



FAIRFAX COUNTY

OFFICE OF THE CLERK
BOARD OF SUPERVISORS
12000 Government Center Parkway, Suite 533
Fairfax, Virginia 22035-0072

V I R G I N I A

Telephone: 703-324-3151

FAX: 703-324-3926

TTY: 703-324-3903

January 9, 2002

Ms. Lynne J. Strobel
Walsh, Colucci, Stackhouse, Emrich & Lubely, P.C.
2200 Clarendon Boulevard, 13th Floor
Arlington, Virginia 22201

RE: Rezoning Application Number RZ 2001-MV-002
(AMENDED - to include complete set of proffers)

Dear Ms. Strobel:

Enclosed you will find a copy of an Ordinance adopted by the Board of Supervisors at a regular meeting held on August 6, 2001, granting Rezoning Application Number RZ 2001-MV-002 in the name of Telegraph I, LLC, to rezone certain property in the Mount Vernon District from the R-1 District to the PDH-2 District, located on the west side of Telegraph Road, approximately 400 feet north of its intersection with Newington Road, subject to the proffers dated July 9, 2001, as amended, consisting of approximately 23.52 acres of land.

The Board also waived the limitation on fence height per Par. 8 of Sect. 16-401 of the Zoning Ordinance to permit an eight (8) foot fence architecturally solid privacy fence as shown on the CDP/FDP.

The Conceptual Development Plan was approved; the Planning Commission having previously approved Final Development Plan FDP 2001-MV-002 on June 28, 2001, subject to the Board's approval of RZ 2001-MV-002.

Sincerely,

Nancy Vehrs
Clerk to the Board of Supervisors

NV/ds

cc: Chairman Katherine K. Hanley
Supervisor Hyland, Mount Vernon District
Janet Coldsmith, Director, Real Estate Division, Dept. of Tax Administration
Michael R. Congleton, Deputy Zoning Administrator, DPZ
Barbara A. Byron, Director, Zoning Evaluation Division, DPZ
Thomas Conry, Department Manager, GIS Mapping/Overlay
Robert Moore, Transportation Planning Division, Dept. of Transportation
Charles Strunk, Project Planning Section, Dept. of Transportation
Michelle Brickner, Director, Site Development Services, DPWES
Kenny King, Proffer Administrator, Plans & Document Control, OSDS, DPWES
Frank Edwards, Department of Highways, VDOT
Land Acquisition and Planning Division, Park Authority
District Planning Commissioner
James Patteson, Director, Facilities Management Division, DPWES
Barbara J. Lippa, Executive Director, Planning Commission

RECEIVED
OFFICE OF COMPREHENSIVE PLANNING
JAN 10 2002
ZONING EVALUATION DIVISION

At a regular meeting of the Board of Supervisors of Fairfax County, Virginia, held in the Board Auditorium in the Government Center at Fairfax, Virginia, on the 6th day of August 2001, the following ordinance was adopted:

AN ORDINANCE AMENDING THE ZONING ORDINANCE
PROPOSAL NUMBER RZ 2001-MV-002

WHEREAS, Telegraph I, LLC filed in the proper form an application requesting the zoning of a certain parcel of land herein after described, from the R-1 District to the PDH-2 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 Mount Vernon District, and more particularly described as follows (see attached legal description):

Be, and hereby is, zoned to the PDH-2 District, and said property is subject to the use regulations of said PDH-2 District, and further restricted by the conditions proffered and accepted pursuant to Va. Code Ann., §15.2-2303(a), which conditions are in addition to the Zoning Ordinance regulations applicable to 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 parcel.

GIVEN under my hand this 6th day of August, 2001.



Nancy Vehrs
Clerk to the Board of Supervisors

Charles P. Johnson & Associates, Inc.

Planners Engineers Landscape Architects Surveyors

Fairfax, VA

Silver Spring, MD

Frederick, MD

CPI

Associates

RECEIVED
DEPARTMENT OF PLANNING AND ZONING
DEC 12 2000

November 30, 2000

ZONING EVALUATION DIVISION

DESCRIPTION OF
THE PROPERTY OF
THE HEIRS OF
ROBERT A. & ELTA R. WINSTEAD
DEED BOOK 767 PAGE 432
(FOR REZONING PURPOSES ONLY)
MOUNT VERNON DISTRICT
FAIRFAX COUNTY, VIRGINIA

Beginning at a point on the westerly right-of-way line of Telegraph Road Route 611, said point being a corner to Ann Green Leatherland, Allen Barnard Green & Marjorie E. Green (recorded in DB 1639 Pg 21); thence departing said westerly right-of-way line of Telegraph Road Route 611 and running with said Ann Green Leatherland, Allen Barnard Green & Marjorie E. Green

