APPLICATION ACCEPTED: September 8, 2006
PLANNING COMMISSION: March 22, 2007
BOARD OF SUPERVISORS: not scheduled

County of Fairfax, Virginia

March 22, 2007

STAFF REPORT

APPLICATIONS RZ/FDP 2006-PR-027 & SEA 00-P-050
ADDENDUM I

PROVIDENCE DISTRICT

RZ/FDP APPLICANT:	TCR Midatlantic Properties, Inc. and Fairfax Ridge Condominium Unit Owners Association
SEA APPLICANT:	TCR Midatlantic Properties, Inc.
PRESENT ZONING:	PDH-20, HC
REQUESTED ZONING:	PDH-30, HC
RZ/FDP PARCELS:	46-4 ((19)) all parcels; 56-2 ((27)) all parcels; 56-2 ((1)) 18A
SEA PARCEL:	56-2 ((1)) 18A
RZ/FDP ACREAGE:	23.01 acres
SEA ACREAGE:	3.19 acres
DENSITY:	28.19 du/ac (overall) *including bonus density for the provision of affordable dwelling units*
OPEN SPACE:	49.8% (overall)
PLAN MAP:	Fairfax Center Area; Overlay Level: Office use @ 0.5 FAR with option for multi-family residential @ 20 to 25 du/ac
SE CATEGORY:	Category 6, Use 5: Commercial parking in a residential district

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Department of Planning and Zoning
Zoning Evaluation Division
12055 Government Center Parkway, Suite 801
Fairfax, Virginia 22035-5509
Phone 703 324-1290
FAX 703 324-3924
www.fairfaxcounty.gov/dpz/

RZ/FDP PROPOSAL:	To rezone from the PDH-20 District to the PDH-30 District to permit development of an additional multi-family residential building on Land Bay B of the development, no changes are proposed to the multi-family residential buildings on Land Bay A.
SEA PROPOSAL:	To amend a previously approved special exception for commercial parking in a residential district, to continue the use with an identical number of parking spaces (275) in a parking garage as opposed to the existing surface lot
WAIVERS & MODIFICATIONS ***(PREVIOUSLY APPROVED WITH RZ/FDP 2000-PR-056)***	Waiver of loading space requirement for Land Bay A only
	Modification of transitional screening requirements and waiver of the barrier requirements along the I-66 right-of-way
	Waiver of the service drive requirement along Route 50 and I-66
	Waiver of on-site stormwater management requirement in favor of the regional pond constructed on Land Bay A

STAFF RECOMMENDATIONS:

Staff recommends denial of RZ 2006-PR-027 as submitted. If it is the intent of the Board to approve the application, staff recommends that such approval be subject to the execution of proffers consistent with those found in Appendix 1 of this report.

Staff recommends denial of FDP 2006-PR-027 as submitted. If it is the intent of the Commission to approve the application, staff recommends that such approval be subject to subject to the Board's approval of the rezoning.

Staff recommends denial of SEA 00-P-050 as submitted. If it is the intent of the Board to approve the application, staff recommends that such approval be subject to subject to the development conditions found in Appendix 2 of this report.

It should be noted that it is not the intent of staff to recommend that the Board, in adopting any conditions, relieve the applicant/owner from compliance with the provisions of any applicable ordinances, regulations, or adopted standards.

It should be further noted that the content of this report reflects the analysis and recommendations of staff; it does not reflect the position of the Board of Supervisors.

It should be noted that, should this application be approved, such approval does not interfere with, abrogate or annul any easements, covenants, or other agreements between parties, as they may apply to the property subject to this application.

For information, contact the Zoning Evaluation Division, Department of Planning and Zoning, 12055 Government Center Parkway, Suite 801, Fairfax, Virginia 22035-5505, (703) 324-1290 TTY 711 (Virginia Relay Center)

Americans with Disabilities Act (ADA): Reasonable accommodation is available upon 7 days advance notice. For additional information on ADA call (703) 324-1334 or TTY 711 (Virginia Relay Center).

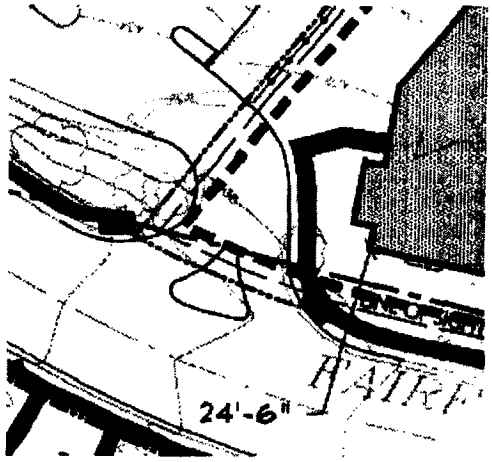
BACKGROUND

The applicant, TCR Midatlantic Properties, Inc. and Fairfax Ridge Condominium Unit Owners Association, requests approval to rezone 23.01 acres from the PDH-20 District (Planned Development Housing – 20 du/ac) to the PDH-30 District (Planned Development Housing – 30 du/ac), and approval of special exception amendment to allow commercial parking in a residential district on a portion of the land area, to serve the adjacent office use.

In the staff report published March 6, 2007, staff recommended denial recommended denial of the applications because of an outstanding issue relating to site distance at the commercial entrance, and to allow additional work to be done on the proffer related to Transportation Demand Management.

DISCUSSION

Since publication of the staff report, the applicant has submitted a revised CDP/FDP/SE Plat, (dated April 4, 2005 ,as revised through March 13, 2007) which included a right-in /right-out alternative entrance for the commercial parking (as shown to the right). The revised plat has been sent to the Virginia Department of Transportation (VDOT) for review. As now proposed, the applicant is requesting a design exception for the original entrance design, but if the exception is not approved, would constructed the alternative entrance design.



While staff does not object to the proposed design alternative, final comment cannot be made until VDOT's official review is received.

As noted in the March 6, 2007, staff report, negotiations were on-going with the applicant on appropriate commitments for the Transportation Demand Management Program. While staff has reviewed some of the intervening changes, the final submission (received today) has not been reviewed.

The proffers contained in this staff report addendum, now dated March 22, 2007, are black-lined from those in the original staff report for the convenience of the Commission.

The SEA conditions contained in this addendum have changed only to reference the new plat date.

CONCLUSIONS AND RECOMMENDATIONS

Staff Conclusions

As noted, while staff does not object to the applicant's proposed design alternative for the commercial entrance, the recommendation of denial cannot be modified until official comment has been received from VDOT on the entrance. In addition, staff needs more time to thoroughly review the recent proffer revisions.

Recommendation

Staff recommends denial of RZ 2006-PR-027 as submitted. If it is the intent of the Board to approve the application, staff recommends that such approval be subject to the execution of proffers consistent with those found in Attachment 1 of this report.

Staff recommends denial of FDP 2006-PR-027 as submitted. If it is the intent of the Planning Commission to approve the application, staff recommends that such approval be subject to the Board's approval of the rezoning.

Staff recommends denial of SEA 00-P-050 as submitted. If it is the intent of the Board to approve the application, staff recommends that such approval be subject to the development conditions found in Attachment 2 of this report.

It should be noted that it is not the intent of staff to recommend that the Board, in adopting any conditions proffered by the owner, relieve the applicant/owner from compliance with the provisions of any applicable ordinances, regulations, or adopted standards.

The approval of this rezoning does not interfere with, abrogate or annul any easement, covenants, or other agreements between parties, as they may apply to the property subject to this application.

