

**Proffers for Athletic Facility for
Land Bay 5,
November 17, 1998**

PROFFERS

RZ 89-D-060

ALAN I. KAY

October 7, 1992

- Revised: (1) October 30, 1992
(2) November 21, 1992
(3) November 10, 1992
(4) April 1, 1993
(5) April 12, 1993

Pursuant to Section 15.2-2303(a) of the Code of Virginia, 1950 edition as amended, and approval by the Board of Supervisors of application CDPA/FDPA 89-D-060 to permit the development of up to 866 multiple family units; possible retail/office in the ground floor of residential structures, only if approved by a subsequent Final Development Plan Amendment, Transportation Facility, and a child care center, in accordance with the provisions of the PDH-20 District and the Conceptual/Final Development Plan dated October 6, 1992 and revised October 30, 1992 and revised November 10, 1992 and again revised April 1, 1993, prepared by Dewberry & Davis; and further, upon approval of the CDPA/FDPA to RZ 89-D-060, dated March 6, 1998, and revised through October 15, 1998, prepared by christopher consultants, ltd., which provides for a temporary athletic field on Land Bay 5, the undersigned hereby proffers the following conditions:

Except as modified herein, the subject property is governed by the Proffers in RZ 89-D-060, dated April 12, 1993, (the "Original Proffers") and said Original Proffers are hereby reaffirmed.

Each reference to "Applicant" in this proffer will include within its meaning, and will be binding upon, Applicant successor(s) in interest and/or the developer(s) of the subject property or any portion thereof except as set forth in Proffer 3.

2. Development of Land Bays 1 through 5 of the property shall be in conformance, as defined by Section 16-403 of the Zoning Ordinance, with the Conceptual Development Plan as shown on the Conceptual/Final Development Plan prepared by Dewberry & Davis, dated October 1, 1992, revised October 30, 1992 revised November 10, 1992, and further revised April 1, 1993. In addition, CDPA/FDPA 89-D-060, as prepared by christopher consultants, ltd., dated March 6, 1998, and revised through October 15, 1998, provides for a temporary athletic facility on Land Bay 5 in accordance with Proffer 18 set forth hereinafter.

3. The depicted CDP/FDP is constituted in separate subparts (Land Bays 1, 2, 3, 4, and 5). The entire plan constitutes one general CDP relative to number of units, height, general location of structures, and facilities, roads, and access. The plan shall be deemed to constitute five separate FDPs, one for each of Land Bay 1 through 4 which shall hereinafter be referred to as the Dulles Greens Development and a fifth FDP for Land Bay 5. Any development within Land Bay 5, with the exception of Dulles Greens Drive and Pond B, shall require a Final Development Plan Amendment prior to site plan approval. Any such FDPA which includes a Transportation Facility (cf. Proffer 15) shall require the then owner of Land Bay 5 to provide a

screening and buffer area consisting of existing trees and supplemental plantings with a minimum depth of seventy-five (75) feet along the northern lot line of Land Bay 5 adjacent to the Reflection Lake subdivision. Any FDPA in Land Bay 5 shall provide for control of the heights of structures by a fifty (50) degree angle of bulk plane as determined from the rear lot line of the adjacent single family homes. The owners of the Dulles Greens Development or of Land Bay 5 may submit either a preferred condition amendment (PCA), a conceptual development plan amendment (CDPA), and/or a final development plan amendment (FDPA) on the property so owned without the joinder and/or consent of the other if such application does not geographically affect the other property. For future zoning enforcement, the Dulles Greens Development and Land Bay 5 shall be deemed separate parcels at any time that Land Bay 5 is owned by a person, entity, or body politic other than Applicant. Any modification or amendments of any of the FDPs shall be subject to the approval of the Planning Commission.

4. There will be no interparcel vehicular connections between the Dulles Greens Development or Land Bay 5 and the Reflection Lake Community.