- 1) N09°51'47"W 499.35' to a point; thence continuing first with said Ann Green Leatherland, Allen Barnard Green & Marjorie E. Green then with William D. & Mary Ann G. Leatherland (recorded in DB 1137 Pg 205)
- 2) S71°28'13"W 537.46' to a point being on the line of Lot 76, Hunter Estates (recorded in DB 800 Pg 145); thence departing said William D. & Mary Ann G. Leatherland and running first with said Lot 76, then with Lots 77-81
- 3) N17°30'37"W 750.71' to a point being a corner to Fairfax County Park Authority (recorded in DB 4695 Pg 178); thence departing said Lot 81, Hunter Estates and running first with said Fairfax County Park Authority, then with Anthony L. & Cathleen A. Shanholtz (recorded in DB 7481 Pg 289)
- 4) N01°44'55"E 680.53' to a point being a corner to Parcel K, Section Seven, Landsdowne (recorded in DB 7013 Pg 619); thence departing said Anthony L. & Cathleen A. Shanholtz and running with said Parcel K
- 5) S77°38'29"E 322.91' to a point; thence continuing first with said Parcel K, then with Parcel M, Section 9, Landsdowne (recorded in DB 7278 Pg 1384), then with Parcel D, Section One, Landsdowne (recorded in DB 6700 Pg 545), the following courses and distances:

Description of The Property of
Robert A. and Elta R. Winstead
November 30, 2000
Page 2

- 6) S35°32'15"E 890.87' to a point;
- 7) S39°30'55"E 106.67' to a point;
- 8) N80°16'56"E 344.42' to a point being on the aforementioned westerly right-of-way line of Telegraph Road; thence departing said Parcel D and running with said westerly right-of-way line of Telegraph Road the following courses and distances:
- 9) S19°56'02"W 319.29' to a point;
- 10) 271.12' along a curve to the right, said curve having a radius of 1,380.89', a central angle of 11°14'57", and a chord which bears S25°33'30"W 270.68' to a point;
- 11) S31°10'59"W 414.66' to the point of beginning and containing 23.5224 acres of land.

T:\WORDP\PROJECT\A0537\LEGZONE.WPD

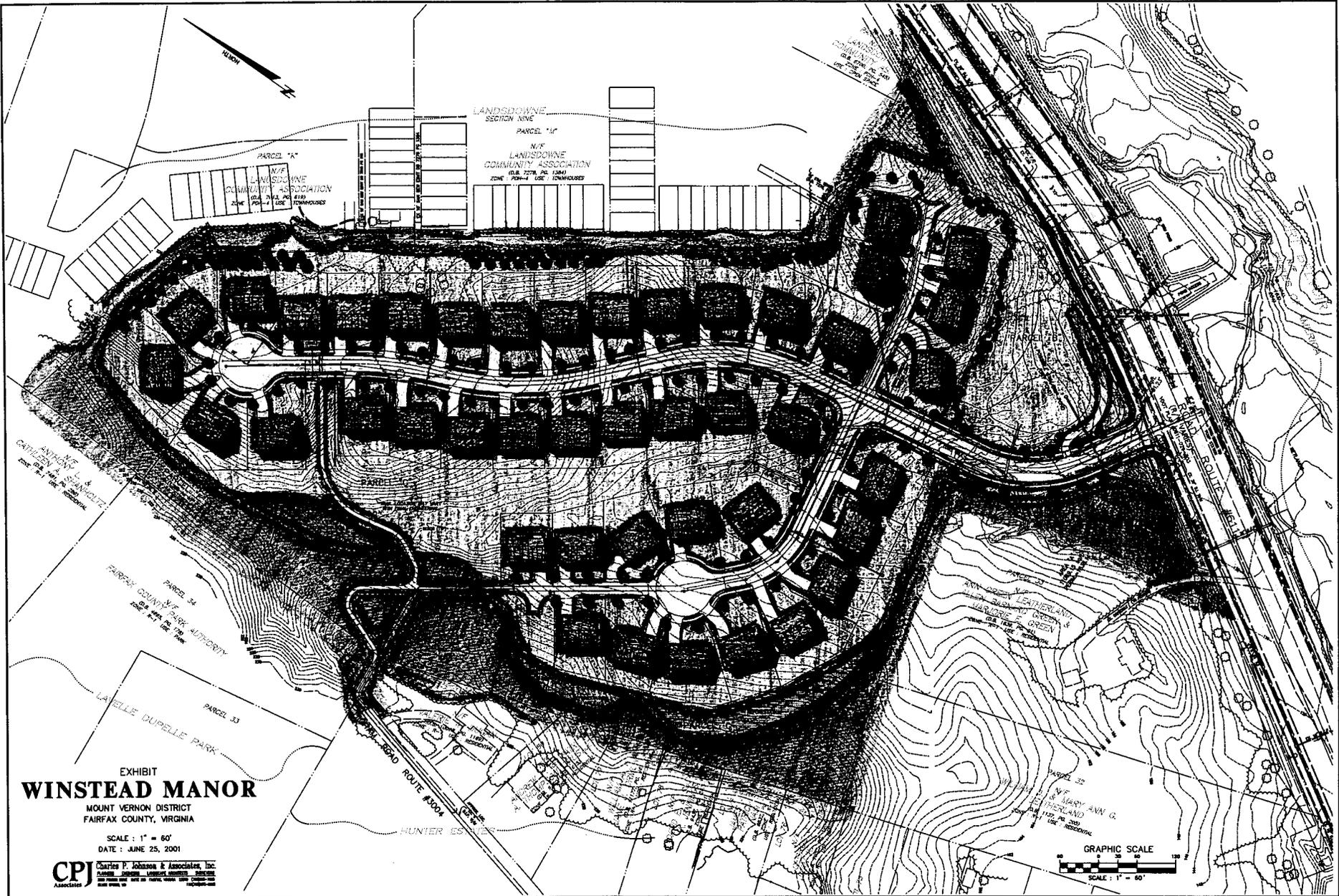
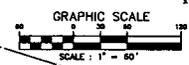