It should be further noted that the content of this report reflects the analysis and recommendations of staff; it does not reflect the position of the Board of Supervisors.

ATTACHMENTS

1. Proffers: RZ 2006-PR-027 (blackline version showing changes from the March 6, 2007 proffers)
2. Development Conditions: SEA 00-P-050

PROFFERS
TCR MID ATLANTIC PROPERTIES, INC.

RZ 2006-PR-027

March ~~6~~22, 2007

Pursuant to Section 15.2-2303(a), *Code of Virginia*, 1950 as amended and subject to the Board of Supervisors approving a rezoning to the PDH-30 District, for property identified as Tax Map 46-4 ((19)) All Parcels and 56-2 ((27)) All Parcels (hereinafter referred to as "Land Bay A") and Tax Map 56-2 ((1)) 18A (hereinafter referred to as "Land Bay B"), with both Land Bay A and Land Bay B being referred to as the "Property", the Applicant and owner proffer for themselves, their successors and assigns the following conditions, which if approved, supersede all previously approved proffers for the Property:

1. Development Plan.
   A. Development of the Property shall be in substantial conformance with the Conceptual Development Plan/Final Development Plan (CDP/FDP) prepared by Land Design, Inc., consisting of twenty-seven (27) sheets, dated April 4, 2005, as revised through ~~February 26~~March 13, 2007.
   B. Notwithstanding that the CDP/FDP is presented on twenty-seven (27) sheets, it shall be understood that the proffered portion of the CDP shall be the entire plan shown on Sheets 2, 2A, 2B, and 2C relative to the points of access, the maximum number and type of dwelling units, the amount and location of open space, the general location of the Environmental Quality Corridor (EQC), the location of the limits of clearing and grading, and the general location and arrangement of the buildings and parking garages. The Applicant has the option to request a FDPA for elements other than the CDP elements from the Planning Commission for all or a portion of the CDP/FDP in accordance with the provisions set forth in Section 16-402 of the Zoning Ordinance with respect to the remaining elements.
   C. Pursuant to Paragraph 4 of Section 16-403 of the Zoning Ordinance, minor modifications from the Final Development Plan (FDP) may be permitted as determined by the Zoning Administrator. The Applicant shall have the flexibility to modify the layouts shown on the FDP without requiring approval of an amended FDP provided such changes are in substantial conformance with the FDP as determined by the Zoning Administrator and do not increase the total number of dwelling units, increase building height, increase surface parking, decrease the amount of open space; decrease the setback from the peripheries; or reduce open space or landscaping.
   D. The CDP/FDP provides for ~~excess~~ commercial parking on Tax Map 56-2 ((1)) 18A serving office buildings on adjacent parcels identified as Tax Map 46-4 ((1)) 15B and 56-2 ((1)) 15C, 15D, which is subject to Special Exception approval as a secondary use in a PDH-District, in accordance with Par. 6C of Sect. 6-106 of the Ordinance. These parking spaces are not required parking spaces for the uses located on the Property or on the adjacent parcels. ~~A parking~~The site plan ~~shall be~~ submitted ~~at the time of site plan~~for Land Bay B shall include a parking plan,

which shall provide for separate commercial and residential structured parking entrances, physically separated parking areas for these two (2) uses, and ~~which shall commit to~~ the provision of these commercial parking spaces within the uppermost structured parking level to the extent possible.

2. Transportation

A. Waples Mill Road

(1) At the time of site plan approval or upon written demand by Fairfax County, whichever shall occur first, (unless already fulfilled) the Applicant shall dedicate and convey in fee simple to the Board of Supervisors right-of-way along the Property's Waples Mill Road frontage, north of Waples Mill Road's intersection with Fairfax Ridge Road North, measuring to a maximum of 70 feet from the existing centerline as shown on the CDP/FDP.

(2) Unless already fulfilled, the Applicant shall construct a right turn deceleration lane on southbound Waples Mill Road at Fairfax Ridge Road North, as shown on the CDP/FDP and approved by the Virginia Department of Transportation (VDOT), prior to issuance of the 420th or last residential use permit (RUP) for the Property, whichever occurs first.

(3) The Applicant shall complete a signal warrant study at the time of site plan for Land Bay B and, if warranted, as determined by VDOT, shall install a traffic signal, with pedestrian heads, at the intersection of Fairfax Ridge Road North and Waples Mill Road, prior to bond release for Land Bay B.

(4) Unless already fulfilled, at the time of site plan approval or upon written demand by Fairfax County, whichever shall occur first, the Applicant shall dedicate and convey in fee simple to the Board of Supervisors right-of-way along the Property's Waples Mill Road frontage, south of Waples Mill Road's intersection with Fairfax Ridge Road South, measuring to a maximum of 57 feet from the existing centerline. The Applicant shall construct an extension of the existing westernmost lane on southbound Waples Mill Road at Route 50 from its existing terminus to its intersection with Fairfax Ridge Road South, subject to securing appropriate grading and sidewalk easements for work on Tax Map 56-2 ((1)) 21. ~~Said improvement shall be complete and open for use by the public prior to the issuance of the 50th RUP for the Property.~~

B. Route 50
Unless already fulfilled, the Applicant shall contribute the sum of $600,000 to Fairfax County for construction of a second left turn lane on eastbound Route 50 at Waples Mill Road and associated signal modifications or for other improvements at that intersection as determined by VDOT and Fairfax County. The contribution shall be made in three installments, with $200,000 being contributed prior to the issuance of the first building permit, a second payment of $200,000 contributed prior to the issuance of the 200th building permit, and the third payment of $200,000 to be contributed prior to the issuance of the 400th building permit for the Property, or no later than 36 months following the issuance of the first building permit, whichever shall occur first.
In lieu of the contribution above, the Applicant may elect to obtain bids from two VDOT qualified contractors for an alternative design, to be approved by VDOT and Fairfax County, for construction of the second left turn lane within the existing median and associated signal modifications. Should the bid estimates be less than $600,000, the Applicant may elect to build the improvements, with said improvements being complete and open for public use prior to the issuance of the 100th RUP for the Property.

C. Interstate 66. Unless already dedicated, the Applicant shall dedicate and convey in fee simple to the Board of Supervisors right-of-way along the Property's Interstate 66 frontage, which measures approximately 132 feet to 206 feet from centerline and contains approximately 0.75 acres, as indicated on the CDP/FDP. Dedication shall occur at the time of site plan approval or upon request, whichever occurs first.

D. Fairfax Ridge Road. A commercial entrance that serves the uses on Tax Map 46-4 ((1)) 15B and 56-2 ((1)) 15C, 15D is proposed at the southwest corner of Land Bay B. It is the Applicant's intention to construct this entrance as unrestricted, which will require approval of a VDOT Design Exception. If such an Exception is not approved, then the Applicant shall propose an alternative office entrance to VDOT, as depicted on Sheet 2C of the CDP/FDP, which would restrict traffic movements to "right-in/right-out". Regardless, if neither entrance design is approved by VDOT, the Applicant acknowledges that they must either propose an entrance that is in substantial conformance with the entrance depicted on the CDP/FDP, or approval of a PCA and/or FDPA may be required.

~~D.~~E. Fairfax Center Area Road Fund. The Applicant shall provide a contribution for Land Bay A, unless the contribution for Land Bay A has already been fulfilled, and for Land Bay B to the Fairfax Center Area Road Fund consistent with the Procedural Guidelines adopted by the Board of Supervisors on November 22, 1982, as may be revised. In accordance with the Fairfax Center Road Fund Policy, the Applicant shall receive credit against the Fairfax Center Road Fund contribution for those improvements that are creditable expenses.