5. The CDP/FDP for the Dulles Greens Development consists of 805 "BASE RESIDENTIAL UNITS", plus 42 affordable Dwelling Units and 19 Bonus Units (due to the application of the Affordable Dwelling unit ordinance), 200 of those residential units will be located in the midrise building located in Land Bay 3. The garden apartment style structures in Land Bays 1 and 2 will contain 666 residential units. The Applicant reserves the right to shift the number of multifamily units represented between Land Bays 1 and 2 as a result of final engineering and design provided any such shift shall be in substantial conformance with the

building footprints depicted on the Plan. However, the development of those subject Land Bays shall not exceed 666 multifamily units.

6. Applicant shall design and construct residential buildings with exterior building design materials which shall be compatible throughout the Dulles Greens Development as determined by the Applicant within its sole discretion. Exterior building materials for the residential buildings may include, but shall not be limited to, masonry, concrete, siding and synthetic stucco.

Applicant shall utilize a uniform system of signs and exterior lighting fixtures as determined by Applicant within its sole discretion for the Dulles Greens Development. Applicant reserves the right to place on-site lighting for safety and security purposes. All signs and lighting shall be in accordance with the Zoning Ordinance.

7. All land area dedicated for public use(a) in conjunction with these proffers, and all density/floor area ratio related to such land area of these dedications is hereby reserved for the development of the subject property in accordance with the provisions of Par. 5 of Sect. 2-308 of the Zoning Ordinance.

8. At the time of site plan approval for all or any portion of Land Bay 1, the Applicant will construct a school bus shelter in the vicinity of the terminus of Parcher Avenue, if requested by Fairfax County Public Schools at a location approved by Fairfax County which does not conflict with the features shown on the CDP/PDP.

9. The Applicant commits to the Virginia Home Builders Energy Savers program for energy conservation, or the equivalent thereof, for all dwelling units to be constructed on subject property.

10. The open space in the Dulles Greens Development as shown on the CDP/FDP will be retained by the Applicant for the benefit of the future occupants.

TRANSPORTATION:

11. If not previously dedicated pursuant to Proffer 13A, upon demand by the Virginia Department of Transportation (VDOT) or Fairfax County, the Applicant will dedicate in fee simple to the Fairfax County Board of Supervisors the right-of-way for Innovative Avenue (Rock Hill Road), and assign its easements for access and construction across the easement area granted by the ITA to the Board of Supervisors, as shown on the CDP/FDP along with any ancillary easements needed for construction or maintenance.

12. Within thirty days of the first site plan approval, Applicant will reimburse the Commonwealth (or its political subsidiary) for a) the entire cost of paving one lane of Innovative Avenue from Route 28 to the C.I.T. Road Termination Point and b) the entire cost of constructing Innovative Avenue from the C.I.T. Road Termination Point to its present terminus.

13. At the time of the first site plan approval for the Dulles Greens Development Applicant will construct road improvements as follows:

A. Construct a four-lane divided facility to VDOT standards, from the existing terminus of Innovative Avenue to a point approximately 150 feet north of the proposed intersection of Innovative Avenue and realigned Rock Hill Road as shown on the CDP/FDP.

Applicant will bear the cost of constructing the segment of Innovative Avenue from its present terminus to the Applicant's property within the easement area granted by the Innovative Technology Authority "ITA". The Applicant will dedicate the right of way in fee simple for the portion of right of way it owns and assign its easements for access and construction across the easement area granted by the ITA to the Board of Supervisors, at the time of their first site plan approval for the Dulles Greens Development.

B. The Applicant will construct Innovative Avenue (Rock Hill Road), to VDOT standards, within the to be dedicated and existing right-of-way as one-half section of a four lane divided facility, with appropriate right turn lanes, to VDOT standards, from the transition of such four-lane divided facility as described in Proffer 13A, to the northern property line of the subject property.

C. Applicant will construct, to VDOT standards, right and left turn lanes at all site entrances along Innovative Avenue. Applicant agrees that at such time as Rock Hill Road is constructed, by others, as a four line divided facility north from the point of transition under Proffer 13B that no median break or left turn from southbound Rock Hill Road will be provided at the Property's second northernmost entrance (approximately 1,000 feet south of the northern property boundary).