EXHIBIT
WINSTEAD MANOR

MOUNT VERNON DISTRICT
 FAIRFAX COUNTY, VIRGINIA

SCALE : 1" = 60'
 DATE : JUNE 25, 2001

CPI Charles P. Johnson & Associates, Inc.
 PLANNING ENGINEERING SURVEYING
 10000 WOODBURN ROAD, SUITE 100
 FALLS CHURCH, VA 22044

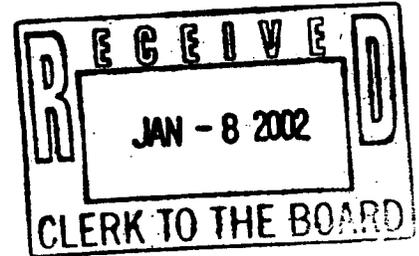


PROFFERS

Telegraph I LLC

RZ 2001-MV-002

July 9, 2001



Pursuant to Section 15.2-2303(a) Code of Virginia, 1950, as amended, Telegraph I LLC (hereinafter referred to as the "Applicant"), for themselves, successors and assigns in RZ 2001-MV-002, filed for property identified as Tax Map 99-2 ((1)) 36, (hereinafter referred to as the "Application Property") hereby proffers the following, provided that the Board of Supervisors approves a rezoning of the Application Property to the PDH-2 District in conjunction with a Conceptual/Final Development Plan (CDP/FDP) for residential development. These proffers shall replace and supersede any previous proffers approved on the Application Property.

1. CONCEPTUAL/FINAL DEVELOPMENT PLAN -

- a. Subject to the provisions of Section 16-204 of the Fairfax County Zoning Ordinance (hereinafter referred to as the "Zoning Ordinance"), development of the Application Property shall be in substantial conformance with the CDP/FDP, consisting of six sheets prepared by Charles P. Johnson & Associates, Inc. dated December 8, 2000 and revised through May 30, 2001.
- b. Pursuant to Paragraph 4 of Section 16-403 of the Zoning Ordinance, minor modifications from the CDP/FDP may be permitted as determined by the Zoning Administrator. The Applicant reserves the right to make minor adjustments to the layout, internal lot lines, and lot sizes of the proposed subdivision at time of subdivision plan submission based on final house locations, building footprints, and utility locations, provided that there is no decrease to the amount and location of open space, tree save, limits of clearing and grading, or distances to peripheral lot lines as dimensioned on the CDP/FDP. Under no circumstance shall the Zoning Administrator consider single-family attached development as a permitted use.

2. TRANSPORTATION -

- a. Subject to Virginia Department of Transportation (VDOT) and Department of Public Works and Environmental Services (DPWES) approval, the Applicant shall dedicate and convey in fee simple to the Board of Supervisors right-of-way for a public street to serve the residential community as shown on the CDP/FDP. Dedication shall be made at time of recordation of the final subdivision plat.

- b. Subject to VDOT and DPWES approval, the Applicant shall construct a public street within the residential community within the dedicated right-of-way, as shown on the CDP/FDP. Pipestem driveways shall be maintained by the lot owners utilizing said pipestem driveways. Said maintenance responsibilities and public pedestrian easements as applicable shall be disclosed to initial prospective purchasers prior to entering into a contract of sale, and shall be disclosed in the homeowners association documents established for the Application Property.
- c. On or before final bond release for the proposed development, and as a condition thereto, Applicant shall deposit into an escrow account, owned and controlled by the homeowners association established for the proposed development, the amount of One Thousand Five Hundred Dollars (\$1,500.00). This escrow shall be utilized by the homeowners association for future maintenance of the pipestem driveways within the community. Using the Board of Supervisors approval date of the rezoning application as the base date, the payment amount shall be adjusted in accordance with the Construction Cost Index at time of payment.
- d. The Applicant shall construct a four (4) foot wide concrete sidewalk on both sides of the street within the dedicated right-of-way within the residential development, as shown on the CDP/FDP.
- e. All of the improvements described herein shall be constructed concurrent with development of the Application Property.
- f. Applicant reserves density credit as may be permitted by the provisions of Paragraph 4 of Section 2-308 of the Zoning Ordinance for all dedications described herein or as may be reasonably required by Fairfax County or VDOT whether such dedications occur prior to or at time of subdivision plat approval.
- g. Applicant shall dedicate to the Board of Supervisors in fee simple sufficient land area and grant necessary ancillary easements to provide public street access for the benefit of adjacent Parcels 32 and 33 from the public street as shown on the CDP/FDP. The dedication of land and granting of easements, if any, shall not be construed as an obligation to construct improvements or to maintain future improvements constructed by others. The homeowners association documents established for the Application Property shall include notification of the provision of public street access to Parcels 32 and 33. All initial prospective purchasers shall be advised of this requirement in writing prior to entering into a contract of sale. A sign shall be posted on the Application Property providing notification of the future connection.

