RZ 2006-PR-013
WASHINGTON PROPERTY COMPANY, L.L.C.
PROFFER

December 6, 2006
January 19, 2007
January 23, 2007
January 25, 2007
February 8, 2007
February 12, 2007
February 27, 2007
March 12, 2007
March 13, 2007
March 15, 2007
March 17, 2008
March 20, 2008
April 15, 2008
April 22, 2008
April 28, 2008
May 7, 2008
May 14, 2008
May 19, 2008
May 23, 2008
June 9, 2008
June 12, 2008
June 24, 2008
July 9, 2008
July 18, 2008
August 26, 2008
September 3, 2008
October 2, 2008
October 15, 2008
November 4, 2008

Pursuant to §15.2-2303(A) of the Code of Virginia (1950 as amended) and §18-203 of the Zoning Ordinance of Fairfax County (1978 as amended) the property owner and Applicant, Washington Property Company, L.L.C., for itself and its successors assigns, (hereinafter referred to as the "Applicant") proffers that the development of the parcel under consideration identified on the Fairfax County Tax Maps as Tax Map Reference 48-4((1))12 (hereinafter referred to as the "Property"), will be in accordance with the following conditions, if and only if, the application, known as RZ 2006-PR-013 is granted rezoning the Property to the C-6 and HC Districts. The Proffered Development Conditions are as follows:

DEVELOPMENT PLAN

1. A. The Property shall be developed in substantial conformance with the GDP/SE Plat entitled "Lee Highway and Nutley Street," containing eight (8) sheets prepared by Walter L. Phillips, Incorporated, dated March 8, 2006 and revised through November 4, 2008.

B. Deliveries and trash pickup shall be limited to the hours of 8 a.m. to 10 p.m. weekdays.

2. Pursuant to Paragraph 4 of Section 18-204 of the Zoning Ordinance, minor modifications from the GDP/SE Plat may be permitted as determined by the Zoning Administrator. The Applicant shall have the flexibility to modify the layout shown on the GDP/SE Plat without approval of a PCA, provided such changes are in substantial conformance with the GDP/SE Plat and neither increase the total gross square footage, decrease the amount of open space, nor decrease distance from buildings to the closest peripheral property line(s) as determined by the Zoning Administrator, agents or assigns. Any such modifications shall not decrease the limits of clearing and grading and buffers shown on GDP/SE Plat.

TRANSPORTATION

3. A. Prior to final site plan approval of the first site plan, or on demand by the Board of Supervisors, whichever occurs first, the Applicant shall dedicate and convey in fee simple, and at no cost, to the Board of Supervisors right of way along the Property's Lee Highway and Nutley Street frontages as shown on the GDP/SE Plat.

B. At time of site plan approval or upon demand, whichever occurs first, Applicant shall provide all right-of-way dedication and easements needed for completion of the Route 29 improvement plan per the Virginia Department of Transportation (VDOT) design plans.

C. Prior to the issuance of the first non residential use permit (Non-RUP), Applicant shall construct curb, gutter and pavement improvements along the Property's Route 29 frontage as shown on the GDP/SE Plat, and as approved by VDOT. In addition, the Applicant shall construct a 10 ft wide asphalt trail along the Property's Route 29 frontage as shown on the GDP/SE as a part of the required improvements, pursuant to the County's suggested design criteria and VDOT standards.

4. A. Prior to the issuance of the Non-RUP, the Applicant shall construct road improvements along the Nutley Street frontage, as shown on the GDP/SE Plat as approved by VDOT and Fairfax County Department of Transportation (FCDOT).

B. Upon demand, the Applicant shall dedicate and convey in fee simple, at no cost to the Board of Supervisors, additional right-of-way along the Property's Nutley Street frontage contingent upon that such dedication does not impact parking, site entrance, travel ways or buildings.

5. A. Where the internal pedestrian system crosses the travel ways of the parking lots, crosswalks shall be provided prior to the issuance of the first Non-RUP. These may be either pavement treatments or pavement painting which clearly mark the pedestrian pathways. Pedestrian crossings shall be provided to the satisfaction of the Department of Public Works and Environmental Services (DPWES) and FCDOT.

B. Prior to the issuance of the first Non-RUP, a crosswalk shall be provided across Nutley Street between the Property and the Pan Am Shopping Center as shown on the GDP/SE Plat subject to VDOT approval. Such crosswalk shall be constructed and shall be signed as a pedestrian crosswalk. The crosswalks may be constructed with pavement treatments or painting which clearly mark the crosswalk, as approved by DPWES and FCDOT. The exact location shall be determined by DPWES in consultation with the FCDOT at time of site plan approval.