D. Construction referenced in Proffers 13A, B, and C will be completed to the level of base paving, with final paving fully bonded and open to traffic, but not necessarily accepted in state road system, prior to the issuance of the first Residential Use Permit (RUP) for the Dulles Greens Development.

E. At the time of construction set forth in Proffers 13A, B and C, Applicant will construct Projects 0-1 and 0-3 as delineated on the County's Master Drainage Plan.

14. No later than the site plan approval for the southern entrance to Land Bay 2, Applicant will construct Dulles Greens Drive from its intersection with Innovative Avenue to a point south of the entrance to Land Bay 2 as shown on the CDP/FDP which is approximately two hundred fifty (250) feet east of the intersection, as a four (4) lane undivided roadway to VDOT standards as depicted on the CDP/FDP.

15. A. Dedication.

Applicant will dedicate and convey in fee simple Land Bay 5, in the southeastern portion of the Property, as more particularly depicted on the CDP/FDP, to Fairfax County or its designee for use as a temporary athletic field and/or as a public transportation destination station, Kiss & Ride lot, Park and Ride facility, rail/bus transit station or other public transportation facility (herein referred to a "Transportation Facility"). At the time of dedication necessary easements shall be granted or assigned (at no cost to the County) by Applicant.

The following associated and/or ancillary uses, not to exceed a total of 2,500 square feet may be included as an integral component of a structure/facility that provides any of the uses set forth above:

1. Ticket sales for public transportation facilities
2. Office for administration of the Park and Ride facility

3. Business service and supply services (including convenience store and newsstand however, in no event shall any of these individual uses exceed seven hundred fifty (750) square feet.)
4. Personal service establishment such as dry cleaning pick-up and drop off (actual cleaning process not to occur on the Land Bay 5).

In addition, a child care center may be provided, but only in the event that the Dulles Greens Development deletes the child care center shown on its development plan through the public hearing process.

The dedication of Land Bay 5 shall be subject to mutually agreed upon reasonable reservation of easements by Applicant for construction, access, and stormwater drainage and management. The right to such easements shall survive dedication. Actual dedication shall be made upon demand by Fairfax County, upon the first to occur of the following:

- (a) within thirty (30) days of approval by VDOT of the subject site for a Transportation Facility as previously defined.
- (b) the first site plan approval for the Dulles Greens Development.
- (c) June 30, 1994

B. Design and Construction

If prior to dedication of Land Bay 5 or dedication/assignment of the right-of-way for innovative Avenue (Rockhill Road), the Applicant has not completed construction of Innovative Avenue pursuant to Proffer 13 and/or the construction of Dulles Greens Drive pursuant to Proffer 14 (herein referred to as "the Road Improvements") and/or the drainage improvements pursuant

Proffer 13, the stormwater management facilities pursuant Proffer 21, or the restoration in Land Bay 5 pursuant to Proffer 22C, or all three (herein collectively referred to as "the Drainage Improvements") then at the time of the dedication of Land Bay 5 pursuant to Proffer 15, and dedication of the Innovative Avenue right-of-way pursuant to Proffer 11 (if not already done pursuant to Proffer 13), the Applicant reserves the right to enter upon the land as dedicated and to design and construct the uncompleted "Road Improvements" and/or "Drainage Improvements."

1. If the Applicant elects to proceed with the construction of the "Road Improvements", and the "Drainage Improvements", the Applicant shall notify the County in writing. This notice shall include a construction schedule, including an anticipated completion date. If the Applicant is delayed such that the completion date cannot be met or has stopped the construction of any or all of the "Road" and/or "Drainage Improvements", the Applicant shall so notify the County, and the County may assume responsibility for completing said improvements pursuant to Pars. "2", "3" and "4" below.
2. If the Applicant has not elected to proceed pursuant to the previous paragraph, the County shall have the right to assume responsibility for the Improvements and to proceed with the design and construction of the "Road Improvements" and/or the "Drainage Improvements". The County shall notify the Applicant in writing of its intent to proceed. This notice shall include the scope of work (which "Road Improvements" and "Drainage Improvements" are required), and a design and construction schedule, including appropriate milestones and the anticipated

completion date. Upon receipt of County's notice of intent to proceed, the Applicant shall have 15 working days in which to determine that it elects to assume responsibility for the design and construction and notify the County of same in writing.