- h. Subject to VDOT and DPWES approval, Applicant shall construct a right turn lane on Telegraph Road within dedicated right-of-way to serve the Application Property. The turn lane shall be approximately two hundred (200) feet in length with a taper of approximately one hundred (100) feet.
- i. Except as necessary for the installation of trails and a waterline in proximity to Higham Road, all construction traffic shall use Telegraph Road to access the Application Property, and in no event shall construction vehicles utilize Newington Road except for waterline and trail construction. All construction personnel, including contractors, shall be informed of this restriction.
- j. At time of subdivision plan approval for the Application Property, Applicant shall contribute the sum of Ten Thousand Dollars (\$10,000.00) to Fairfax County to be utilized on Newington, Accotink, Ona and/or Hamilton Roads for traffic calming measures. A portion of this sum may be utilized for landscape features as a part of the traffic calming program. This contribution shall not be construed as an obligation to construct improvements or to maintain future improvements constructed by others. Using the Board of Supervisors approval date as the base date, the payment amount shall be adjusted in accordance with the Construction Cost Index at time of payment.
- k. Applicant may request a waiver at time of subdivision plan submission of the requirement to provide for interparcel access to the adjacent property identified among the Fairfax County tax map records as 99-2 ((1)) 35 ("Parcel 35"). Should waiver not be granted, Applicant shall provide right-of-way for interparcel access to Parcel 35 as shown on Sheet 3A of the CDP/FDP.

3. LANDSCAPING AND OPEN SPACE -

- a. Applicant shall provide landscaping on the Application Property as generally shown on the CDP/FDP.
- b. The tree save areas shown on the CDP/FDP shall remain as undisturbed open space, subject to a conservation easement running to the benefit of Fairfax County, in a form approved by the County Attorney, which prohibits removal of trees except those which are dead, diseased, noxious or hazardous. Parcels A, B, C, and D shall be owned and maintained by the homeowners' association established for the development. Parcel A shall be subject to the interparcel access described herein in Proffer 2.g. The homeowners' association covenants shall contain clear language delineating the tree save areas subject to a conservation easement, the restrictions within those areas, and the responsibility of individual homeowners.

- c. Prior to bond release, Applicant shall dedicate Parcel E on the CDP/FDP to the Fairfax County Park Authority for park purposes. Said dedication shall be subject to a conservation easement as described herein and the granting of easements for a trail as shown on the CDP/FDP at time of subdivision plat approval and/or at time of field location, and as necessary to the Fairfax County Water Authority for a waterline easement in Lavelle Dupelle Park.
- d. In addition to landscaping shown on the CDP/FDP, Applicant shall revegetate the reforestation areas on the CDP/FDP with a combination of woody seed mix and saplings in accordance with the standards of the Public Facilities Manual to ensure slope stability and to reduce sediment and erosion runoff. The proposed reforestation plan shall be submitted as part of the first and all subsequent subdivision plans to the Urban Forestry Division, DPWES for review and approval.
- e. Applicant shall use all reasonable efforts in coordination with the Urban Forestry Division to increase tree save in that area identified as "reforestation area" adjacent to the "tree save area" west of proposed lots 36-39. Applicant shall supplement existing vegetation with the planting of a minimum of twenty (20) evergreens, which may include pines and hollies, to provide year round screening. The trees shall be a minimum of six (6) feet in height at time of planting. The final location and species shall be determined at time of subdivision plan submission in coordination with Urban Forestry Division of DPWES.

