with the zoning ordinance parking requirements during conversion of interim surface parking lots to decked parking and commercial buildings. Applicant will conduct studies of shared parking opportunities in concert with TSM programs and submit to Fairfax County for approval.

7) Architecture - Applicant will cause all commercial buildings and parking garages to be designed by skilled architects in keeping with the high architectural standards of the Reston community. Prior to submission of site plans, Applicant will cause architectural renderings to be prepared for each building and approved by an Architectural Review Board as established for subject property.

8) Landscaping - The Town Center Study Area will be extensively landscaped. All landscape plans shall be approved by the County Arborist and the Architectural Review Board and shall be in general harmony throughout the Town Center Study Area.

9) Open Space - The Town Center Study Area will contain at least 15 percent of open space, which shall include walkways, pedestrian plazas, parks and ponds.

10) Housing Mix - Consistent with Reston's original goals, Applicant will promote a variety of high density urban housing with a mix of housing styles, prices and ownership forms in the Town Center Study Area.

11) Day Care - Consistent with the Comprehensive Plan, Applicant will continue to make sites available in the Town Center Study Area on a for-sale basis at market rates for day care use. Applicant will make or cause others to make property available for 5,000 square feet of day care per every 1,000,000 square feet of office and R&D space developed. These day care centers may be freestanding or parts of larger structures and the property may be available on a for sale or for lease basis. There will be both profit and not-for-profit day cares in the Town Center Study Area, consistent with and proportionate to the ratio of profit to non-profit full time day care facilities which are currently in operation in Reston as of the date of these proffers. Land will be offered for sale at prices which account for the profit status of a particular facility. Applicant will adjust land values to encourage participation of both profit and non-profit facilities in the Fairfax County child care subsidy program. Applicant will utilize the results of a study to be conducted in 1987 by the Fairfax County Office of Children and will communicate with the Office of Children to continue to be informed of community child care needs.

12) Pedestrian Orientation - Applicant will promote and encourage easy pedestrian access to, from, and within the Properties. This will include direct linkages with nearby pathways and to the Northern Virginia Regional Trail. In addition, Applicant will facilitate pedestrian access across major roads through a variety of means including the creation of pedestrian crosswalks, the inclusion of pedestrian phases at signalized intersections and protected way stations in the medians where allowed by VDOT.

13) Community Uses - Applicant commits to either donate a parcel of land which will accommodate up to 10,000 square feet of gross building space or commit up to 10,000 square feet of gross building space for lease at cost,

to be used as community rooms and offices for Reston non-profit organizations. This at cost commitment is contingent on identification of needs and execution of leases or contract of purchase prior to December 31, 1995.

14) Sanitary Sewer - Applicant acknowledges that some of the sewer lines serving the Town Center Study Area may be inadequate to service the development proposed for the Study Area. Applicant further acknowledges that in order to obtain adequate service it may be necessary for Applicant to reconstruct portions of these sewer lines to increase the capacity to service Applicant's property. As Applicant commences its development, and such development, as determined by the Fairfax County Department of Public Works, necessitates the replacement and/or reconstruction of sewer lines servicing Applicant's development, Applicant shall upon request of Public Works proceed with such construction, replacement and/or reconstruction.

Reston Land Corporation

by Gregory J. Friess
Gregory J. Friess
Executive Vice President

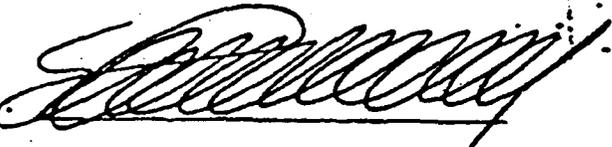
Optionee

Pursuant to Section 15.1-491(a) of the Code of Virginia (1950, as amended) and Section 18-203 of the Zoning Ordinance of Fairfax County (1978, as amended), the undersigned optionee, for itself and its successors or assigns (hereinafter referred to as "Centennial") proffers that the development of that part of the parcels under consideration, of which Centennial is optionee, shown on Fairfax County Tax Map 17-1-((1))-3,

17-2((1))-11 (Part 13), 17-1((1))-3 (Part 6), 17-3-((1))-1, 2, 3, 17-3((1))-4, 5, 5C, 5D, 5G, 6, 14, 15 and 17-4((1))-7 (hereinafter collectively referred to as "Property B"); will be in accordance with the following conditions. These proffered conditions will be effective only if the Property is rezoned in accordance with Reston Land's request and Centennial completes its purchase.

Centennial will be bound by the proffers signed by Applicant in RZ 85-C-088, RZ 86-C-121 and RZ 86-C-118 revised February 27, 1987 (except those concerning Development Plan for RZ 85-C-088 and Development Plan for RZ 86-C-118) which affect in any way the parcel of which Centennial is optionee.

CENTENNIAL DEVELOPMENT CORPORATION

By. 

Pete T. Scamardo, President

EXHIBIT 2

"PART 5" DEVELOPMENT PLAN

PLANS
PART 4

PAGE 4 0001

PLANS

PAGE 4 0002

- 1) The maximum number of dwelling units shall not exceed 100 single family attached and/or multi-family.
- 2) Maximum overall non-residential FAR shall not exceed .3.
- 3) Parking will be provided in accordance with Federal County zoning Ordinance requirements. Maximum the total reduction in parking capacity with the zoning Ordinance and subject to Board of Supervisors' approval.
- 4) A comprehensive circulation system shall be provided within Town Center including steps connecting with the balance of Town Center. Walk system shall consist of sidewalks and bridges as appropriate and shall be designed to be location and suitable to the time of this plan review.
- 5) Construction of Town Center Study Area commenced in 1985 and is expected to be completed in late 1987.
- 6) All site plans shall be submitted to Reston Community Association's Planning and Zoning Committee for review. This committee currently exists and shall be continued for the Town Center Study Area.
- 7) All site plans as well as architectural drawings of all buildings and structures (including parking structures) shall be submitted to the appropriate design review board, (architectural, landscape, interior, etc.) and approval also shall be submitted to the design review for review and approval.
- 8) The proposed right-of-way width of major public streets shall be as follows:

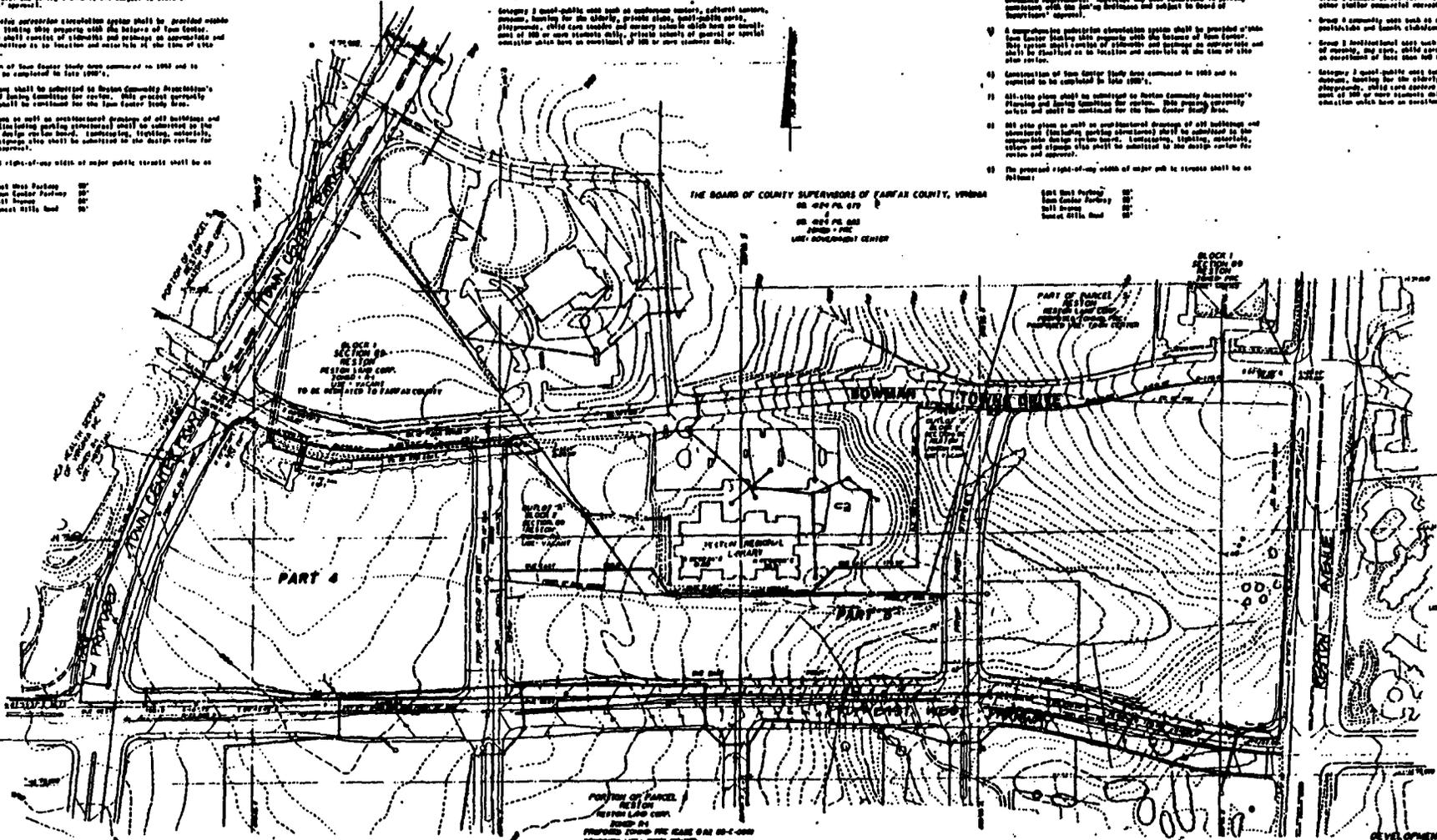
| | |
|---------------------|-----|
| East West Parkway | 60' |
| Town Center Parkway | 60' |
| Hill Avenue | 60' |
| Lowell Hills Road | 60' |

- 1) All site plans shall be submitted to Reston Community Association's Planning and Zoning Committee for review. This committee currently exists and shall be continued for the Town Center Study Area.
- 2) All site plans as well as architectural drawings of all buildings and structures (including parking structures) shall be submitted to the appropriate design review board, (architectural, landscape, interior, etc.) and approval also shall be submitted to the design review for review and approval.
- 3) The proposed right-of-way width of major public streets shall be as follows:

- 1) The maximum gross floor area of commercial space shall not exceed 100,000 square feet.
- 2) Maximum overall non-residential FAR shall not exceed .4.
- 3) Maximum building height shall not exceed 40 stories (130 ft.).
- 4) Parking will be provided in accordance with Federal County zoning Ordinance requirements. Maximum the total reduction in parking capacity with the zoning Ordinance and subject to Board of Supervisors' approval.
- 5) A comprehensive circulation system shall be provided within Town Center including steps connecting with the balance of Town Center. Walk system shall consist of sidewalks and bridges as appropriate and shall be designed to be location and suitable to the time of this plan review.
- 6) Construction of Town Center Study Area commenced in 1985 and is expected to be completed in late 1987.
- 7) All site plans shall be submitted to Reston Community Association's Planning and Zoning Committee for review. This committee currently exists and shall be continued for the Town Center Study Area.
- 8) All site plans as well as architectural drawings of all buildings and structures (including parking structures) shall be submitted to the appropriate design review board, (architectural, landscape, interior, etc.) and approval also shall be submitted to the design review for review and approval.
- 9) The proposed right-of-way width of major public streets shall be as follows:

| | |
|---------------------|-----|
| East West Parkway | 60' |
| Town Center Parkway | 60' |
| Hill Avenue | 60' |
| Lowell Hills Road | 60' |

