

PCA 93-V-028-2
Lorton Corner Road LLC
October 14, 2008

PROFFERS

Pursuant to Sect. 15.2-2303(A), Code of Virginia (1950, as amended) and Sect. 18-204 of the Zoning Ordinance of Fairfax County, the property owners/applicant and their successors and/or assigns (collectively referred to as the "Applicant") in this Proffered Condition Amendment ("PCA") proffer that the development of the parcels under consideration and shown on the Fairfax County Tax Maps as Tax Map 108-3 ((1)) Parcels 2 and 3 and Tax Map 108-3 ((2)) Parcels 2, 5 and 6 and that portion of the right-of-way in Lorton Road (Route 968) depicted on the GDP/SE Plat described in Proffer No. 2 (below) (the "Property") shall be in accordance with the following conditions if, and only if, PCA 93-V-028-2 is granted. In the event that this PCA application is denied, these Proffers shall be immediately null and void and of no further force or effect. The proffered conditions are:

1. **Previous Proffers.** If PCA 93-V-028-2 is approved by the Board of Supervisors, these Proffers supersede the previous proffers in PCA 93-V-028.
2. **Generalized Development Plan.** Subject to the provisions of Sect. 18-204 of the Zoning Ordinance of Fairfax County, development of the Property shall be in substantial conformance with the Generalized Development Plan/Special Exception Plat ("GDP/SE Plat") entitled "Lorton Corner," consisting of twelve (12) sheets and prepared by Huntley, Nyce and Associates, Ltd., revised as of October 14, 2008.
3. **Minor Modifications.** Pursuant to Sect. 18-204 of the Zoning Ordinance, minor modifications to the GDP/SE Plat may be permitted where it is determined by the Zoning Administrator that such are in substantial conformance with the proffered GDP/SE Plat.
4. **Rezoning Prior to Abandonment.** Notwithstanding the submission for processing of any applications, plan or plats in furtherance of the development of the Application Property, the Applicant acknowledges that no such application, plan, or plat shall be approved by Fairfax County until or unless the abandonment of right-of-way proposed as part of the application property is approved by the Board of Supervisors and is final. In the event that such abandonment is not approved by the Board of Supervisors, or in the event that the Board's approval is overturned by a Court of Competent Jurisdiction, any development of the Application Property under the C-5 Zoning District shall require a proffered Condition Amendment and the Applicant acknowledges that such Amendment may result in loss of density. The Applicant hereby waives any right to claim or assert a taking or any other Cause of Action that otherwise may have arisen out of a Board decision to deny in whole or in part the Right of Way Abandonment.

5. **Architecture.** The architectural treatment of the pharmacy on the Property shall be in substantial conformance with the architectural treatments depicted on Sheet 7 of 8 of the GDP/SE Plat. The architectural treatment of masonry on the walls on the rear and sides of each building shall be the same as the architectural treatment on the front of each building. The seven (7) foot high masonry wall along the rear of the property shall utilize brick facing that is substantially similar to the brick on the buildings. Prior to the issuance of the building permit for the Financial Institution building, the architectural treatment for that building and the proposed building signage for that building shall be brought back to the Planning Commission for administrative review to confirm compatibility with the architectural treatments for the Pharmacy depicted on Sheet 7 of 8 of the GDP/SE plat.
6. **Architectural Screening.** Architectural screening techniques will be utilized to screen air conditioning units and other rooftop mechanical equipment. All mechanical rooftop units will be screened, either by extension of the parapet walls or by an independent panel screen system.
7. **Dumpsters.** Dumpsters will be screened from view with masonry walls and landscaping subject to the approval of the Department of Public Works and Environmental Services ("DPWES"). The masonry walls shall utilize brick facing that is substantially similar to the brick on the buildings.
8. **Lighting.** Parking lot lighting shall comply with the glare standards set forth in Article 14 of the Zoning Ordinance.
9. **Signage.** All signs shall conform with the requirements of Article 12 of the Zoning Ordinance. No more than two (2) free-standing monument signs shall be established on-site. These free-standing monument signs shall be architecturally designed so as to be compatible with the architectural treatment of the buildings on-site. These free standing monument signs shall be located generally as shown on the GDP/SE Plat. Each monument sign shall not exceed ten (10) feet in height. These signs shall use external directional sources of illumination, designed so as not to spill excessive illumination beyond each sign area.
10. **Landscaping.** The location and species of the tree plantings shall be subject to review and approval by the Urban Forestry Management Division ("UFMD") and shall be in substantial conformance with the Landscape Plan, Sheet 4 of 8 of the GDP/SE Plat. At the time of landscape plan review, the Applicant shall consult with UFMD to ensure that the intensity of tree plantings is not so great as to adversely affect the survival of these trees.
11. **Stormwater Management Pond Landscaping.** In order to restore a natural appearance to the proposed stormwater management pond, the landscape plan submitted as part of the first submission and all subsequent submissions of the site