4. TREE PRESERVATION

- a. The Applicant shall contract a certified arborist to prepare a tree preservation plan to be submitted as part of the first subdivision plan submission. The certified arborist responsible for preparation of the tree preservation plan shall be referred to as the Project Arborist. The tree preservation plan shall consist of a tree survey which includes the location, species, size, crown spread, and condition rating of all trees 12 inches in diameter or greater, and significant areas of mountain laurel within 20 feet of either side of the limits of clearing and grading. The condition analysis shall be prepared using methods outlined in the ninth edition of The Guide for Plant Appraisal. Specific tree preservation activities shall be incorporated into the tree preservation plan. Activities may include, but not be limited to, crown pruning, root pruning, mulching, and fertilization.
- b. The existing trash and outbuildings that are located within any tree preservation area or protected area, shall be removed and demolished in a

manner that minimizes the impact on individual trees and groups of trees to be preserved, as approved by the Urban Forestry Division. These methods shall be described in detail on the tree preservation plan.

- c. All trees shown to be preserved on the tree preservation plan shall be protected by fencing. Tree protection fencing shall be erected at the limits of clearing and grading as shown on the CDP/FDP and as amended by the tree preservation plan. Materials and installation of tree protection fencing shall conform to the following standard: Four foot high, 14-gauge welded wire attached to six (6) foot steel posts driven eighteen (18) inches into the ground and placed not further than ten (10) feet apart. The tree protection fencing shall be made clearly visible to all personnel. The fencing shall be installed as part of the initial Phase 1 Erosion and Sedimentation Control sequence on the Application Property. All tree preservation activities, including the installation of tree protection fencing, shall be performed under the supervision of the Project Arborist. Prior to the commencement of any clearing and grading activities on the Application Property, the Project Arborist shall verify in writing that the tree protection fence has been properly installed.

5. EROSION AND SEDIMENTATION CONTROL

- a. Applicant shall design, as an integral part (phase I) of the initial erosion and sediment control plan, a sediment basin located at the site of the proposed permanent SWM pond. Where Virginia Erosion and Sedimentation Control Handbook (VESCH) design differs from the Applicant's design, the permanent design dimensions of the permanent SWM pond shall supercede those in the VESCH. All clearing and earthwork necessary for the construction of this basin shall be included in the initial phase I construction limits of clearing and grading and shall be the minimum amount necessary. No other clearing and grading operations, other than those required for other sediment and erosion control practices on-site shall be permitted until basin is operational for sediment control purposes. In no event shall said basin exceed the size of the proposed SWM pond as shown on the CDP/FDP.
- b. Applicant shall direct as much on-site disturbed areas to the sediment basin during all phases of construction as is reasonably possible and shall show such drainage areas on the phase I and II erosion and sediment control plans.
- c. Once rough grade has been achieved on any portion of the Application Property, that area shall be hydroseeded to meet or exceed the Fairfax County standards for critical slope areas as set forth in the Public Facilities Manual (PFM) with an appropriate seed mixture and mulched to prevent erosion during storms.

6. PARKS AND RECREATION -

- a. Pursuant to Paragraph 2 of Section 6-110 and Paragraph 2 of Section 16-404 of the Zoning Ordinance regarding developed recreational facilities, the Applicant shall expend the sum of Nine Hundred Fifty-five Dollars (\$955.00) per approved lot. The on-site passive recreation facilities shall consist of an open play area defined by landscaping, walking trails and benches as shown on the CDP/FDP. The balance of any funds not expended on-site or Twenty-nine Thousand Dollars (\$29,000.00), whichever is greater, shall be contributed to the Fairfax County Park Authority at time of subdivision plan approval for recreation facilities, expansion and/or maintenance of Lavelle Dupelle Park, which is located in the vicinity of the Application Property.
- b. Applicant shall provide a trail connection to Higham Road as generally shown on the CDP/FDP. Trail shall be field located in a manner to minimize clearing and grading as reviewed and approved as part of the subdivision plan approval process by the Urban Forestry Division. Said trail shall connect to the pedestrian network shown on the CDP/FDP. Applicant shall grant a public pedestrian ingress-egress easement over all trails and sidewalks shown on the CDP/FDP at time of subdivision plat approval and shall disclose those easements as described in Proffer 2.b.

7. STORMWATER MANAGEMENT - BEST MANAGEMENT PRACTICE

- a. The Applicant shall provide stormwater management (SWM) and Best Management Practices (BMP) in a location as generally shown on the CDP/FDP and in accordance with the requirements of the Public Facilities Manual and Chesapeake Bay Preservation Ordinance, unless modified by DPWES. In the event that on-site stormwater management or BMPs are modified by DPWES, modification of the SWM/BMP pond shown on the CDP/FDP shall not require the approval of a proffered condition amendment or an amendment to the CDP/FDP. Any open space resulting from any modification shall remain as open space. Said modifications shall not substantially alter the lot layout configuration or the location of the retaining wall and landscaping as shown on the CDP/FDP.
- b. A landscape plan shall be submitted as part of the first and subsequent submissions of the subdivision plans and shall provide additional landscaping around and within the SWM facility in accordance with the planting policies of DPWES.