- 1) All site plans shall be submitted to Reston Community Association's Planning and Zoning Committee for review. This committee currently exists and shall be continued for the Town Center Study Area.
- 2) All site plans as well as architectural drawings of all buildings and structures (including parking structures) shall be submitted to the appropriate design review board, (architectural, landscape, interior, etc.) and approval also shall be submitted to the design review for review and approval.
- 3) The proposed right-of-way width of major public streets shall be as follows:



THE BOARD OF COUNTY SUPERVISORS OF FARFAR COUNTY, VIRGINIA
 60-424 PG. 070
 60-424 PG. 081
 60-424 PG. 082
 LAND DEVELOPMENT CENTER

**DEVELOPMENT PLAN
 PROPOSED REVISIONS OF
 PARTS 4 & 5
 TOWN CENTER
 RESTON**



A PORTION OF PARCEL 5,
 RESTON
 CENTREVILLE DISTRICT
 FARFAR COUNTY, VIRGINIA
 SCALE: 1"=200' DATE: OCT. 1988 REV. 100-000
URBAN ENGINEERING & ASSOC., INC.
 CIVIL ENGINEERS, LANDSCAPE ARCHITECTS, LAND SURVEYORS
 8008 FARMERS PLACE SPRINGFIELD, VIRGINIA 22154 PH: 331-0601

NOTES

Part 5

The maximum gross floor area of commercial space shall not exceed .455,000 square feet.

Maximum overall non-residential FAR shall not exceed .7.

Maximum building height shall not exceed 15 stories (180 ft.)

Parking will be provided in accordance with Fairfax County Zoning Ordinance requirements. Applicant may seek reductions in parking consistent with the Zoning Ordinance and subject to Board of Supervisors' approval.

A comprehensive pedestrian circulation system shall be provided within Town Center linking this property with the balance of Town Center. This system shall consist of sidewalks and pathways as appropriate and shall be finalized as to location and materials at the time of site plan review.

Construction of Town Center Study Area commenced in 1983 and is expected to be completed in late 1990's.

All site plans shall be submitted to Reston Community Association's Planning and Zoning Committee for review. This process currently exists and shall be continued for the Town Center Study Area.

All site plans as well as architectural drawings of all buildings and structures (including parking structures) shall be submitted to the appropriate design review board. Landscaping, lighting, materials, colors and signage also shall be submitted to the design review for review and approval.

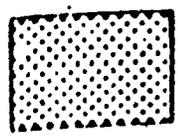
The proposed right-of-way width of major public streets shall be as follows:

| | |
|---------------------|-----|
| East West Parkway | 90' |
| Town Center Parkway | 90' |
| Vall Avenue | 60' |
| Sunset Hills Road | 90' |

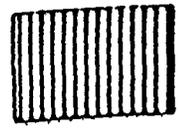
PART 5 USES

Uses will include all of those permitted by right under the PRC Town Center zoning category, plus all of the following special permit and special exception uses which are designated on the Development Plan:

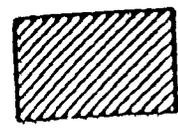
- Category 5 commercial and industrial uses such as drive-in banks, eating establishments, fast food restaurants, offices, commercial off-street parking, theaters and service stations.
- Group 5 commercial recreation such as bowling alleys, health clubs and other similar commercial recreation uses.
- Group 4 community uses such as community clubs, meeting halls, swimming pools/clubs and tennis clubs/courts.
- Group 3 institutional uses such as churches, temples and other places of worship, day care, child care centers and nursery schools which have an enrollment of less than 100 students daily.
- Category 3 quasi-public uses such as conference center, cultural centers, museums, housing for the elderly, private clubs, quasi-public parks, playgrounds, child care centers and nursery schools which have an enrollment of 100 or more students daily, private schools of general or special education which have an enrollment of 100 or more students daily.



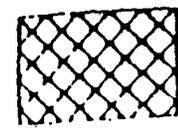
RZ 85-C-088
(PROPERTY A)