~~E.~~F. Density Credit. Advanced density credit shall be reserved as may be permitted by the provisions of Paragraph 5 of Section 2-308 of the Fairfax County Zoning Ordinance for all eligible dedications described herein, or as may be required by Fairfax County or VDOT at time of site plan approval.

~~F.~~G. Interparcel Access Easement. Unless already recorded, prior to site plan approval, an interparcel access easement shall be recorded that permits ingress/egress across the Property for future use by Tax Map 56-2 ((1)) 19 and 20 and 56-2 ((~~1~~26)) 100 – 330 (previously 56-2 ((1)) 19, 20 and 21).

3. Landscape Plan. A landscape plan that shows, at a minimum, landscaping in conformance with the landscape design shown on Sheets 4, 4A, 4B, 4C and 13 of the CDP/FDP shall be submitted prior to the first submission of the site plan for Land Bay B. The landscape plan shall include detailed streetscape, courtyard and open space landscaping. Said plan shall be coordinated with and approved by the Urban Forester. Unless already planted, street trees along Waples Mill Road and Fairfax Ridge Road shall be a minimum of 3½ inch caliper at the time of planting. Street trees along the eastern side of Fairfax Ridge Road (that portion abutting Land Bay B) shall be a minimum of 4.0 inch caliper at the time of planting. The Applicant shall provide maintenance and replacement of landscaping as necessary.

4. Tree Preservation.

A. For the purposes of maximizing the preservation of trees in tree save areas, as indicated on the CDP/FDP, the Applicant shall prepare a tree preservation plan for Land Bay B. The Applicant shall contract with a certified arborist (the "Project Arborist") to prepare a tree preservation plan to be submitted as part of the first site plan submittal for Land Bay B. The tree preservation plan shall be reviewed and approved by Urban Forest Management. The tree preservation plan shall consist of a tree inventory which includes the location, species, size, crown spread and condition rating percent of all trees 10 inches or greater in diameter, measured 4½ feet from the ground, and located within twenty (20) feet of the limits of clearing and grading for Land Bay B. The condition analysis shall be prepared using methods outlined in the latest edition of *The Guide for Plant Appraisal*. Specific tree preservation activities designed to maximize the survivability of trees designated for preservation shall be incorporated into the tree preservation plan. Activities should include, but are not limited to, crown pruning, root pruning, mulching and fertilization.

B. All trees shown to be preserved on the tree preservation plan shall be protected by tree protection fencing. Tree protection fencing, consisting of four foot high, 14 gauge welded wire attached to 6 foot steel posts driven 18 inches into the ground and placed no farther than 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 placed at the limits of clearing and grading as shown on the Phase I and Phase II erosion and sedimentary control sheets in all areas, as may be modified by the "Root Pruning" proffer, below. The tree protection fencing shall be made clearly visible to all construction personnel. The tree protection fencing shall be installed prior to the performance of any clearing, grading, or demolition activities on the site. All tree preservation activities, including installation of tree protection fencing, shall be performed under the supervision of the Project Arborist.

C. Clearing, grading and construction shall conform to the limits of clearing and grading as shown on the CDP/FDP The limits of clearing and grading on Land

Bay A shall be subject to the installation of necessary utility lines, trails and other required site improvements, all of which shall be installed in the least disruptive manner possible, considering cost and engineering, as determined in accordance with the approved plans; but, the limits of clearing and grading on Land Bay B shall not be subject to the installation of utility lines, trails or any other site improvements. Areas within the EQC on Land Bay A, as depicted on the CDP/FDP, shall remain undisturbed with the exception of clearing and grading activities necessary for the construction of the regional stormwater pond and essential utility lines. Tree preservation areas disturbed outside of the final pond and essential utility line easements on Land Bay A shall be restored, including replacement of trees damaged or destroyed by construction activities, as determined by the Urban Forester. The Applicant shall have the limits of clearing and grading marked with a continuous line of flagging prior to the pre-construction meeting, the Applicant and Project Arborist shall walk the limits of clearing and grading with an Urban Forest Management representative to determine where adjustments to the clearing limits can be made to increase the survivability of trees at the edge of the limits of clearing and grading.

D. The County Urban Forester may require modifications of such plans to the extent these modifications do not alter the number of dwelling units shown on the CDP/FDP, reduce the size of the proposed structure, significantly move the structure's location on the Land Bay B, or require the installation of retaining walls greater than 2 feet in height. Trees that are not likely to survive construction due to their proximity to disturbance shall also be identified at this time and the Applicant shall remove such trees as part of the clearing operation. Any tree designated for removal at the edge of the limits of clearing and grading and within the tree preservation area shall be removed using chain saws. The stump shall be cut as close to ground level as practical. 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 the tree preservation area.

E. All tree protection fencing shall be installed after the tree preservation walk-through meeting but prior to any clearing and grading activities, including the demolition of the existing parking lot. The installation of all tree protection fencing shall be performed under the supervision of the Project Arborist, and accomplished in a manner that does not harm existing vegetation that is to be preserved. Prior to the commencement of any clearing or grading on the site, the Project Arborist shall verify in writing that the tree protection fencing has been properly installed. At least three (3) days prior to the commencement of any clearing, grading, or demolition activities on Land Bay B, but subsequent to the installation of the tree protection devices, the County Urban Forester shall be notified and given the opportunity to inspect the site to ensure that all tree protection devices have been correctly installed. If it is determined that the fencing has not been installed correctly, no grading or construction activities shall occur until the fencing is installed correctly, as determined by the County Urban Forester.

F. The Applicant shall root prune, as needed to comply with the tree preservation requirements of the proffers. All treatments shall be clearly identified, labeled,

and detailed on the erosion and sediment control sheets of the site plan submission. The details for these treatments shall be reviewed and approved by the County Urban Forester, accomplished in a manner that protects affected 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, or demolition of structures.

(3) Root pruning shall be conducted with the supervision of the Project Arborist.

(4) The County Urban Forester shall be informed when all root pruning and tree protection fence installation is complete.

5. Stormwater Management/Best Management Practices

A. Stormwater management shall be provided in a regional stormwater pond in the location shown on the CDP/FDP (the "Pond"), which shall be constructed in accordance with the plans and specifications approved by DPWES, and, to the extent approved by DPWES, generally consistent with Sheets 6 – 6D of the CDP/FDP, which was constructed with the following design characteristics.

(1) A micropool designed to contain a minimum of 10 percent of the BMP value, subject to DPWES approval.

(2) Sediment forebays sized to contain either 0.1 inch of runoff for impervious acre or a minimum of 10 percent of the BMP value associated with the contributing drainage of each forebay, subject to DPWES approval.

(3) The two-year post development peak flow rate reduced to a level that is two-thirds less than the predevelopment rate, to the extent feasible.

(4) The detention of the one-year storm and release over a 24-hour period, to the extent feasible.

(5) Removal of trees (greater than three inches in diameter) below an elevation that is the lower of (i) three feet below the two-year elevation, or (ii) two feet below the BMP elevation, except as required by grading for the construction and development of the community as depicted on the CDP/FDP. If trees die from inundation during the first two years after completion between the elevations described above, the Applicant shall remove the tree stem and leave the roots intact.