8. AFFORDABLE HOUSING --

At the time of final subdivision plat approval for the Application Property, the Applicant shall contribute to the Fairfax County Housing Trust Fund one percent (1%) of the estimated sales price of each new dwelling for the provision of affordable housing. The estimated sales price shall be determined by the Applicant in consultation with the staff of the Fairfax County Department of Housing and Community Development (HCD) and the DPWES. The timing and amount of this contribution may be modified at the Applicant's sole option based on the adoption of a future amendment to the formula adopted by the Board of Supervisors.

9. NOISE ATTENUATION -

Applicant shall achieve an interior noise level of approximately 45 dBA Ldn in all units located within 304 feet from the centerline of Telegraph Road in the area identified as having levels between 65 through 70 dBA Ldn. All units within this impacted area as well as Lots 5, 6, and 43, will have the following acoustical attributes as determined by DPWES:

- a. Exterior walls shall have a laboratory Sound Transmission Classification (STC) of at least 39.
- b. Doors and windows shall have an STC of at least 28. If glazing constitutes more than 20 percent of any facade, they shall have the same laboratory STC ratings specified for exterior walls.
- c. Adequate measures to seal and caulk between surfaces shall be provided.

Applicant shall achieve an exterior noise level of approximately 65 dBA Ldn for all units with rear yards adjacent to Telegraph Road. Applicant shall construct architecturally solid wood fences for proposed Lots 1, 2, 3, and 4 as shown on the CDP/FDP. Said fences shall be a maximum height of 8 feet in order to satisfy the exterior noise requirement. The fences may be designed to accommodate drainage under or through the fence.

Nothing herein shall be construed to restrict or otherwise limit the use of balconies, patios or decks on residential units.

The Applicant reserves the right to pursue additional methods of mitigating highway noise impacts that can be demonstrated, through an independent noise study as reviewed and approved by DPWES, that these methods will be effective in reducing

interior noise levels to 45 dBA Ldn or less, and exterior noise levels to 65 dBA Ldn or less.

10. DESIGN -

- a. Applicant shall construct an entry feature at the entrance to the Application Property generally as illustrated on the conceptual elevations as shown on the CDP/FDP. The entry feature wall shall be constructed of a façade of stone or masonry of comparable quality.
- b. Applicant shall construct the residential dwellings as conceptually shown on the CDP/FDP. The fronts of the residential dwelling units shall include a majority of brick, masonry, stone or other comparable materials. In no event shall the Applicant utilize vinyl or aluminum siding for more than 30% of the front facade. Architectural features may include dormers, gables, bay windows and porches.
- c. A minimum side yard of eight feet shall be provided for all proposed residential dwelling units, exclusive of Zoning Ordinance extensions permitted in Article 2 for bay windows, chimneys and similar features.
- d. A minimum rear yard setback of twenty-five (25) feet shall be provided for all proposed residential dwelling units.

11. GEOTECHNICAL

- a. The Applicant shall submit a Geotechnical Report to the Geotechnical Review Board for the Application Property as required by DPWES, for review and approval, prior to subdivision plan approval, and shall implement the recommendations outlined in the approved study. The Applicant shall submit geotechnical notes outlining the method of plan implementation to DPWES for approval. The Director of DPWES may retain a geotechnical engineer to perform the services set forth in the notes. In such event, the Applicant shall reimburse Fairfax County for any reasonable expenses incurred under the monitoring memorandum.
- b. The Applicant shall remove existing fill from the Application Property rather than utilize dynamic compaction in the preparation of buildable sites for residential dwellings.
- c. Applicant shall strictly adhere within five feet to the limits of clearing and grading as shown on the CDP/FDP as amended by the tree preservation plan, except for the installation of only those trails and utilities, including water, as determined by final engineering. In order to preserve these limits, the

Applicant shall implement a variety of techniques as reviewed and approved by DPWES. Slope stabilizing structures such as piles or piers and retaining walls may be needed. Retaining walls, if constructed, shall be a facade of stone or masonry of a comparable quality, and a maximum height of eight (8) feet, exclusive of the entry wall feature, or as approved by DPWES. Retaining walls may be terraced and shall be landscaped. Retaining walls in excess of four (4) feet shall include handrails and guardrails as required by DPWES.

- d. Should the recommendations of the Geotechnical Report require a substantial modification to the lot layout, a reduction in the limits of clearing and grading as shown on the CDP/FDP in excess of that permitted in Proffer 1.b., or walls greater than eight (8) feet, exclusive of the entry wall feature, the Applicant shall request approval of a proffered condition amendment, as necessary, if administrative actions cannot be taken under Proffer 1.b., which may result in a loss of units.
- e. Applicant shall repair and stabilize any portion of the contiguous off-site properties that may be damaged as a direct and proximate result of Applicant's faulty and/or negligent grading and construction activity. If during Geotechnical Review Board review it is determined by DPWES that inspections of contiguous properties are necessary, Applicant shall survey identified properties prior to commencement of construction, subject to receipt of permission from property owner. A copy of said inspections shall be provided to DPWES prior to commencement of construction.
- f. Applicant shall have a soils engineer on site during all phases of construction that are affected by soil stability. Applicant shall have its geotechnical engineer prepare and submit written inspection reports to DPWES regarding on-site compliance with the geotechnical report approved by DPWES.