- (a) In the event the Applicant fails to give notice or declines to assume the responsibility for the design and construction of the improvements, the County shall have the right to proceed pursuant its original notification as required by paragraph 2 above. The County shall submit to the Applicant monthly status reports including notice of any change in the anticipated completion date. The Applicant' reserves the right to assume responsibility for completing the design and/or construction if said design and/or construction is unduly delayed or stopped so as to delay the timely completion of the Dulles Greens Development.
- (b) In the event the Applicant elects to assume the responsibility for the design and construction, the Applicant shall provide the County with its design and construction schedule, which shall coincide with the County's anticipated completion date as set forth in the County's notice to the Applicant. Once the election to proceed has been made by the Applicant, the Applicant shall submit to the County monthly status reports including notice of any change in the anticipated completion date. This schedule shall include all appropriate "milestones" and ultimate completion dates.

The County shall have the right to assume responsibility for completing the design and/or construction if such are delayed, so that completion can occur on schedule.

3. In the event the County or its assignee has assumed responsibility for completing the design or construction as described herein, the Applicant shall reimburse the County or its assignee for its actual cost of design and construction of the "Road" and "Drainage" improvements at the time of approval of the first site plan in the Dulles Greens Development, or if such site plan approval and/or construction of Dulles Greens Development has preceded construction of the improvements, payment shall be made prior to the issuance of the first RUP for the Dulles Greens Development.

In the event the Applicant has previously conformed with the bonding requirements, and the County has assumed responsibility for the improvements the County may exercise its rights to complete construction in accord with the bond agreement. All Bonds and Agreements for these improvements shall provide specifically for the County to take over the agreement.

In the event the County or its assigns has exercised its right to complete construction under the bond agreement, the bond agreement may be used toward the reimbursement owed by the Applicant to the County.

4. In the event that the Applicant completes improvements that were begun by the County, the parties shall agree to a fair and reasonable cost reimbursement, consistent with the intent of the proffers.
 5. If the Applicant is the party who designs and constructs the "Road" and "Drainage" improvements, the County and the Applicant may mutually agree to have the Applicant construct the segment of Dulles Greens Drive from the point where the Applicant's obligation to construct Dulles Greens Drive ends pursuant to Proffer 14, eastward to the terminus of Dulles Greens Drive in Land Bay 5 as shown on the CDP/FDP. In that case, the County and the Applicant shall enter into a reimbursement agreement for the completion of that segment of Dulles Greens Drive.
 6. The developer shall construct a temporary gravel travel-way/parking area within the Dulles Greene Drive right-of-way as shown on CDPA/FDPA 89-D-060, subject to the approval of the Director, DPW&ES, prior to the dedication of the recreation field to the County.
16. A. At the time of first site plan approval for the Dulles Greens Development, Applicant will contribute Five Hundred Thousand (\$500,000) Dollars towards infrastructure of the ITA.
- B. At the time of site plan approval of Land Bay 3, if requested by WMATA or the Office of Transportation and if public bus service is provided along Innovative and/or Rock Hill Road, the Applicant will construct a public bus shelter in Land Bay 3.

C. If Applicant should amend any Final Development Plan or obtain Special Exception approval to increase secondary uses on the Property (cf. Proffer 30), Applicant agrees to contribute \$4.04 per gross square foot for such non-residential secondary uses to the Dulles Corridor Transportation Fund. Such contribution shall be made at the time of issuance of the Nonresidential Use Permit for each such secondary use. The contribution ratio of \$4.04 shall apply for first two years after approval of this rezoning. Thereafter, the per square foot contribution rate shall be adjusted based on the ten year trend in the Virginia Highway Bid Price Index. This proffer shall not apply to the development of the temporary athletic facility in Land Bay 5.