B. Upon release of bonds, DPWES shall assume all maintenance responsibilities for this regional stormwater facility.

C. As the entity responsible for the construction of the regional pond, the Applicant shall be eligible for reimbursement of the actual cost of constructing the regional pond which exceeds the estimated cost of a conventional onsite stormwater management/best management practice pond(s) designed to accommodate development of the site upon entering into a reimbursement agreement with the County. The actual cost of the pond will equal the total estimated cost to be incurred by the Applicant in connection with the construction of the pond including without limitation, the cost of design, engineering, construction and 10% of the design, engineering and construction for ordinary overhead and

administration costs. The actual cost does not include the value of the land acquired and/or conveyed for the pond or its ancillary easements. The Applicant shall pay all pro-rata share assessments for the entire development project.

D. Notwithstanding that the Applicant shall construct the regional pond as described above, the Applicant shall be able to construct alternative stormwater management/Best Management Practices facilities to serve development on a temporary basis, as determined by DPWES if in substantial conformance with the CDP/FDP.

E. Surface parking spaces at the Main Entrance shall be paved with pervious pavers, as shown on the CDP/FDP.

6. Recreational Facilities. Pursuant to Paragraph 2 of Section 6-409 of the Zoning Ordinance regarding developed recreational facilities, the Applicant shall provide recreational facilities to serve the Property. The facilities on Land Bay A shall include a swimming pool, passive seating areas, tot lot, on-site trail and an indoor recreational/leasing facility, a minimum of 4,500 square feet in size. The facilities on Land Bay B shall include, at a minimum, a swimming pool with seating areas or Jacuzzi/hot tubs and other amenities that have comparable recreational value as determined by the Director of DPWES, and an indoor recreational facility that will contain exercise equipment and will be a minimum of 3,000 square feet in size. The recreational facilities on Land Bay B shall be made available to the residents of Land Bay C. The recreational facilities in Land Bay B shall also be made available to the residents of Land Bay A, if an agreement is reached between the owners of Land Bay A and Land Bay B regarding cost sharing and reciprocal use of such facilities. Such efforts shall be documented by the Applicant, shall be diligently prosecuted, and shall be provided to DPWES prior to the issuance of the first RUP for Land Bay B. At the time of site plan for Land Bay B, the Applicant shall demonstrate that the minimum expenditure for the recreational facilities on Land Bay A was $955.00 per residential unit within Land Bay A. The Applicant proffers that the minimum expenditure for the above-referenced recreational facilities shall be $955.00 per residential unit within Land Bay B. In the event the total cost of recreational improvements constructed on the Property by the Applicant is demonstrated to be less than $955 per unit, the Applicant shall provide the remainder in a cash contribution to the Fairfax County Park Authority for the development of active recreational facilities in the vicinity of the Property.

In addition, at the time of Site Plan approval, the Applicant shall provide a contribution of $114,798.00, to be made payable to the Board of Supervisors, for use in improving public facilities in the vicinity of the Property.

7. Noise Attenuation.

A. The Applicant shall provide the following noise attenuation measures as a result of the Traffic Noise Analysis prepared by Polysonics, Corp. dated April 2001:

(1) Unless already constructed, in order to reduce exterior noise to a level of approximately 65 dBA Ldn at the proposed outdoor recreational areas, a noise attenuation barrier, composed of a combination sound wall and/or berm, shall be provided along the Subject Property's frontage of I-66 as shown on the CDP/FDP. The noise attenuation barrier shall be generally 20 to 28 feet in height, but shall not exceed a maximum of 32 feet in

height. It shall be flush with the ground level, be architecturally solid from the ground up with no gaps or openings (except where necessary to provide for a gate, drainage or utilities, as determined by VDOT). At the time of site plan submission, the Applicant shall submit a supplemental noise analysis for approval to DPWES based on final engineering and grading ensuring that the design of the noise attenuation barrier is adequate to reduce noise levels at the upper floors of Buildings 1 through 4 to less than 75 dBA Ldn and identifying the projected 70 dBA Ldn and 65 dBA Ldn contours after the noise attenuation wall is in place. In the event that exterior noise levels cannot be reduced to less than 75 dBA Ldn with a maximum 32 foot noise attenuation barrier, the building heights for Buildings 1 through 4 shall be reduced as necessary to ensure reduction in noise levels at the upper levels of Buildings 1 through 4 to less than 75 dBA Ldn. Under no circumstances shall dwelling units be constructed in areas with greater than 75 dBA Ldn exterior noise levels after the noise attenuation barrier is in place.

The noise attenuation barrier shall be built to VDOT standards and shall be located within the I-66 right-of-way. Neither the Applicant, nor its successors or assigns, shall be responsible for restoration, removal, relocation or reconstruction of the noise wall if such wall is removed or otherwise altered in conjunction with future improvements to I-66.

(2) In order to reduce interior noise to a level of approximately 45 dBA Ldn, units identified in the supplemental noise analysis described in Proffer 7A(1), as being impacted by highway noise from I-66 having levels projected to be greater than 70 dBA Ldn after the noise attenuation wall is in place shall employ the following acoustical measures:

Exterior walls shall have a laboratory sound transmission class (STC) rating of at least 45. Doors and glazing shall have a laboratory STC rating of at least 37 unless glazing constitutes more than 20% of any façade exposed to noise levels of Ldn 65 dBA or above. If glazing constitutes more than 20% of an exposed façade, then the glazing shall have a STC rating of at least 45. All surfaces shall be sealed and caulked in accordance with methods approved by the American Society for Testing and Materials (ASTM) to minimize sound transmission.

(3) In order to reduce interior noise to a level of approximately 45 dBA Ldn within Land Bay B for those units facing Waples Mill Road, and for those units within Land Bay A identified in the supplemental noise analysis described in Proffer 7A(1), as being impacted by highway noise from I-66 having levels projected to be between 65 and 70 dBA Ldn after the noise attenuation wall is in place shall employ with the following acoustical measures:

Exterior walls shall have a laboratory sound transmission class (STC) rating of at least 39. Doors and glazing shall have a laboratory STC rating of at least 28 unless glazing constitutes more than 20% of any façade exposed to noise levels of Ldn 65 dBA or above. If glazing constitutes

more than 20% of an exposed façade, then the glazing shall have a STC rating of at least 39. All surfaces shall be sealed and caulked in accordance with methods approved by the American Society for Testing and Materials (ASTM) to minimize sound transmission.

B. Alternative interior noise attenuation measures may be provided subject to the implementation of a refined noise study as reviewed and approved by DPWES after consultation with DPZ.

8. Architectural Design. The architectural design of the buildings within Land Bay A shall be consistent with the elevations shown on Sheet 10 of the CDP/FDP, and shall be generally consistent in style on all sides of the structure. The buildings on Land Bay A shall be constructed with a mixture of masonry, siding and glass materials. No balconies shall be provided for those dwelling units within Building 1 in Land Bay A that face the noise wall.

The building on Land Bay B, shall be in substantial conformance with the elevations shown on Sheet 7C of the CDP/FDP, shall be constructed with a mixture of masonry, siding and glass materials, shall be substantially consistent in style on all sides of the structure, and shall be similar in façade design, color, materials and quality to the structures within Land Bay A, as shown on the CDP/FDP. No siding (or material fashioned to look like siding) shall be used on the exterior building facades, but may be used within the courtyard facades. All mechanical equipment for the building on Land Bay B shall be located on the roof, and shall be screened from the view of pedestrians who are at ground level. All dumpsters shall be fully screened from view through the use of solid, opaque enclosures. The building on Land Bay B shall meet the R-30 District Angle of Bulk Plane requirements for multi-family structures within affordable dwelling developments (Par. 2A of Sect. 3-3010 of the Ordinance). Further, the building on Land Bay B shall comply with the Council of American Building Officials ("CABO") Model Energy Code for energy efficient homes, or its equivalent, for either electric or gas energy systems, as applicable.