6. Applicant has completed and submitted a signal warrant study, and a signal has been warranted by VDOT. Prior to the issuance of the first Non-RUP, the Applicant shall design and install a traffic signal including pedestrian crossing signals for the crosswalk on Nutley Street at the Property's main entrance as shown on the GDP/SE Plat.

7. The Applicant shall make sidewalk modifications as may be needed to serve/accommodate a future bus stop along the Property's Nutley Street frontage, as determined by DPWES. The Applicant shall provide necessary easements, at no cost, for the bus stop.

8. The Applicant recognizes that in the event that VDOT does not permit the Nutley Street retaining wall as shown on the GDP/SE Plat, and any subsequent redesign is not in substantial conformance with that shown on the GDP/SE Plat, that a Proffer Condition Amendment/Special Exception Amendment shall be required.

9. In order to prohibit blocking travel aisles adjacent to the Nutley Street entrance, the Applicant shall paint striping at the entrance as shown on the GDP, paint stop bars and install directional signage. Applicant shall include these measures on the site plan for review and approval by FCDOT.

ENVIRONMENT

10. A. The stormwater management pond and underground vault as shown on the GDP/SE Plat shall include Best Management Practices (BMP) facilities, as required by the Public Facilities Manual.

B. In addition to the landscaping shown on the conceptual landscape plan of the GDP/SE plat, the Applicant shall plant additional shrubs and plants within the SWM/BMP pond in coordination and as approved by DPWES.

C. Prior to or during Site Plan review, the Applicant shall coordinate with DPWES to determine appropriate types and locations for Low Impact Development (LID) techniques/BMP facilities, and shall implement such recommendations.

D. In order to protect the RPA during construction, Erosion and Sediment control measures designed in accordance with the Virginia Soil and Erosion Control Handbook, latest edition shall be implemented. The design of these measures shall be subject to the review and approval of DPWES and the Northern Virginia Soil and Water Conservation District; and, during construction the in place erosion controls shall be inspected daily. If damaged controls are found, then they shall be repaired immediately as determined by DPWES.

11. Prior to the issuance of the first Non-RUP, bicycle racks or other bicycle parking for at least 4 bikes shall be provided near the entrances of each of the 2 buildings.

TREE PRESERVATION

12. A. The Applicant shall submit a Tree Preservation plan as part of the first and all subsequent subdivision plan submissions. The preservation plan shall be prepared by a professional with experience in the preparation of tree preservation plans, such as a certified arborist or landscape architect, and shall be subject to the review and approval of the Urban Forest Management Division, DPWES. The tree preservation plan shall consist of a tree survey that includes the location, species, size, crown spread and condition rating percentage of all trees

8 inches in diameter and greater, located up to 25 feet to outside of the limits of clearing and grading and of all trees 10 inches in diameter and greater, located up to 5 feet to inside of the limits of clearing and grading shown on the SE/GDP for the entire site. The tree preservation plan shall provide for the preservation of those areas shown for tree preservation, those areas outside of the limits of clearing and grading shown on the SE/GDP and those additional areas in which trees can be preserved as a result of final engineering. The condition analysis ratings shall be prepared using methods outlined in the latest edition of the Guide for Plant Appraisal published by the International Society of Arboriculture. Specific tree preservation activities that will maximize the survivability of any tree identified to be preserved, such as: crown pruning, root pruning, mulching, fertilization, and others as necessary, shall be included in the plan. No tree preservation activities that would result in the movement of any buildings, travel aisles, SWM or retaining walls or extensive regarding of the proposed SE/GDP shall be required.

B. The Applicant shall conform strictly to the limits of clearing and grading as shown on the GDP/SE Plat, subject to allowances specified in these proffered conditions and for the installation of utilities and/or trails as determined necessary by the Director of DPWES. If it is determined necessary to install utilities and/or trails in areas protected by the limits of clearing and grading as shown on the GDP/SE Plat, they shall be located in the least disruptive manner necessary as determined by Urban Forest Management (UFM) and DPWES. A replanting plan shall be developed and implemented, subject to approval by UFM and for any areas protected by the limits of clearing and grading that must be disturbed for such trails or utilities. Applicant shall preserve trees in those areas designated on the GDP/SE Plat as buffers and those areas shown to be protected by the limits of clearing and grading.

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

such as chainsaw, wheel barrows, rake and shovels. Any work that requires the use of equipment, such as skid loaders, tractors, trucks, stump-grinders, etc., or any accessory or attachment connected to this type of equipment shall not occur unless pre-approved by UFM.