RECREATION FACILITIES

17. Applicant shall construct active on-site recreation facilities as shown on the CDPA/FDPA. Applicant shall spend a minimum of \$400.00 per dwelling unit for such facilities. Prior to the issuance of the first Residential Use Permit in Land Bay 1, Applicant shall construct the pool, tennis courts, and club house in Land Bay 1 as shown on the CDP/FDP, which shall be open for the following pool season. Prior to the issuance of the first Residential Use Permit in Land Bay 2, Applicant shall construct the tennis courts and basketball court in Land Bay 2. Prior to issuance of the first Residential Use Permit in Land Bay 3, Applicant shall construct the pool in Land Bay 3 as shown on the CDP/FDP which shall be open for the following pool season.

The Applicant reserves the right to provide lighting for any of the swimming pools and courts shown on the CDP/RDP but will not light any of the other exterior active recreation

facilities shown on the CDP/FDP. All lighting of active recreation facilities shall be shielded and directed on site so as to keep glare from projecting off-site or into on-site residential areas.

All waste water resulting from the cleaning and draining of the pool located on the site shall contain a minimum dissolved oxygen concentration of 4.0 milligrams per liter prior to discharge. The Applicant shall neutralize pool waters to a pH from 6.0 to 9.0 prior to discharge. Sufficient amounts of lime or soda ash shall be added to achieve a pH approximately equal to that of the receiving stream.

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.

This proffer #17 shall not apply to the proposed temporary athletic facility located in Land Bay 5.

18. Land Bay 5 shall be developed as a temporary athletic facility in accordance with CDPA/FDPA 89-D-060. Applicant's/Profferor's cost to complete this facility in accordance with CDPA/FDPA 89-D-060 shall not exceed the sum of \$191,742.00, plus adjustments for inflation from September 10, 1992 until the date of completion of the facilities, or the date of full expenditure of said fund after adjustment for inflation, whichever event first occurs. This athletic facility will terminate at such time as a Transportation Facility is under construction for utilization on the site.

19. The Applicant will grant public access easements on all trails shown on the CDP/FDP to facilitate pedestrian circulation and will provide pedestrian access points at the Farougi Court cul de sac and the terminus of Parcher Avenue as shown on the CDP/FDP.

Such trails will contain a PAR (or equivalent brand) course and be installed with care with respect to the environmentally sensitive areas, if any, and provide replacement of trees with equivalent species of trees as determined by the Urban Forestry Branch for those trees which may be lost exclusively due to installation of such trails.

ENVIRONMENT:

20. Applicant will not undertake any land disturbing activities in any wetlands, as defined in the U. S. Corps of Engineers 1987 Wetlands Delineation Manual without obtaining appropriate permits from the U. S. Army Corps of Engineers.

21. Applicant shall at the time of construction of Innovative Avenue pursuant to Proffer 13A and B, provide two stormwater detention facilities in the areas as shown on the CDP/FDP. These facilities shall provide detention and best management practices (BMPs) to the maximum extent practicable without any reconstruction of Rock Hill Road, its embankments and culverts, and without any filling, grading, or excavation within the existing floodplain other than that which is necessary for the construction of Innovative Avenue extended, Dulles Greens Drive, the outlet works for Pond B, the sanitary sewer connections, and any other infrastructure essential to the development of the Dulles Greens Development and the Transportation Facility.

Applicant reserves the right to seek relief; including, but not limited to Sect. 118-3-2(7) of the Chesapeake Bay Preservation Ordinance as endorsed by the Board of Supervisors on

August 3, 1992 ("CBPO"), from the Resource Management Area ("RMA") performance criteria of the CBPO, if the aforementioned design considerations preclude obtaining a 40 percent reduction in the projected total phosphorus runoff pollution load for the proposed development compared to phosphorus loads projected for the proposed development without BMPs; however, the Applicant shall not seek an exception to the performance criteria pursuant to Sect. 118-6-9 of the CBPO, which relates to grandfathering.