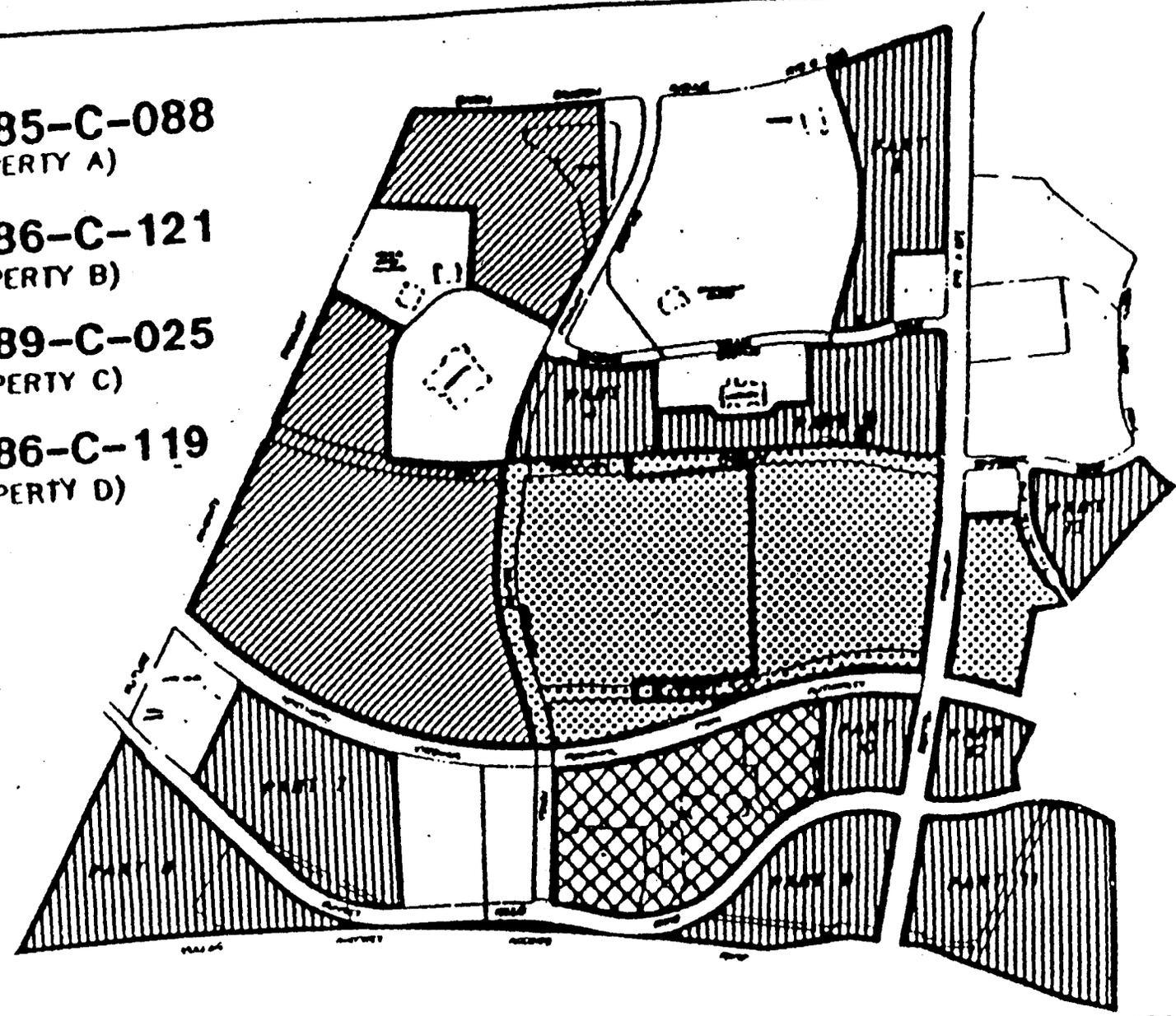
RZ 86-C-121
(PROPERTY B)



RZ 89-C-025
(PROPERTY C)



RZ 86-C-119
(PROPERTY D)



PLAT NUMBER
PROPERTIES A,B,C,BD
TOWN CENTER
RESTON

EXHIBIT 3

MASTER CONCEPTUAL PLAN



MASTER CONCEPTUAL PLAN - LAND USE, HEIGHTS, F.A.R.
TOWN CENTER DISTRICT PLAN
RESTON LAND CORPORATION
SABAJI ASSOCIATES, INC.