D. The Applicant shall retain the services of a certified arborist or landscape architect, and shall have the limits of clearing and grading marked with a continuous line of flagging prior to the walk-through meeting with the UFM to be held prior to any clearing and grading. During the walk-through meeting, the Applicant's certified arborist or landscape architect shall walk such limits of clearing and grading with an UFM representative to determine where adjustments to the clearing limits can be made to increase the area of tree preservation and/or to increase the survivability of trees at the edge of the limits of clearing and grading, and such adjustment shall be implemented; provided, however, that no adjustment shall be required that would affect the location of buildings, including a requirement for additional retaining walls in excess of two feet in height. Trees that are identified specifically by UFM in writing as dead or dying may be removed as part of the clearing operation. Any tree that is so designated shall be removed using a chain saw and such removal shall be accomplished in a manner that avoids damage to surrounding trees and associate understory vegetation. If a stump must be removed, this shall be done using a stump-grinding machine in a manner causing as little disturbance as possible to adjacent trees and associate understory vegetation and soil conditions.

E. The limits of clearing and grading shall be protected by tree protection fence. Tree protection fencing in the form of four (4) foot high, fourteen (14) gauge welded wire attached to six (6) foot steel posts driven eighteen (18) inches into the ground and placed no further than ten (10) feet apart or, super silt fence to the extent that required trenching for super silt fence does not sever or wound compression roots which can lead to structural failure and/or uprooting of trees, shall be erected at the limits of clearing and grading adjacent to the tree preservation areas as shown on the phase I and II erosion sediment control sheets. All tree protection fencing shall be installed after the walk-through meeting described in Proffer 12.D above but prior to any clearing and grading activities. The installation of all tree protection fencing shall be performed under the supervision of a certified arborist and accomplished in a manner that does not harm existing vegetation that is to be preserved. At least ten (10) days prior to the commencement of any clearing or grading activities adjacent to the tree preservation areas, but subsequent to the installation of the tree protection devices, the UFM, DPWES shall be

notified and given the opportunity to inspect the site to ensure that all tree protection devices have been correctly installed. If it is determined that the fencing has not been installed correctly, no grading or construction activities shall occur until the fencing is installed correctly, as determined by UFM.

F. The Applicant shall root prune, as needed to comply with the tree preservation requirements of these proffers. All treatments shall be clearly identified, labeled, and detailed on the erosion and sediment control sheets of the respective public improvement/site plan submission. The details for these treatments shall be reviewed and approved by UFM, accomplished in a manner that protects affect and adjacent vegetation to be preserved, and may include, but not be limited to the following: (1) root pruning shall be done with a trencher or vibratory plow to a depth of 18 inches; (2) root pruning shall take place prior to any clearing and grading; (3) root pruning shall be conducted with the supervision of a certified arborist; and (4) a UFM representative shall be informed when all root pruning and tree protection fence installation is complete.

G. During any clearing or tree/vegetation removal in the areas adjacent to the tree preservation areas, a representative of the Applicant shall be present to monitor the process and ensure that the activities are conducted as proffered and as approved by UFM. The Applicant shall retain the services of a certified arborist or landscape architect to monitor all construction and demolition work and tree preservation efforts in order to ensure conformance with all tree preservation proffers, and UFM approvals. The monitoring schedule shall be described and detailed in the Landscaping and Tree Preservation Plan, and reviewed and approved by UFM. The Providence District Supervisor shall be notified of the name and contact information of the Applicant's representative responsible for site monitoring at the tree preservation walk-through meeting described in Par. D. above.

H. The Applicant shall retain a professional arborist with experience in plant appraisal, to determine the monetary value of all trees 8 inches in diameter or greater located on the Application Property that are shown to be saved on the Tree Preservation Plan. These trees and their value shall be identified on the Tree Preservation Plan at the time of the first submission of the respective public improvement/site plan(s). The monetary value of the trees shall be determined using the Trunk Formula Method contained in the latest edition of the Guide for Plant Appraisal published by the International Society of Arboriculture, and shall be subject

to review and approval by UFMD. The Location Factor of the Trunk Formula Method shall be based on projected post-development Contribution and Placements ratings. The Site rating component shall be equal to at least 80%. The monetary values for trees designated to be preserved and conserved as identified on the Tree Preservation Plan shall serve as a baseline sum in determining the amount of the Tree Bond, as below.