The elevations may be refined as a result of final design and engineering so long as the character and quality of the buildings remain in substantial conformance with those shown.

9. Pedestrian Facilities.

A. The Applicant shall provide a comprehensive sidewalk system within the developed portions of the Property as generally shown on Sheets 2, 2A, 2B and 2C of the CDP/FDP, including completion of sidewalks along the Property frontages and internal connections between all the residential buildings. Construction of sidewalks shall be concurrent with development activity on the Property.

B. Unless already constructed, the Applicant shall construct a six-foot wide asphalt pedestrian trail both along the southern side of the proposed stormwater management pond, and shall provide connections from this trail to the internal sidewalk system, with alternate paving materials (such as concrete or brick

bandings) provided at crossings of the travel way/parking areas as shown on the CDP/FDP.

C. Unless already constructed, the Applicant shall construct an eight (8) foot wide asphalt trail along Land Bay A's Waples Mill Road frontage with the exact location and design determined at the time of site plan approval. The Applicant shall construct a ten (10) foot wide asphalt trail along Land Bay B's Waples Mill Road frontage, with the exact location and design determined at the time of site plan approval.

10. Affordable Dwelling Units. The Applicant shall provide thirty-four (34) Affordable Dwelling Units within Land Bay B in accordance with Section 2-800 of the Zoning Ordinance, except as may be modified by the ADU Advisory Board in accordance with Section 2-815 of the Zoning Ordinance. No new dwelling units are proposed within Land Bay A other than those approved pursuant to RZ 2000-PR-056.

11. Workforce Housing Units. In addition to the number of ADUS required pursuant to Proffer 10 above, the Applicant also shall provide housing units on Land Bay B of the Property that will be affordable to future residents who have a median household income of up to 80% of the Washington D.C. metropolitan statistical area median household income ("MHI") as determined by the U.S. Census Bureau, so that a total of three percent (3%) of the total residential units constructed on Land Bay B are sold/rented as Workforce Housing Units. Nothing contained herein shall be deemed to alter the administration of the ADUs or the number of ADUs required by the ADU Ordinance.

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

(1) Market-Rate Units. Dwelling units approved on the Property that are not subject to either the price/rental restrictions of Section 2-800 of the Zoning Ordinance or Proffers 10 or 11; and

(2) Workforce Units. Dwelling units on the Property subject to the price/rental restrictions of this Proffer 11, but not subject to those of Proffer 10 and Section 2-800 of the Zoning Ordinance.

B. Workforce Units. Each Workforce Unit provided shall be made available on either a for-sale basis or rental basis to persons who have an average income of up to 80% of MHI. Workforce Units shall have a minimum size of 500 square feet and a maximum size of 850 square feet and may be provided as a mixture of efficiency and/or studio units and one (1) bedroom units, as determined by the Applicant in its sole discretion. The establishment of Workforce Units may occur in phases, concurrent with the phasing of development/construction of the Proposed Development.

C. Designation on Approved Site Plan. The approved site plan(s) for the Residential Building on Land Bay B shall designate the number of Workforce Units/ADUs and the number of Market-Rate Units to be provided. The Applicant shall determine the interior amenities, including the number of bedrooms, for each Workforce Unit provided. If the development of the Residential Building is phased or developed in sections, then the approved site plan(s) for the respective Residential Building shall also contain tabulations of the total number of Workforce Units by bedroom count and the number of Market-Rate Units by

bedroom count on the Property. Whenever the calculation of the required Workforce Units results in a fractional unit less than 0.5, then the number shall be rounded down to the next whole number, and any fractional unit greater than 0.5 shall be rounded up to the next whole number.

D. Timing for Provision of the Work-Force Units. RUPs shall not be issued for more than seventy-five percent (75%) of the total dwellings units approved on Land Bay B of the Property until all of the RUPs have been issued for all of the Workforce Units required pursuant to this Proffer 11.

E. Prior to the issuance of the first RUP for workforce housing, the Applicant shall provide an Offering Agreement in conformance with Section 2-810 (if the units are "for sale"), or with Section 2-811 (if the units are "for rent").

F. Provisions of the ADU Ordinance. The Applicant intends that the Workforce Units shall be administered in a like-fashion as the ADUs pursuant to Section 2-800 of the Zoning Ordinance in effect at the time of the execution of these Proffers. The following specific provisions of the Zoning Ordinance shall apply to administration of the Workforce Units: Sections 2-805, 2-807, 2-810, 2-811, 2-812, 2-813, 2-817, and 2-818, including the recordation of the appropriate restrictive covenants in the land records of Fairfax County, except where such provisions directly conflict with these Proffers. Where these Proffers conflict with the ADU administrative sections of the Zoning Ordinance, these Proffers shall control.

G. Alternative Administration. Notwithstanding the foregoing subparagraph E, the Applicant reserves the right enter into a separate binding written agreement with the appropriate Fairfax County agency, following approval of this Application, as to the terms and conditions of the administration of the Workforce Units. Such an agreement shall be on terms mutually acceptable to both the Applicant and Fairfax County and may occur after the approval of this Application. Neither the Board of Supervisors nor Fairfax County shall be obligated to execute such an agreement. If such an agreement is executed by all applicable parties, then the Workforce Units shall be administered solely in accordance with such an agreement, and subparagraph E above shall become null and void. Such an agreement and any modifications thereto, shall be recorded in the land records of Fairfax County.

H. Compliance with Federal, State, and Other Local Laws/Severability. If it is found by a court of competent jurisdiction, that any portion of this Proffer 11 related to providing Workforce Units violates any Federal, State or other local law, then the offending portion of this Proffer shall be deemed null and void and no longer in effect.

I. Condominium Conversion. If the residential building on Land Bay B is initially operated as a rental project, then subsequently is converted to a condominium project, any existing Workforce Units shall be maintained as Workforce Units and shall be administered as Workforce Sale Units as set forth herein. The restrictions on the Workforce Sale Units shall be disclosed in the condominium declaration creating the condominium.

12. Dedication of Environmental Quality Corridor ("EQC"). Unless already fulfilled, the Applicant shall dedicate and convey in fee simple to the Board of Supervisors the EQC as

generally depicted and described on the CDP/FDP for Land Bay A. Dedication shall occur at the time of pond completion and bond release.

13. Exterior Lighting. All on-site lighting shall be directed downward and inward in order to minimize light from spilling onto adjacent properties. In order to provide maximum security, energy efficiency and quality ambient lighting, full cut-off light fixtures shall be used for all parking lot and parking deck lighting, including any "wall-pack" security lighting. Lighting for landscaping shall not utilize "up-lighting", but shall rather utilize downward-focused lighting that does not present glare or provide an overly lit environment that hinders night-time vision.

14. Bicycle Racks. The Applicant shall provide bicycle racks in the vicinity of the front door of the building on Land Bay B sufficient to store a minimum of four (4) visitor bicycles. The Applicant shall provide additional bicycle racks or storage facilities within the parking structure on Land Bay B for use by the residents of Land Bay B, as further described in Proffer 16.C.(8).