12. MISCELLANEOUS -

- a. These proffers shall bind and inure to the benefit of the Applicant and his or her successors and assigns.
- b. These proffers may be executed in one or more counterparts, each of which when so executed and delivered shall be deemed an original document and all of which taken together shall constitute but one and the same instrument.
- c. The Applicant shall establish a homeowners' association for the proposed development to own, manage and maintain the open space including the tree save areas and all other community owned land and improvements, including

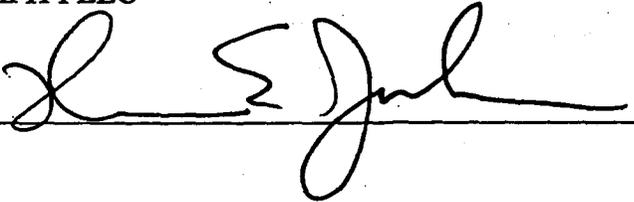
retaining walls. Restrictions placed on the use of the open space/buffer areas shall be disclosed to all prospective homeowners in a disclosure memorandum at time of contract execution and detailed in the homeowners association documents.

- d. Applicant shall notify the Newington Civic Association in writing of any waivers or PFM modifications requested under Chapter 101 of Fairfax County Code or the PFM when said waivers or modifications are submitted to DPWES, and of any major subdivision plan revisions when submitted to DPWES. In addition, a copy of the tree preservation plan identified in Proffer 4.a, shall be forwarded to the Newington Civic Association when submitted to Fairfax County.
- e. Applicant shall contribute the sum of Five Hundred Dollars (\$500.00) per market unit approved above the by-right density of the R-1 District (23 lots) to the Fairfax County Board of Supervisors for the construction of the proposed South County Secondary School as stated in the 2001 Capital Improvement Program (Lane-Hayfield-Hayfield Pyramid). Said contribution shall be made payable to the Fairfax County Board of Supervisors at time of subdivision plat approval for the Application Property.
- f. The subdivision plan shall be returned to the Mount Vernon Planning Commissioner for administrative review prior to final approval.

[SIGNATURES BEGIN ON THE FOLLOWING PAGE]

APPLICANT/OWNER

TELEGRAPH I LLC

By: 

Name: Thomas E. Jordan

Title: Member / Manager

F A I R F A X C O U N T Y

BOARD OF SUPERVISORS ACTION

ZONING MAP AMENDMENT

DATE OF ACTION 08/06/01

APPLICATION NUMBER: RZ 01-V-002

MT. VERNON DISTRICT

APPLICANT: TELEGRAPH I LLC

STAFF: LEWIS

APPLICATION DATA

EXISTING ZONING AND ACREAGE

ZONING: R- 1

ACRES: 23.52

PROPOSED:

PDH- 2
23.52

ACTION:

PDH- 2
23.52

TOTAL ACRES

23.52

TOTAL ACRES

23.52

MAP NUMBERS

099-2- /01/ /0036-

REMARKS:

ZONING MAP AMENDMENT

RZ 01-V-002

ZONING DISTRICT DATA

ZONING DISTRICT: PDH- 2

PROFFERED/CONDITIONED DWELLING UNIT DATA

TYPES	UNITS	ACRES	DENSITY	RANGE	LOMOD INCL	LOMOD ADD
SFD	43	23.52				

TOT	43	23.52	1.83			
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PROFFERED/CONDITIONED NON-RESIDENTIAL GROSS FLOOR AREAS

USE	GFA	FAR	USE	GFA	FAR
COMMERICAL-GEN			PUBLIC/QUASI PUB		
HOTEL/MOTEL			OFFICE		
INDUSTRIAL-GEN			TRAN-UTIL-COMM		
CULT/EDU/RELG/ENT			RETAIL-EATING EST		
INDUST-WAREHOUSE			*****TOTAL*****		

REMARKS:

ZONING MAP AMENDMENT

RZ 01-V-002

CONDITION/CONTRIBUTION DATA

COND CODE DESCRIPTION	COND CODE DESCRIPTION
1Z OTHER - GENERAL	1Z OTHER - GENERAL
3Z OTHER - TRANSPORTATION	3Z OTHER - TRANSPORTATION
3Z OTHER - TRANSPORTATION	3Z OTHER - TRANSPORTATION
4Z OTHER - ENVIRONMENT	4Z OTHER - ENVIRONMENT
4Z OTHER - ENVIRONMENT	4Z OTHER - ENVIRONMENT
4Z OTHER - ENVIRONMENT	4H LANDSCAPING
4Z OTHER - ENVIRONMENT	4Z OTHER - ENVIRONMENT
4B TREES/COUNTY ARBORIST	4Z OTHER - ENVIRONMENT
4M SOIL PROBLMS/GEOTECHNICAL REVIEW	1Z OTHER - GENERAL
4E NOISE ATTENUATION	5E CONTRIBUTION-HOUSING *SEE BELOW