I. At the time of the respective public improvement/site plan approvals, the Applicant shall post a bond letter of credit or cash deposit (the "Tree Bond") as required by the Director, DPWES, payable to the County of Fairfax to ensure preservation and/or replacement of the trees for which a monetary value has been determined in accordance with paragraph H. above (the "Bonded Trees") that die or are ding due to unauthorized construction activities. The bond letter of credit or cash deposit shall be equal to 50% of the monetary value of the Bonded Trees. At any time prior to final bond release, should an Bonded Trees die, be removed, or are determined to be dying due to unauthorized construction activities, the Applicant shall replace such trees at its expense. The replacement trees shall be of equivalent size up to 4" in diameter, species and/or canopy cover as approved by UFMD. In addition to this replacement obligation, the Applicant shall also make a payment equal to the value of any Bonded Tree that is dead or dying or improperly removed due to unauthorized activity. This payment shall be determined based on the Trunk Formula Method and paid to a fund established by the County for furtherance of tree preservation objectives. Upon release of the construction bond, any amount remaining in the Tree Bode required by this proffer shall be returned/releases to the Applicant.

13. All of the subject property that is not subject to SE 2006-PR-005 shall be maintained as undisturbed open space subject to the necessary installation of utilities in the least disruptive manner and the removal of dead, dying or invasive vegetation, as determined by DPWES.

LANDSCAPING

14. A. As a part of the site plan submission for the project, a landscaping plan will be submitted to UFM and DPWES for review and approval. Such landscaping plans shall be in substantial conformance to the design shown on the GDP/SE Plat provided, however, that with the specific concurrence of Urban Forest Management, the Applicant may substitute vegetative materials and alter their location to accommodate engineering considerations. The

Applicant shall maintain the landscaping in good condition and promptly replace dead landscaping with similar species.

B. All canopy trees shall be minimum 3" - 3.5" caliper at time of planting.

C. All evergreen trees shall be a minimum 8 feet tall at time of planting.

15. The paved areas will be designed and constructed in conformance with the concepts depicted on the GDP/SE Plat, provided, however, that, subject to the approval of DPWES, the specific distribution and location of landscaping, walkways, and focal seating areas may be modified to accommodate the design theme for the Property selected by the Applicant, so long as such modifications are in substantial conformance with the GDP/SE Plat, and are provided in the quality and quantity of that shown on the GDP/SE Plat.

16. At time of site plan submission, the Applicant shall submit the site plan's landscaping plan sheets to the Stonehurst Homeowners Association President for review and comment.

SIGNAGE AND OTHER DESIGN DETAILS

17. All free-standing signs shall be monument. No pole signs (excepting directional signage on-site as permitted by the Zoning Ordinance) shall be permitted.

18. A. The architecture of the proposed buildings shall be in substantial conformance with the architectural elevations shown on the GDP/SE Plat. All of the facades of the proposed buildings shall have similar architectural treatment and materials.

B. The architectural materials of the proposed development shall consist of any of the following materials used singly or in combination with other materials: Brick masonry, architectural CMU, EIFS, architectural metals and glazing systems. The same colors and types of materials shall be used on all sides of all buildings. Architectural details to demonstrate conformity shall be provided on all final site plans.

C. All dumpsters and trash compactors will be fully screened pursuant to the requirements of the zoning ordinance.

19. No temporary signs (including "Popsicle" style paper or cardboard signs) which are prohibited by Article 12 of the Zoning Ordinance, and no signs which are prohibited by Chapter 7 of Title 33.1 or Chapter 8 of Title 46.2 of the Code or Virginia shall be placed on or

off-site by the Applicant or at the Applicants' direction to assist in the initial sale or rental of space on the Property.

20. All on-site lighting shall comply with Article 14.

21. Rooftop equipment shall be screened where units would be visible from off-site.

22. Water Service. At the time of site plan review, the Applicant shall meet with Fairfax Water to mutually assess the economic and engineering implications of utilizing Fairfax Water service to serve the new development. If the Applicant and Fairfax Water determine that connecting to Fairfax Water can be accommodated in a manner that is reasonably feasible from both a financial and engineering perspective, then the Applicant shall serve the new development through Fairfax Water.

23. A black vinyl clad 48" chain link fence shall be installed on top of the retaining wall behind Proposed Pharmacy (with drive-thru lane).

[Signatures begin on the following page]

APPLICANT/AGENT FOR TITLE OWNER:

Washington Property Company, L.L.C.

By: Charles K. Nulsen, III
Title: President

TITLE OWNER:

Nutley Street, LLC
By: Washington Property Company, L.L.C., its manager

By: Charles K. Nulsen, III, President