22. Within the Dulles Greens Development, Applicant shall maintain a fifty foot buffer and a minimum 65 foot building setback line along the entire bound with the Reflection Lake community in accordance with the CDP/FDP. Applicant shall maintain the limits of clearing and grading depicted on the CDP/FDP within the Dulles Greens Development. A 75 foot buffer shall be provided where practicable. The buffer designated as the limits of clearing and grading shall remain as an undisturbed area with no removal of trees except as described below. The buffer shall be adjacent to the residential communities as shown on the CDP/FDP and subject to the following conditions:

A. Access and Barrier Fences

To restrict access to the eastern 25 feet of the buffer, Applicant shall construct a fence in accordance with Sect. 13-303 of the Fairfax County Zoning Ordinance as noted on the CDPA/FDPA, which will run continuously parallel to the eastern boundary, except at the points adjacent to public right-of-way. The fence shall be built generally 25 feet west of subject property's eastern property line except at points adjacent to public rights-of-way. The exact

location of the fence shall be coordinated with the County's Urban Forester so as to provide minimal disruption to the existing vegetation.

B. Maintenance

Applicant shall be responsible for the removal of dead trees which pose a safety hazard to nearby homes or yards, and for preventive maintenance such as spraying for gypsy moths in the buffer. Maintenance of the restricted access portion of the buffer will be kept to a minimum in order to further reduce disturbances to the area.

C. Restoration

Vegetative restoration areas shall be provided in the areas depicted as open space in Land Bays 2 and 5. The restoration plan for Land Bay 2 shall be submitted to the Urban Forestry Branch for review and approval and plantings implemented as deemed appropriate by the Urban Forester prior to the issuance of any residential use permit and for Land Bay 5 at the time of the Road Improvements and Drainage Improvements pursuant to Proffers 13 and 21. The restoration shall consist of native species to replicate the vegetative community types typically found in this area. Prior to the release of the Bond, a maintenance plan, developed in coordination with the Urban Forestry Branch, shall be undertaken by the property owner of the Dulles Greens Development in order to ensure the long term survival of newly planted material and success of the restoration area.

D. Tree Preservation and Screening Plantings

A tree preservation plan shall be submitted for review and approval by the Urban Forester at the time of site plan review which maximizes the incorporation of the natural vegetation and

trees on the site into the building envelopes for the residential units. The preservation plan shall require that if utility lines, or trails must be placed within the tree save area, they shall be placed with minimal disturbance and that replacement trees shall be provided where damage and disturbance is unavoidable. Barrier fences shall be provided around designated limits of clearing/tree save areas to avoid root compaction and subsequent damage to trees. To supplement the 50 foot buffer along the eastern property line, a mix of deciduous, evergreen and understory plantings shall be provided within the 50 foot buffer to create a natural wooded transition between the Reflection Lake Community and this community.

E. All trees planted by Applicant pursuant to this Proffer shall be sized in accordance with PFM standards.

23. In order to mitigate noise from Washington Dulles International Airport, all residential structures shall incorporate noise attenuation measures as appropriate to meet Interior Noise Level Standard P3 or its future equivalent, and be designed to achieve an interior noise level not to exceed 45 dBA Ldn.

24. The Applicant will construct the proposed child care center and all residential dwelling units utilizing the following measures to mitigate the impact of highway noise;

A. Exterior walls will be constructed of materials and techniques known to have physical properties and characteristics suitable to achieve a Sound Transmission Classification (STC) of 39.

B. Doors and windows will be constructed of material and techniques known to have physical properties and characteristics suitable to achieve a STC of 28. If windows

comprise 20% of more of any facade, they will be constructed of materials and techniques known to have physical properties and characteristics suitable to achieve a STC of 39.