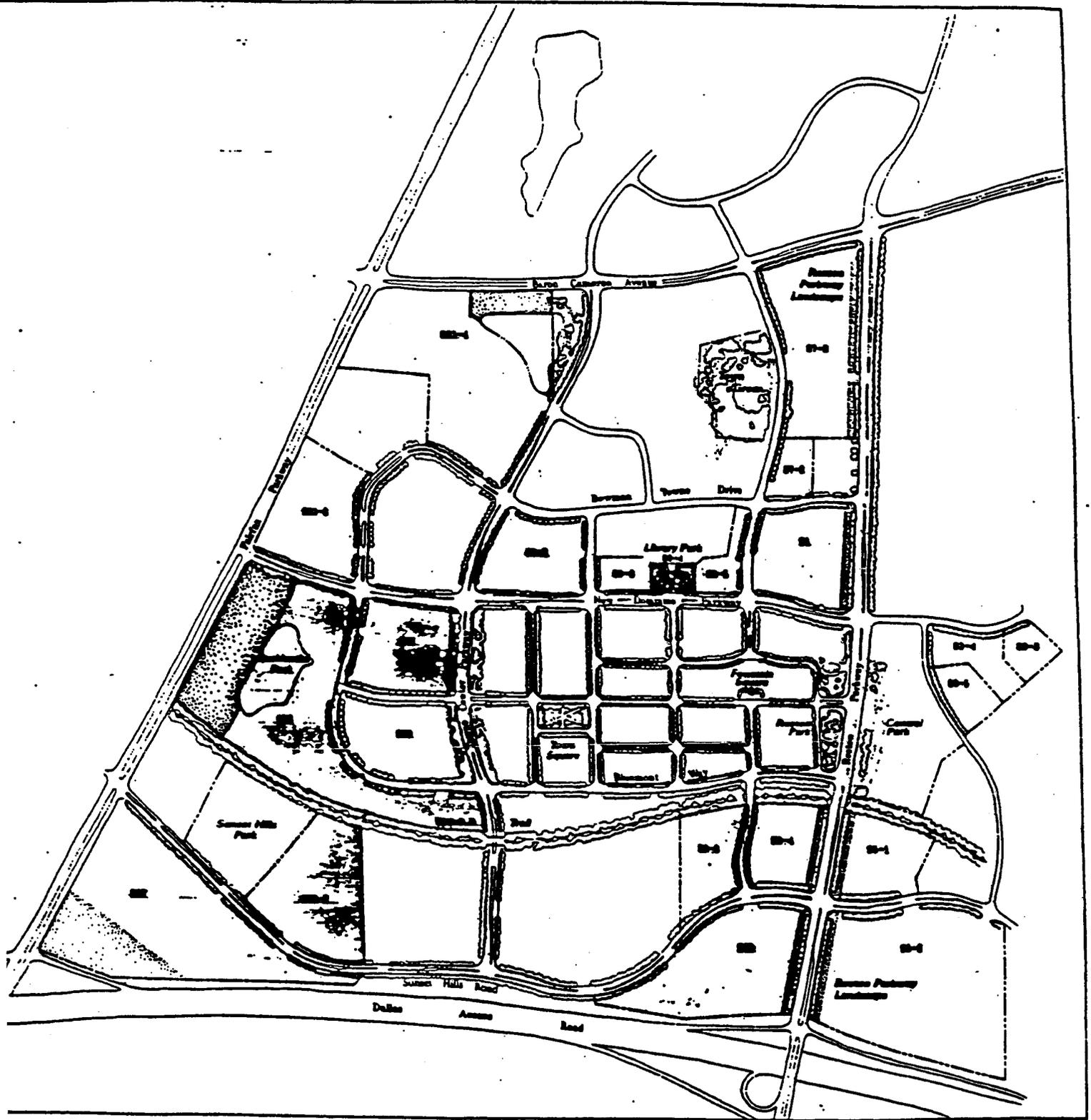
| <u>Section/ Block</u> | <u>RM</u> | <u>Height Limit</u> | <u>Non Residential F.A.R.</u> |
|---------------------------|---|-------------------------|---------------------------------------|
| 83 - 3, 4, 8 | Residential (max. 100 single family attached and/or multi-family units), Community, Recreation and/or Parking. | 4 Stories | .8 |
| 87 - 2, 3, | Office, Retail, Residential, Community, Recreation, and/or Parking. | 120 Feet | .5 |
| 89 - 2 | Office, Retail, Residential (max. 100 single family attached and/or multi-family units), Community, Recreation, and/or Parking. | 175 Feet | .8 |
| 89 - 3 | Office, Retail, Residential, Community, Recreation, and/or Parking. | 180 Feet | .7 |
| 89 - 4 | Community and Recreation. | | .7 |
| 89 - 5 | Office, Retail, Residential, Community, Recreation, and/or Parking. | 180 Feet | .7 |
| 91 | Office, Retail, Residential, Community, Recreation, and/or Parking. | 180 Feet | .7 |
| 93 - 3 | Office, Retail, Residential, Transit Facility, and/or Parking. | 120 Feet | 1.0 |
| 93 - 4 | Office, Retail, Residential, Transit Facility, and/or Parking. | 120 Feet | .7 |
| 95 - 1 | Office, Retail, Residential, and/or Parking. | 120 Feet | .7 |
| 95 - 2 | Office, Retail, Residential, and/or Parking. | 180 Feet | .7 |
| 931 - 3, 4 | Office, Retail, Residential, Community and/or Parking. | 125 Feet | .8 |
| 933 | Office, Retail, Residential, Community, Recreation, and/or Parking. | 175 Feet | .8 |
| 935 - 3 | Office, Retail, Residential, and/or Parking. | 120 Feet | .7 |
| 937 | Office, Retail, Residential, and/or Parking. | 120 Feet | .7 |
| 939 | Office, Retail, Residential, Transit Facility, and/or Parking. | 180 Feet | .7 |

Type of residential for above parcels shall be single-family detached, attached and/or multi-family.

GENERAL NOTES

1. This plan depicts the land use, heights, and non-residential F.A.R.
2. Conceptual plans shall be submitted for individual blocks or sites as required to satisfy proffered conditions and shall be consistent with the proffer and development plan notes associated with RI 84-C-119, RI 84-C-121 and RI 84-C-118/RI 89-C-025, as revised through PCH 84-C-119-3, PCH 84-C-121-3 and PCH 89-C-025-2.