plan shall show the restrictive planting easement for the pond and the maximum feasible amount of landscaping that will be allowed in the planting areas of the pond outside of that restrictive planting easement, in keeping with the planting policies of the Fairfax County Board of Supervisors. The final design of the landscaping for the pond shall be subject to the review and approval of UFMD. The Applicant shall install said landscaping in accordance with said plan, subject to Department of Public Works and Environmental Services (DPWES) and UFMD approval. The bottom of the pond area shall be maintained as a lawn, except for any structures required by DPWES. The Applicant shall provide regular mowing and seeding maintenance for this lawn area.

12. **Archaeological Survey.** Prior to any land disturbing activities, the Applicant shall conduct and complete a Phase I archaeological survey of the site to identify potential historic resources on-site. Within 30 days of completion of said survey, the Applicant shall submit said survey to the Cultural Resource Management and Protection Section of the Fairfax County Park Authority ("CRMPS") for review and approval. The Applicant shall also conduct and complete any Phase II or Phase III surveys on only those areas of the site identified for further study by CRMPS if determined necessary by CRMPS prior to any land disturbance activities. The studies shall be conducted by a qualified Archeological professional approved by CRMPS and shall be reviewed and approved by CRMPS.

13. **Green Building Practices.** The Applicant shall incorporate green building practices on the Property and/or in the buildings. The green building practices employed shall be at the sole discretion of Applicant. Utilizing these green building practices, Applicant shall cause the Property and/or buildings to meet minimum LEED certification. The applicant shall retain a professional engineer or architect licensed to practice in the Commonwealth of Virginia who will provide certification statements both at the time of site plan and building plan reviews confirming that the items on the list will meet at least the minimum number of points necessary to attain LEED certification of the project.

Prior to approval of a building permit for each building by Fairfax County, the Applicant shall execute a separate agreement and post, for that building a "green building escrow," in the form of cash or a letter of credit from a financial institution acceptable to DPWES, as defined in the Public Facilities Manual, in the fixed amount of \$60,000 for the financial institution building and in the fixed amount of \$125,000 for the pharmacy building. This escrow will be in addition to and separate from other bond requirements and shall be released by DPWES upon demonstration of attainment of certification, by the U.S. Green Building Council, under the U.S. Green Building Council's LEED - New Construction rating system or other LEED rating system determined to be applicable to the project. Said certification may include points for site and/or site design elements, in addition to building elements, if determined applicable in the certification obtained from the U.S. Green Building Council. The provision of documentation

to the Environment and Development Review Branch of the Department of Planning and Zoning (DPZ) from the U.S. Green Building Council that the applicable building has attained LEED certification shall be sufficient to satisfy this commitment. If the Applicant fails to provide documentation to the Environment and Development Review Branch of DPZ demonstrating attainment of LEED certification within one year of issuance of the Non-RUP for the financial institution building or within one year of issuance of the Non-RUP for the pharmacy building, as the case may be, the escrow for the applicable building for which certification has not been provided within the one year period, as described herein, shall be released to Fairfax County as the sole remedy for failure to meet the LEED certification as to the applicable building and said escrow shall be posted to a fund within the County budget supporting implementation of County environmental initiatives.

14. **Density Credit.** Advanced density credit shall be reserved as may be permitted by the provisions of paragraph 4 of Section 2-308 of the Fairfax County Zoning Ordinance for any eligible dedications or as may be reasonably required by Fairfax County or VDOT at time of site plan approval.
15. **Geotechnical Study.** Prior to site plan approval, if required by DPWES and in accordance with the provisions of the Public Facilities Manual, the Applicant shall submit a geotechnical study of the application property to the Geotechnical Review Board and shall incorporate appropriate engineering practices as recommended by the Geotechnical Review Board and DPWES into the design to alleviate potential structural problems, to the satisfaction of DPWES.
16. **Ashton Woods Lane Entrance.** The Ashton Woods Lane Entrance shall be limited to one-way, inbound traffic as depicted on the GDP/SE plat.
17. **Counterparts.** To facilitate execution, this Proffer Statement may be executed in as many counterparts as may be required. It shall not be necessary that the signature on behalf of all the parties to this Proffer Statement appear on each counterpart of this Proffer Statement. All counterparts of this Proffer Statement collectively constitute a single instrument.

[SIGNATURES APPEAR ON THE FOLLOWING PAGES]

APPLICANT/OWNER OF TAX MAP 108-3 ((1))
PARCELS 2 AND 3 AND TAX MAP 108-3 ((2))
PARCELS 2, 5 AND 6

LORTON CORNER ROAD LLC

By:



David Smith

Its: Manager