15. Use of Garages. The Applicant agrees that individual garages on Land Bay A shall only be used for a purpose that will not interfere with the intended purpose of garages (e.g., parking of vehicles). Likewise, any required parking space within Land Bay B's parking garage shall only be used for a purpose that will not interfere with the intended purpose of that parking space (e.g. parking of vehicles.) Tenants and/or owners shall be advised of the use restriction which shall be included in the initial lease/sales documents.

16. TDM Strategies.

A. Transportation demand management ("TDM") strategies, as detailed below, shall be utilized by the Applicant and/or its successors or assigns to reduce vehicular trips generated by residents of the Property during peak hours.

B. Mass transit, ride-sharing, and other transportation strategies shall be utilized to reduce baseline trips generated from the Property (Land Bays A and B, combined) during peak hours by a minimum of 15%. For purposes of this proffer, the baseline number of trips from which such reductions are measured shall be determined using the trip generation rates~~/equations set forth in the~~ data published by the Institute of Transportation Engineers ~~*(ITE), 7th edition, Trip Generation* for land use code 230 (Residential Condominium/Townhouse),~~and as determined by FCDOT for a total of 676 dwelling units during the ~~PM~~highest peak hour period (AM or PM) of the adjacent street, Waples Mill Road. In the event the Property is developed with fewer than 676 dwelling units, then the baseline number of trips shall be calculated as if 676 units were constructed. Residents of the Property shall be advised of this transportation strategy. Transportation coordination duties shall be carried out by the owner of Land Bay B, or assigns.

C. The following is a list of strategies that shall be instituted:

(1) Designate an individual (such as property management staff and/or condominium association representative) to act as the transportation coordinator ("TC") for the Property (Land Bays A and B), who shall be responsible to implement the TDM strategies for the Property, with on-going coordination with ~~the Fairfax County Department of Transportation ("FCDOT")~~. Such individual shall also be responsible for communication and coordination of TDM strategies with the development association on

adjacent Land Bay C. This individual may, if appropriate, be the same person for all three land bays (A, B and C). The Applicant shall provide written notice to FCDOT within 10 days of the designation of the TC and thereafter within 10 days of any change in said designation.

(2) Market new units to ~~bikers~~bicyclists, and to one-car or no-car families.

(3) Disseminate information regarding Metrobus, carpool and/or vanpool, ridesharing, and other relevant transit options in residential sale/leasing packages;

(4) Provide Metro maps, schedules, and forms; information on the Fairfax County Ride Share Program; and information on other relevant transit options available to owners/tenants either in a newsletter to be published on a regular basis and not fewer than four (4) times per calendar year or on a web site. In the event, the Applicant elects to establish a website for the project, then the Applicant shall provide written notice to FCDOT of the website address and the date the site became operational.;

(5) Provide SmartCards loaded with a minimum of $25, or Metro checks in the amount of $25, to all tenants of Land Bay B upon their initial lease or to initial purchasers at the time of settlement.

(6) Provide a business center on Land Bay B for use by the residents of the Property. The small business center shall include telephones, fax machines, computers and high-speed internet access.

(7) Equip all residential units on the Property with broadband wiring for internet access.

(8) Provide secure bike ~~parking~~storage for residents of the Property, sufficient to store, at ~~the rate of~~a minimum, one (1) ~~secured~~ bicycle ~~parking space~~ for every forty (40) required vehicle parking spaces. Provide bicycle racks for visitors either in the visitor parking area or in the vicinity of the main entrance, as further qualified by Proffer 14.

(9) Participate in a larger Traffic Management Area Program should one be established by the County for this area.

(10) The TDM program shall be continued by the COA in the event of a condominium conversion.

D. Eighteen (18) months following build-out of the Property, and annually thereafter, the effectiveness of the TDM strategies shall be evaluated and reported to FCDOT. For purposes of this proffer, build-out of the Property shall be deemed to occur upon the issuance of the last initial RUP for Land Bay B. The ~~Transportation Coordinator~~TC shall submit to FCDOT a report describing the previous year's TDM strategic efforts and the effectiveness of the TDM program in reaching trip reduction goals, including, as applicable, sample marketing materials, expenditures, the result of any surveys that may be conducted of residents, and traffic counts as outlined in subparagraph E, below. The report ~~should~~ shall be submitted to FCDOT no later than April 30th of each year. The TC shall coordinate draft survey materials and the methodology for validating survey results with FCDOT prior to each year's survey.

E. As part of the annual reporting process, the Applicant shall measure actual trip generation of the Property in order to evaluate the success of meeting the trip reduction objectives set forth in subparagraph A., above.

(1) Only trips that are generated by the residential uses in Land Bays A and B shall be counted. Peak hour counts shall be conducted during the highest peak traffic period (AM or PM, whichever is highest) ("Peak Hour Trips"), over two (2) days, within a maximum two (2) week period, at a time of year that reflects typical travel demand conditions (e.g., September to May - and not during holiday weeks, on Mondays or Fridays, or when public schools are not in session.) The average number of ~~PM~~ peak hour trips shall be computed by summing the number of applicable peak hour trips entering and exiting the Property (at all driveways) on each of the two (2) day's counts and dividing that sum by two (2).

Residents of Land Bays A and B shall not be notified in advance of the days or times that these counts will be taken.

The Applicant shall notify FCDOT at least one (1) week in advance of the dates that the counts are to be undertaken

(2) The results of the trip generation analyses referenced in subparagraph E., above, shall be compared to the baseline trip generation referenced in subparagraph A., above, to determine if the proffered 15% reduction of peak hour trips has been met.

(3) In the event the traffic counts reveal that the proffered 15% peak hour trip reduction has been met, then the Applicant shall continue to implement the TDM strategies in place and no adjustments to the program or penalties are required.

(4) ~~In the event the~~If applicable, the first time traffic counts that are conducted in accord with proffer subparagraph E.1., above, reveal that the baseline trip reduction has not been met, the TC shall request a meeting with FCDOT within thirty (30) days after the completion of the traffic counts to review the results of that report and the TDM strategies then in place for the Property. The TC shall be responsible to design and implement a strategy that is intended to bring baseline peak hour trip reductions to the proffered percentage. The Applicant shall submit any revisions to the TDM Plan to FCDOT within thirty (30) days following this meeting.

(5) In the event that a subsequent (second) annual traffic count conducted in accord with proffer subparagraph E.1., above, reveals that the baseline trip reductions have not been met, then the Applicant shall pay a penalty at a rate of $125 per trip for each trip not reduced from the baseline reduction, into a fund established with the ~~transportation coordinator~~TC for the implementation of certain other on-site TDM incentives/enhancements.

(For example, if the baseline reduction is established as 49 trips (or 327 PM peak hour trips X .15 reduction), then the "penalty paid" is $125 * (49- X), where "X" is the number of trips actually reduced from the ITE base of 327 PM peak hour trips.) The TC shall request a meeting with FCDOT within thirty (30) days after the completion of the traffic counts to review the results of that report and the TDM strategies then in place for the Property. The TC shall be responsible to design and implement a strategy that is intended to bring baseline peak hour trip reductions to the proffered percentage. The Applicant shall submit any revisions to the TDM Plan to FCDOT within thirty (30) days following this meeting.