FAIRFAX PARKWAY



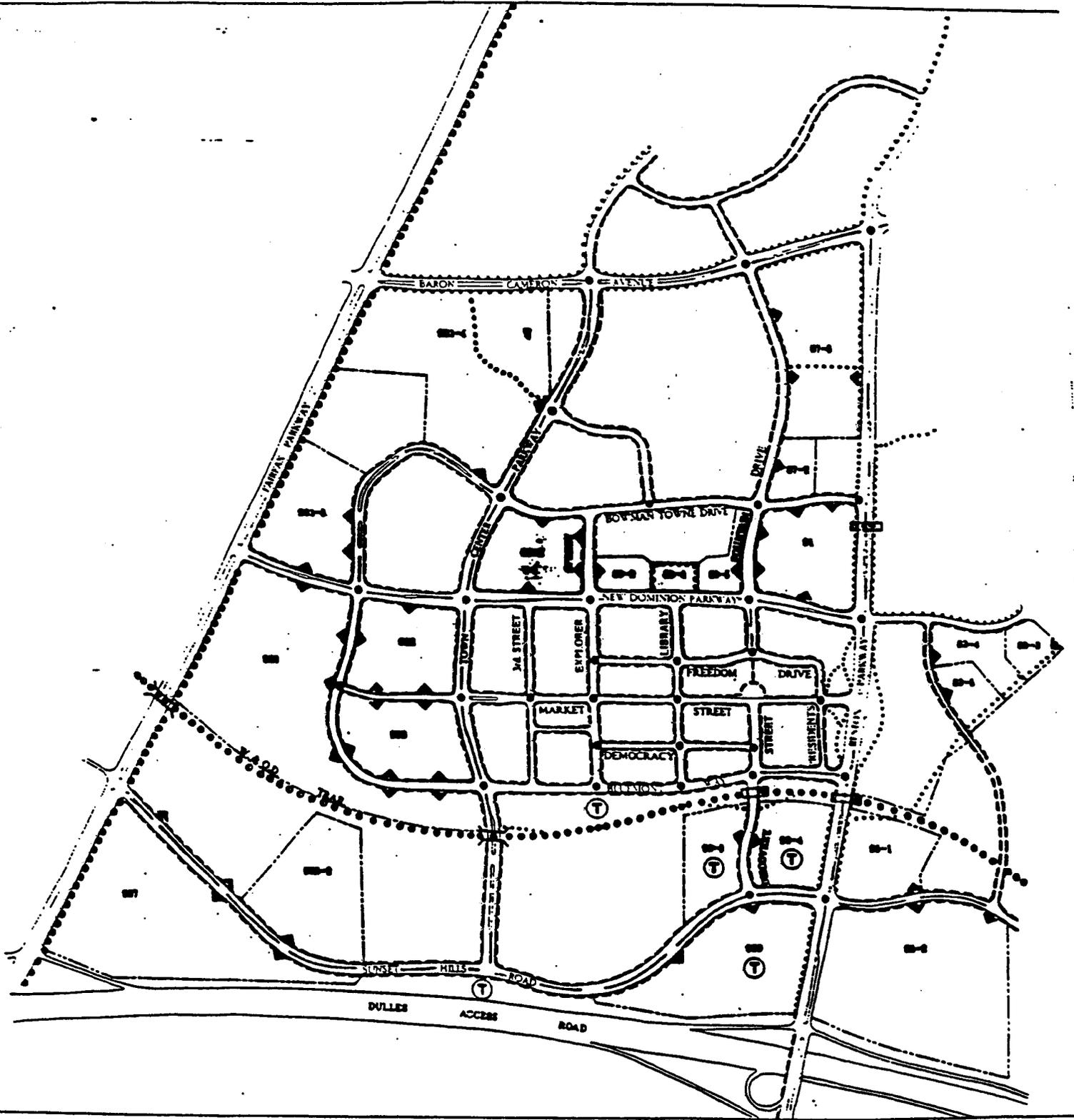
-  CONCEPTUAL PLAN BLOCK
-  OPEN SPACE
-  LANDSCAPE / SCREENING / EXISTING NATURAL BUFFER

MASTER CONCEPTUAL PLAN - OPEN SPACE AND LANDSCAPE
TOWN CENTER DISTRICT PLAN
 RESTON LAND CORPORATION
 SABAKI ASSOCIATES, INC.



GENERAL NOTES

1. This plan depicts the approximate location of open space, landscape, screening and existing natural buffers.
2. Conceptual plans shall be submitted for individual blocks or sites as required to satisfy proffered conditions and shall be consistent with the proffers and development plan notes associated with RZ 86-C-119, RZ 86-C-121 and RZ 86-C-118/RZ 89-C-025, as revised through PCA 86-C-119-2, PCA 86-C-121-3 and PCA 89-C-025-2.
3. The Town Center Study Area shall contain at least 15 percent open space which shall include walkways, pedestrian plazas, parks and ponds.
4. A landscape plan will be submitted for each parcel with the Final Site Plan.
5. Open space, landscape and pedestrian circulation will be in general conformance with the Town Center Urban Design Principles, prepared by Sasaki Associates, Inc. as may be revised.



- CONCEPTUAL PLAN PARCELS
- - - SEWER
- WATER
- ○ ○ ○ REGIONAL TRAIL
- ⊙ TRANSIT STATION

- ||| BRIDGE
- UNDERPASS
- ⊙ OFFSTREET WITH OVERPASS
- ⊙ OFFSTREET LOCATION (THIS LOCATION AND OFFSTREET ARE NOT TO BE CONSIDERED AS PART OF THE PLAN UNLESS SHOWN)

MASTER CONCEPTUAL PLAN - CIRCULATION
TOWN CENTER DISTRICT PLAN
 RESTON LAND CORPORATION
 SABAKI ASSOCIATES, INC.

0 100 200 400
 FEET
 NORTH
 SHEET 1 OF 3

GENERAL NOTES

1. This plan depicts the approximate location of streets, sidewalks, pathways, trails, bridges, underpasses, intersections, transit facilities and entrances to parcels. There shall be a transit facility within Town Center to be located at one of the alternate locations shown or along the Dulles Access Road or at an alternative location within the Town Center Urban Core. Entrance locations, turn lanes, street widths and rights-of-way are approximate and may be revised, moved, added or eliminated as part of the conceptual plan and/or site plan development process.
2. Conceptual plans shall be submitted for individual blocks or sites as required to satisfy proffered conditions and shall be consistent with the proffers and development plan notes associated with RS 86-C-119, RS 86-C-121 and RS 86-C-118/RS 89-C-025, as revised through PCA 86-C-119-2, PCA 86-C-121-3 and PCA 89-C-025-2.

EXHIBIT 4

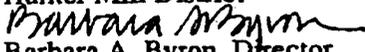
PREVIOUS INTERPRETATION REGARDING CONCEPT PLANS

FAIRFAX COUNTY, VIRGINIA

MEMORANDUM

DATE: April 27, 1994

TO: John M. Palatiello
Planning Commissioner
Hunter Mill District

FROM: 
Barbara A. Byron, Director
Zoning Evaluation Division
Office of Comprehensive Planning

SUBJECT: Proffer Interpretation: RZ 86-C-121

This memorandum is in response to questions you have raised regarding the "Conceptual Plan" that has been submitted for a portion of the Reston Town Center called "The Spectrum at Reston Town Center". This "Conceptual Plan" is under review by staff and is scheduled for a public hearing before the Planning Commission. You have requested a proffer interpretation as to the authority of the Planning Commission regarding the "Conceptual Plan".