CONTRIB DATA:	CND CODE	AMOUNT	CONDITIONED	EXPIRES	CONTRIB CODE
		\$0		00/00/00	
		\$0		00/00/00	
		\$0		00/00/00	
		\$0		00/00/00	

REMARKS:

6:00 P.M. Item - RZ-2001-MV-002 - TELEGRAPH I LLC
Mt. Vernon District

On Thursday, June 28, 2001; the Planning Commission voted 8-0-2 (Commissioners Harsel and Smyth abstaining; Commissioners Alcorn and DuBois absent from the meeting) to recommend that the Board of Supervisors approve RZ-2001-MV-002 and the Conceptual Development Plan, subject to execution of proffers consistent with those dated June 27, 2001, as amended.

The Commission voted 8-1-1 (Commissioner Harsel opposed; Commissioner Smyth abstaining; Commissioners Alcorn and DuBois absent from the meeting) to recommend waiver of the limitation on fence height to permit an eight-foot architecturally solid privacy fence, as shown on the Conceptual Development Plan and the Final Development Plan.

The Planning Commission then voted 8-0-2 (Commissioners Harsel and Smyth abstaining; Commissioners Alcorn and DuBois absent from the meeting) to approve FDP-2001-MV-002, subject to Board approval of RZ-2001-MV-002 and the Conceptual Development Plan.

Planning Commission Meeting
June 28, 2001
Verbatim Excerpts

RZ/FDP-2001-MV-002 - TELEGRAPH I LLC

After Close of the Public Hearing

Chairman Murphy: The public hearing is closed. Recognize Mr. Byers.

Commissioner Byers: Well, Mr. Chairman, I'm going to move this thing out tonight. I think in the umpteen years I've been on the Commission, this is only the second time I've disagreed with the staff report. But I think the issue has to do with whether a previously approved geotechnical report is adequate to do the preliminary work or whether a final one has to be done. I think the preliminary one meets the standard requirements that we have in our planning and zoning procedures. So, Mr. Chairman, I'm going to MOVE THAT THE PLANNING COMMISSION RECOMMEND THE BOARD OF SUPERVISORS APPROVE RZ-2001-MV-002 AND THE CONCEPTUAL DEVELOPMENT PLAN, SUBJECT TO THE EXECUTION OF PROFFERS DATED JULY (sic) 27TH, AS AMENDED TONIGHT.

Ms. Cathy Lewis: It should be June 27th.

Commissioner Byers: June 27th. I'm sorry.

Commissioner Kelso: Second.

Chairman Murphy: Seconded by Mr. Kelso. Is there a discussion of the motion? All those in favor of the motion to recommend to the Board of Supervisors that it approve RZ-2001-MV-002, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed?

Commissioners Harsel and Smyth: Abstain.

Chairman Murphy: Commissioners Smyth and Harsel abstain. Mr. Byers.

Commissioners Byers: Ms. Strobel, I would point out that you have two editorials to --

Lynne Strobel, Esquire: I've got those.

Commissioner Byers: Mr. Chairman, I MOVE THE PLANNING COMMISSION APPROVE FDP-2001-MV-002, SUBJECT TO THE BOARD'S APPROVAL OF THE REZONING AND THE CDP.

Commissioner Kelso: Second.

Chairman Murphy: Seconded by Mr. Kelso. Is there a discussion of that motion? All those in favor of the motion to approve FDP-2001-MV-002, subject to the Board of Supervisors' approval of the rezoning and conception development plan, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed?

Commissioners Harsel and Smyth: Abstain.

Chairman Murphy: Motion carries. Same abstentions.

Commissioner Byers: Mr. Chairman, I MOVE THE PLANNING COMMISSION RECOMMEND THE BOARD WAIVE THE LIMITATION ON FENCE HEIGHT TO PERMIT AN EIGHT FOOT FENCE, ARCHITECTURALLY SOLID PRIVACY FENCE, AS SHOWN ON THE CDP AND THE FINAL DEVELOPMENT PLAN.

Commissioner Kelso: Second.

Chairman Murphy: Seconded by Mr. Kelso. Is there a discussion of that motion? All those in favor of the motion, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed?

Commissioner Harsel: Nay.

Commissioner Smyth: Abstain.

Chairman Murphy: Ms. Smyth abstains. Ms. Harsel votes no.

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(The first two motions carried by a vote of 8-0-2 with Commissioners Harsel and Smyth abstaining; Commissioners Alcorn and DuBois absent from the meeting.)

(The third motion carried by a vote of 8-1-1 with Commissioner Harsel opposed; Commissioner Smyth abstaining; Commissioners Alcorn and DuBois absent from the meeting.)

LBR