~~If two (2~~

(6) If the following (third) annual traffic count that is conducted in accord with proffer subparagraph E.1., above, reveals that the baseline trip reduction has not been met, then the penalty described in subparagraph E.5., above, shall again be paid. Further, the TC shall request a meeting with FCDOT within thirty (30) days after the completion of the Trip Counts to review the results of that report and the TDM strategies then in place for the Property, to discuss alternative strategies to meet the proffered reduction, to discuss the appropriateness of the proffered reduction, and/or to discuss setting an alternative peak hour trip reduction (that may be less than 15%), and which must be formalized through an interpretation of these proffers. The TC shall submit any revisions to the TDM Plan and TDM Budget to FCDOT within thirty (30) days following this meeting. FCDOT shall approve any changes to the TDM Plan prior to its implementation.

F. If three (3) consecutive annual trip counts conducted in accord with subparagraph E. 1, above, reveal that the trip reduction thresholds are met after build out of the Property as defined herein, then ~~no further~~trip counts shall only be conducted biannually if requested by the County, or less (including elimination of this requirement) if it is determined by FCDOT that fewer counts are necessary to indicate continued compliance. Further, upon such event, only annual reports detailing the programmatic elements in place and yearly TDM expenditure assessment and/or survey results will be required.

~~F.~~G. If subsequent trip counts reveal that the trip reduction thresholds are not being met, then the annual counts, reports and penalties shall again be required as described in Subparagraphs E.4, E.5, and E.6. If three (3) consecutive annual trip counts reveal that the trip reduction thresholds are met, then trip counts shall again only be conducted biannually if requested by the County, or less (including elimination of this requirement) if it is determined by FCDOT that fewer counts are necessary to indicate continued compliance. Further, upon such event, only annual reports detailing the programmatic elements in place and yearly TDM expenditure assessment and/or survey results will be required.

17. Asbestos. If DPWES and the Applicant determine that a potential health risk exists due to the presence of asbestos-containing rock on the Property, the Applicant shall:
    A. Take appropriate measures as determined by the Health Department to alert all construction personnel as to the potential health risks.

    B. Commit to appropriate construction techniques as determined by DPWES in coordination with the Health Department and the Applicant to minimize this risk. Such techniques may include, but are not limited to, dust suppression measures during all blasting and drilling activities and covered transportation of removed material presenting this risk, and appropriate disposal.

18. Schools Contribution. At the time of site plan approval for Land Bay B, the Applicant shall contribute the amount of $11,630.00 per student generated by the development of Land Bay B (based on the adopted County policy that estimates .076 students generated per mid-high rise dwelling unit, for the total number of residential units shown on the site plan for Land Bay B), plus $23,260.00 for the two (2) additional students generated by the development of Land Bay A (which were actually generated by the development of Land Bay A, but not anticipated in a previous rezoning application) to the Fairfax County Board of Supervisors for the construction of capital improvements to Fairfax County public schools to which the students generated by the Property are scheduled to attend.
19. Blasting. If blasting is required, and before any blasting occurs on the Application Property, the Applicant or its successors will ensure that blasting is done per Fairfax Fire Marshal requirements and all safety recommendations of the Fire Marshal, including, without limitation, the use of blasting mats, shall be implemented. In addition:
    A. A professional consultant shall be retained to perform a pre-blast survey of each house or residential building located within one hundred fifty (150) feet (TM 56-2 ((1)) 15D, 19, 23B, 25B; 56-2 ((26)) All; and 56-2 ((27)) (9) – (11) All) and any well located within two hundred fifty (250) feet (TM 46-4 ((1)) 34; TM 56-2 ((1)) 15C, 15D, 19, 23B, 25B, 74B; 56-2 ((26)) All; and 56-2 ((27)) (8) – (11) All) of the Application Property boundary. The consultant shall request access by way of certified mail to the last known address of the owner(s) of any house, buildings, swimming pools or wells located within the aforesaid ranges, to determine the pre-blast conditions of these structures. The consultant shall give a minimum of fourteen (14) days notice of the scheduling of the pre-blast survey. All owners of structures entitled to pre-blast inspections shall be provided with the name, address, and phone number of the blasting contractor's insurance carrier. Written confirmation that the pre-blast survey has been completed shall be provided to DPWES and copies of the survey shall be provided to Fairfax County upon request prior to any blasting.
    B. The consultant shall place seismographic instruments prior to blasting to monitor the shock waves. Seismographic monitoring records shall be provided to County agencies upon their request.
    C. The consultant shall provide an analysis of the potential for gas migration from the site to the Fire Marshal for review and approval prior to blasting, and appropriate mitigation or notification as determined by the Fire Marshal shall be implemented.

D. All residences within 150 feet of the Application Property boundary shall be notified ten (10) days prior to blasting, no blasting shall occur until such notice has been given.

E. Upon receipt of a claim of actual damage resulting from said blasting, the consultant shall respond within five (5) days by meeting at the site of the alleged damage to confer with the property owner. Any verified claims for damage due to blasting shall be expeditiously resolved.

F. Blasting subcontractors shall be required to maintain necessary liability insurance to cover the costs of repairing any damages to structures that are directly attributable to the blasting activity.

20. Cooperation Between Owners:

A. "Owner", as used in these Proffers, shall mean the legal owner of a Land Bay's Parcel(s), if under common ownership, or shall mean the unit owners, collectively, acting through the executive organ of a duly constituted Condominium Owners Association ("COA"), and not the owners of individual condominium units.

B. The Owner of Land Bay A, shall own, manage and maintain all common areas of Land Bay A; and the Owner of Land Bay B shall own, manage and maintain all common areas of Land Bay B, and operate the TDM program for the Property, as defined in Proffer 15. In the event that Land Bay B is converted to condominiums, the maintenance and operational responsibilities of Land Bay B's Owner shall be included in Land Bay B's COA documentation, which includes maintenance of all open space and recreational facilities, landscaping, and commercial parking spaces. In accordance with the Virginia Condominium Act, purchasers of units within Land Bay B shall be advised of these requirements and restrictions prior to entering into a contract of sale through the Public Offering Statement of the condominium.

C. The owner of Land Bay B shall use best efforts to establish a program with the Owner of Land Bay C for cost sharing and for the shared implementation of the TDM Plan. Further, the owner of Land Bay B shall use best efforts to establish a cooperative agreement between the owners of Land Bays A, B and C, regarding sharing the use of amenities on the combined properties, sharing of maintenance obligations, implementation of the TDM Plan, and the discussion of the potential removal or relocation of the gate currently separating Land Bays A and C. These efforts shall be diligently prosecuted. In the event that the owner of Land Bay B is successful in reaching such agreements, any obligations shall be disclosed to contract purchasers prior to entering into a contract of sale, and shall be disclosed in the COA documents prepared for the Property. In the event the Applicant is unable to reach such an agreement, the Applicant shall provide written documentation of its best efforts to DPWES.

21. Signs. The Applicant shall abide by the regulations in Article 12 of the Zoning Ordinance with regard to permanent and temporary signs on the Property including: "real estate signs" advertising the sale, rental or lease of units on Land Bay B – which signs shall be limited to two (2), temporary signs that have a maximum area of twelve (12) square feet each and a maximum height of eight (8) feet each (Par. 3D of Sect. 12-103 of the Ordinance); temporary signs announcing such happenings as "grand opening", which

are limited to a maximum of twenty (20) square feet in area, eight (8) feet in height, for a period of fourteen (14) days (Par. 3G of Sect. 12-103 of the Ordinance); and bunting, banners, pennants and other decorative materials which must be securely attached to the building, shall not exceed twice the allowable building-mounted sign area, for a period not to exceed fourteen (14) days, only in a location that has been given written approval by the Zoning Administrator, which may be displayed only one (1) time in a twelve (12) month period, and only upon the posting of a bond, with surety satisfactory to the Zoning Administrator, to ensure the removal of the signs at the termination of the fourteen (14) day period (Par. 3G of Sect. 12-103 of the Ordinance). Regardless of the "Possible Sign Location" denoted in the CDP/FDP for Land Bay B, freestanding identification signs shall be limited to one (1) at each primary entrance to the development off of Fairfax Ridge Road, and shall be of a ~~similar~~ design, style, and color in substantial conformance with that shown on the CDP/FDP for land Bay A. Illumination of signs shall be in conformance with the performance standards for glare as set forth in Part 9 of Article 14 of the Zoning Ordinance. Additionally, signs that require lighting shall be internally illuminated or down-lit to avoid glare and light trespass. No uplighting shall be permitted on any sign.