By way of background, on March 9, 1987, the Board of Supervisors approved four (4) concurrent rezonings (RZ 85-C-088, RZ 86-C-119, RZ 86-C-121 and RZ 86-C-118) on a total of 343 acres of land that collectively comprise and are known as the "Reston Town Center Rezonings". On October 2, 1989, the Board approved RZ 89-C-025 on the land previously covered by RZ 86-C-118 and concurrently approved proffered condition amendments (PCAs) on the three other Town Center rezonings (RZ 85-C-088, RZ 86-C-119, and RZ 86-C-121). On October 15, 1990, the Board of Supervisors approved proffered condition amendments on RZ 85-C-088, RZ 86-C-119, RZ 86-C-121 and RZ 89-C-025. As a result, one set of proffers dated February 27, 1987, as amended through October 4, 1990, currently governs the four "Reston Town Center Rezonings". As required by the Zoning Ordinance, a Development Plan (DP) was submitted and approved with each of these rezonings.

The property that is the subject of the pending "Conceptual Plan" is zoned PRC with proffers pursuant to RZ 86-C-121 and its subsequent PCAs. It is shown on the "Conceptual Plan" as Section 87, Blocks 2 and 3 and Section 91. The proffered DP for this area is a general plan known as a "blob" plan which sets forth permitted land uses and maximum intensity and height, but does not show development details such as exact land use, building type and location, internal pedestrian and vehicular circulation, open space or landscaping. The DP for Section 91, which is adjacent to the urban core and which was shown as part of Part 5 on the DP submitted with and approved pursuant to RZ 86-C-121, states that the maximum gross floor area in this section shall not exceed 455,000 square feet of gross floor area of commercial space, a maximum non-residential FAR of .7 and a height of 15 stories or 180 feet. Uses approved in this section include all uses permitted by right in the PRC District in the Town Center, as well as certain other special exception and special permit uses. Section 87, Blocks 2 and 3, which is located farther away from the urban core and steps down in FAR and height, were shown as Part 6 on the DP. The DP states that the maximum gross floor area in this section shall not exceed 384,000 square feet of gross floor area of commercial space, a maximum non-residential FAR of .5 and a height of 10 stories or 120 feet. Uses approved in this section also include all uses permitted by right in the PRC District in the Town Center, as well as certain other special exception and special permit uses.

John M. Palatiello
April 27, 1994
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With the "Reston Town Center Rezoning", the applicant proffered to prepare "Conceptual Plans". A copy of the relevant proffer (proffer D1; page 18) as it pertains to RZ 86-C-121 is attached. At the time that the four original "Reston Town Center Rezoning" were approved in 1987, the "Conceptual Plan" for the portion of the Town Center known as the urban core was concurrently reviewed and approved. The urban core was the portion of the Town Center that was to be developed first and for which planning and urban design work had been done. Its "Conceptual Plan" provided a detailed depiction of how the urban core would be developed. The Market Street area of the Town Center has been developed in conformance with that "Conceptual Plan".

The applicant proffered that "Conceptual Plans" would be prepared for the remaining areas within the Town Center prior to the submission of preliminary site plans to the Department of Environmental Management (DEM). The proffer states in part that "... Applicant proffers to cause to be prepared a conceptual plan to include:

- a vehicular traffic circulation plan including approximate location of entrances
- minor streets in approximate location
- pedestrian walkways and trails
- landscaping and screening
- open space
- recreation and community facilities
- location of a time-transfer transit hub
- floor area ratios
- height limits
- general location and type of housing units
- general location office and commercial buildings
- general location of parking structures"

The proffer goes on to state that the "... Applicant will submit the plan to the Fairfax County Office of Comprehensive Planning for review and the Fairfax County Planning Commission for review and approval". Once the "Conceptual Plan" is approved by the Planning Commission, the applicant is required to submit a preliminary site plan and a site plan to DEM in accordance with Zoning Ordinance requirements.

The DP approved by the Board of Supervisors pursuant to RZ 86-C-121 was consistent with the minimum requirements of the Zoning Ordinance for such a submission. Sect. 16-302 requires, among other things, that the DP show the location of all proposed land uses, the proposed traffic circulation including major streets and major pedestrian, bike and/or bridle paths, and that it contain a statement setting forth the maximum gross floor area and FAR proposed for all non-residential uses and the maximum number of dwelling units proposed. Sect. 16-303 sets forth the requirements for a preliminary site plan. These include the general location and arrangement of existing or contemplated developments on the site. The Zoning Ordinance does not have a requirement for a "Conceptual Plan"; this was created by the applicant in the proffers at the time of the rezonings in 1987. As previously stated, at that time, the applicant had undertaken design work for the urban core of the Town Center and was therefore in a position to submit detailed development plans for that area; however, the applicant did not submit that level of planning and design for the other areas of the Town Center. As such, only the "blob" DPs were submitted for these other portions, with the understanding as evidenced by the proffers that the more detailed development proposals consistent with those approved for the urban core would be submitted in the future using the vehicle of the "Conceptual Plans". The proffer providing for the "Conceptual Plans" allowed the rezonings beyond that for the

John M. Palatiello
April 27, 1994
Page 3

urban core to proceed while ensuring the subsequent review by the Planning Commission of more specific development proposals comparable to that of the urban core for conformance with the proffers and the requirements of the Zoning Ordinance.

On April 2, 1992, the Planning Commission approved a "Master Conceptual Plan" which was submitted by the applicant as a compilation of all the Parts shown on the various DPs that govern the "Reston Town Center Rezoning" onto a single set of documents. As with the approved DPs, this document continued to depict the various portions of the Town Center as "blobs", but did not show specific layouts. It was recognized, and the Planning Commission's approval of the "Master Conceptual Plan" specifically stated, that this "Master Conceptual Plan" would not abrogate the need to submit "Conceptual Plans" for the various sections, but that the "Master Conceptual Plan" provided a bridge between the approved DPs and the "Conceptual Plans" and established the street system and the major streetscape/open space parameters of the Town Center. The applicant has relied on this approval to submit site plans for several of the streets in the Town Center. Unlike the DPs that set out maximum FAR, height, etc., General Note 1. on the "Master Conceptual Plan" provides a more definite statement as to these parameters by stating: "This plan depicts the land use, heights, and non-residential F.A.R." On the "Master Conceptual Plan", the uses set forth for both Section 87, Blocks 2 and 3 and Section 91 are: "Office, Retail, Residential, Community, Recreation, and/or Parking". The height limit is 120 feet for Section 87 and 180 feet for Section 91; the non-residential FAR is .5 for Section 87, and .7 for Section 91.

In response to your questions, it is my determination that the proffers give the Planning Commission the authority to approve, withhold approval or deny a "Conceptual Plan". The proffers give specific authority with regard to the "Conceptual Plans" to certain groups: the Reston community is afforded the opportunity to review and comment; the "Conceptual Plan" is submitted to the staff for review and to the Planning Commission for review and approval.

The language of the proffers would only make sense if the Planning Commission, given the authority to approve, could also withhold approval or deny a submitted "Conceptual Plan". Furthermore, on page 17 of the proffers, the proffer that pertains to landscaping gives the right to the Planning Commission to review and comment on landscape plans. This distinction reinforces my determination that the specific language of the proffer which grants the Planning Commission the ability to approve a "Conceptual Plan" necessarily incorporates the ability to withhold approval or to deny such a plan. If the applicant had intended to limit the authority of the Planning Commission, for example, to permit the Planning Commission to merely review and comment, the proffers as they pertain to this issue could have been so written.

In regard to the issue of the basis for such an approval or denial by the Planning Commission, the proffers do not spell out specific criteria for such approval or denial; they merely list items to be included on the "Conceptual Plan". The proffers were voluntarily drafted and submitted by an attorney highly experienced in such matters who could have incorporated into the proffers standards and parameters for review. Nevertheless, that was not done. As such, it is my determination that, in the proffers, the applicant granted the Planning Commission broad authority to approve, withhold approval or deny a "Conceptual Plan", based upon how the approved office, retail, residential, community, recreation and/or parking uses are proposed to be developed on the site when viewed in the context of the proffers and the Zoning Ordinance. The failure to provide language to limit or to qualify the word "approval" in the proffers reinforces the position that broad authority was granted. Broad authority is also consistent with the context in which the "Conceptual Plans" were created, i.e., to compensate for DPs that did not provide a level of detail sufficient to evaluate specific development plans such as had been provided for the urban core.

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April 27, 1994
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Furthermore, Sect. 16-204 of the Zoning Ordinance addresses approval of preliminary site plans by DEM. Par. 1 of that section states in part: "All preliminary site plans shall be prepared in accordance with the applicable objectives of the PRC District" Par. 7 of Sect. 16-204 states that the applicable objectives of the PRC District must be met by the preliminary site plan for the Director to approve such a plan. Sect. 6-301, Purpose and Intent, states in part: "To be granted this zoning district, the developer must demonstrate the achievement of the following specific objectives (emphasis added) throughout all of his planning, design and development." That section then lists seven (7) objectives, including the following: "An orderly and creative arrangement of all land uses with respect to each other and to the entire community"; "A planned and integrated comprehensive transportation system providing for a separation of pedestrian and vehicular traffic, to include facilities such as mass transportation, roadways, bicycle or equestrian paths and pedestrian walkways"; "The location of structures to take maximum advantage of the natural and manmade environment"; and, "The provision of adequate and well-designed open space for the use of all residents". These are the Ordinance provisions, among others, that are applicable to the Director of DEM's review and approval of preliminary site plans. It would be incongruous for these provisions to be applicable at the preliminary site plan stage, and for the provisions not to apply in the review of "Conceptual Plans" by the Planning Commission.

The objectives are further defined by Par. D. of Sect. 6-302 of the Zoning Ordinance which discusses the Town Center, as follows:

The following uses are permitted in those locations approved for a Town Center, which should be a central location for retail, community and leisure uses on a scale serving the planned community and the surrounding area. There should be no more than one town center in a new town, and it should contain a mixture of uses such as residential, community, office, retail, entertainment and specialty shops. The uses should be well integrated and contain unique design elements. The pedestrian and vehicular traffic within the center should be separated with major emphasis on the pedestrian circulation system.

As such, it is my determination that the proffers and the Zoning Ordinance provisions applicable to the PRC District, particularly the objectives of the PRC District as found in Section 6-301 of the Zoning Ordinance and the Town Center provisions in Par. D of Sect. 6-302, provide the standards of review for the "Conceptual Plans" by the Planning Commission.

These determinations have been made in my capacity as the duly authorized agent of the Zoning Administrator. If you have any additional questions, or require additional information, please let me know.

Attachment: A/S

cc: Robert B. Dix, Jr., Supervisor, Hunter Mill District
David P. Bobzien, County Attorney
James P. Zook, Director, Office of Comprehensive Planning
Jane W. Gwinn, Zoning Administrator
Catherine Chianese, Senior Staff Coordinator, Zoning Evaluation Division, OCP
Antonio J. Calabrese, McGuire Woods Battle & Boothe
Thomas D'Alesandro, Reston Land Corporation
Arthur Fuccillo, Lerner Enterprises
Jeffrey H. Saxe, Sr. V.P., Planning/Land Development, H/P Companies, L.C.
File: RZ 86-C-121; CP 86-C-121