22. Sewer Capacity. The Applicant shall demonstrate that there is adequate sewer capacity to service the proposed development on Land Bay B, to the satisfaction of DPWES, prior to approval of a site plan for the building on Land Bay B. Further, the Applicant shall ensure that any deficiencies in the sewer system that are identified by DPWES, which are necessary to be addressed in order to ensure adequate sewer capacity for Land Bay B, are addressed. No ~~construction of a~~site plan shall be approved for any structure that will require additional sewer capacity shall occur on Land Bay B, if and until adequate sewer capacity is verified by DPWES. Such verification shall occur prior to site plan submission.

23. Swimming Pool Discharge. Swimming pool discharge water shall be routed into the stormwater management system.. The discharge process shall follow the guidelines below in order to ensure that pool water is property neutralized prior to being discharged:
    A. In order to ensure that high levels of chlorine are not discharged into the surface water system, pool water shall not be chlorinated prior to backwashing and/or discharge.
    B. All waste water resulting from the cleaning and draining of the pool shall meet the appropriate level of water quality prior to discharge.
    C. If the water being discharged from the pool is discolored or contains a high level of suspended solids that could affect the clarity of the receiving stream, it shall be allowed to stand so that most of the solids settle out prior to being discharged.

24. Severability. If determined appropriate in accordance with the parameters stated in Par. 10D of Sect. 16-402 of the Ordinance, any of these land bays/sections/buildings within the Property may be subject to Proffered Condition Amendments and Final Development Plan Amendments without joinder or consent of the property owners of the other land bays/sections/buildings. The Applicant reserves the right to file for separate zoning action on either Land Bay A or B, when determined appropriate by the Zoning Administrator, without joinder or consent of the property owners of the other land bay.

25. Successors and Assigns. These proffers will bind and inure to the benefit of the Applicant and his/her successors and assigns.

26. Counterparts. 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 in the same instrument.

[SIGNATURES BEGIN ON NEXT PAGE]

RZ 2006-PR-027
Signature Sheet

CO-APPLICANT / CONTRACT PURCHASER OF
TAX MAP 56-2 ((1)) 18A

TCR MID ATLANTIC PROPERTIES, INC.

_____

By: P. Sean Caldwell
Its: Vice President

[SIGNATURES CONTINUED ON NEXT PAGE]

RZ 2006-PR-027
Signature Sheet

CO-APPLICANT / DECLARANT

FAIRFAX RIDGE DEVELOPMENT, LLC

By: Fairfax Ridge Holdings, LLC,
Its Sole Member and Managing Member

_____

By: Cindy Fancher
Its: Vice President

[SIGNATURES CONTINUED ON NEXT PAGE]

RZ 2006-PR-027
Signature Sheet

CO-APPLICANT / AGENT FOR TITLE OWNERS OF TAX MAP 56-2 ((27)) (5) 101-413, (6) 101-413, (7) 101-410, (8) 101-413, (9) 101-413, (10) 101-410, (11) 101-410 and 46-4 ((19)) (1) 101-421, (2) 101-306, (3) 101-413, (4) 101-410

FAIRFAX RIDGE CONDOMINIUM UNIT OWNERS ASSOCIATION

~~By: Fairfax Ridge Development, LLC, its Declarant~~

~~By: Fairfax Ridge Holdings, LLC, its Sole Member and Managing Member~~
By: Fairfax Ridge LP, a Delaware Limited Partnership,
Its: Attorney-in-Fact by virtue of Declaration and Power of Attorney dated 11/16/04 recorded at Deed Book 16740 Page 2163 among the Land Records of Fairfax County, Virginia

By: Olayan America Corporation,
Its: General Partner

_____

~~By: Cindy Fancher~~
By: Anthony S. Fusco
Its: Vice President

[SIGNATURES CONTINUED ON NEXT PAGE]

RZ 2006-PR-027
Signature Sheet

TITLE OWNER OF TAX MAP 56-2 ((1)) 18A

OAC FAIRFAX LLC

By: Olayan America Corporation
Its Sole Member

_____

By: Anthony S. Fusco
Its: Vice President

_____

By: Nazeeh S. Habachy
Its: Secretary

[SIGNATURES END]

ATTACHMENT 2

DEVELOPMENT CONDITIONS

SEA 00-P-050

March 22, 2007

If it is the intent of the Board of Supervisors to approve SEA 00-P-050, located at Tax Map 56-2 ((1)) 18A, for commercial parking in a residential district, pursuant to Sect. 9-609 of the Fairfax County Zoning Ordinance, the staff recommends that the Board condition the approval by requiring conformance with the following development conditions, which supersede all previous conditions (those conditions carried forward substantially unchanged from previous approval are marked with an asterisk):

1. This Special Exception is granted for and runs with the land indicated in this application and is not transferable to other land. *

2. This Special Exception is granted only for the purpose(s), structure(s) and/or use(s) indicated on the special exception plat approved with the application, as qualified by these development conditions. *

3. This Special Exception is subject to the provisions of Article 17, Site Plans, as may be determined by the Director, Department of Public Works and Environmental Services (DPWES). Any plan submitted pursuant to this special exception shall be in substantial conformance with the approved Special Exception Plat entitled "Fairfax Ridge Land Bays A & B" prepared by Land Design, and dated April 5, 2005, as revised through March 13, 2007, and these conditions. Minor modifications to the approved special exception may be permitted pursuant to Par. 4 of Sect. 9-004 of the Zoning Ordinance. *

4. Pursuant to Par. 6 of Sect. 6-106 of the Zoning Ordinance, the maximum area devote to this parking use shall not exceed that shown on the SEA Plat, and shall not exceed 275 parking spaces.

5. The parking area shall not be used as a commercial off-street parking lot as defined by the Zoning Ordinance, where a charge or fee is imposed for temporary, daily or overnight storage of motor vehicles. *

6. No signage (other than directional signage) associated with the parking use shall be placed on the application property.

The above proposed conditions are staff recommendations and do not reflect the position of the Board of Supervisors unless and until adopted by that Board.

This approval, contingent on the above noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be himself responsible for obtaining the required Non-Residential Use Permit through established procedures, and this Special Exception shall not be valid until this has been accomplished.

Pursuant to Section 9-015 of the Zoning Ordinance, this special exception shall automatically expire, without notice, thirty (30) months after the date of approval unless, at a minimum, the use has been established or construction has commenced and been diligently prosecuted. The Board of Supervisors may grant additional time to establish the use or to commence construction if a written request for additional time is filed with the Zoning Administrator prior to the date of expiration of the special exception. The request must specify the amount of additional time requested, the basis for the amount of time requested and an explanation of why additional time is required.