C. Adequate measures will be provided to seal and caulk between surfaces.

D. To mitigate exterior noise levels within the subject area, noise attenuation measures such as acoustical fencing, walls or combinations thereof will be provided for those residential rear yard areas that are unshielded by topography or built structures. If acoustical fencing or walls are used, they will be architecturally solid from the ground up with no gaps or openings. The structure employed will be of sufficient height to adequately shield the impacted area from the Source of the noise.

As an alternative to A, B, C or D above, the Applicant may have a refined acoustical analysis performed, subject to approval of the Department of Environmental Management, to determine which units/buildings may have sufficient shielding to permit a reduction in the mitigation measures prescribed above. The Applicant will implement said mitigation measures subject to whatever reductions are permitted pursuant to this paragraph.

Nothing herein shall be construed to restrict or otherwise limit the use of balconies or patios that may be constructed with the proposed residential dwelling units.

25. All contracts for deed of conveyance and all leases issued for residential and commercial units on the subject property shall include the following notice:

"Dulles Greens is near Washington Dulles International Airport. While the Federal Aviation Authority, Metropolitan Washington Airports Authority, and the Fairfax Supervisors have determined that Dulles Green is an area suitable for residential development, you should

anticipate that noise and overflights related to aircraft operations will, at times, be audible on the site."

AFFORDABLE HOUSING:

26. Applicant will commit a total of 42 units to the Fairfax County Affordable Dwelling Unit program within the Dulles Greens Development.

HISTORIC PRESERVATION:

27. Prior to any land disturbing activity within the Dulles Greens Development the Applicant shall obtain a Phase I archeological survey of the Property. The survey shall be performed by a qualified archaeological survey firm approved by the County Archaeologist. The results of such survey shall be reviewed and approved by the County Archaeologist. If within 15 days of receipt of the Phase I Survey, it is determined necessary by the County Archaeologist as a result of the Phase I survey, the Applicant will perform at his expense, a Phase II and/or Phase III archaeological surveys and/or recovery work with the scope of work and final report subject to County Archaeologist approval. Such Phase II and III archeological surveys shall not unreasonably delay Applicant's development of the Property and shall not exceed a total expense of \$15,000. In addition, the County Archaeologist shall be notified at least 30 days prior to any land disturbing activity on the Property and shall be permitted to review any artifacts uncovered by any land disturbing activity.

CHILD CARE CENTER AND SECONDARY USES:

28. The child care facility shall be limited to an enrollment of 150 children on site at any one time.

29. Prior to approval of the Site Plan for Land Bay 4, a letter from the Health Department shall be obtained indicating that the child care center location as proposed does not present any hazard to health, safety or welfare of the children. All requirements of the Health Department regarding safety, fencing, food preparation, etc., shall be implemented and adhered to.

In the event Applicant should submit a site plan for Land Bay 4 prior to the construction of the public roadway within Land Bay 5, Applicant shall be able to access Innovative Avenue from Land Bay 4 by means of a driveway constructed within the Dulles Greens Drive right of way.

30. The child care center shall be the only secondary use permitted at this time on the Dulles Greens Development; any other second uses shall be subject to the approval of a final development plan amendment or a special exception, as appropriate.

(Signature on following page)

DULLES GREENE, L.P., a Virginia limited partnership

By: DG Development, Inc., a Delaware corporation, general partner

By:  _____

Name: Cory Despain
VICE PRESIDENT
(PRINT)

Title: _____
(PRINT)

At a regular meeting of the Board of Supervisors of Fairfax County, Virginia, held in the Board Auditorium in the Government Center at Fairfax, Virginia, on the 7th day of December, 1998, the following ordinance was adopted:

**AN ORDINANCE AMENDING THE ZONING ORDINANCE
PROFFERED CONDITION AMENDMENT PCA 89-D-060**

WHEREAS, Board of Supervisors' Own Motion/Park Authority filed in the proper form an application requesting amendment to the plan of a certain parcel of land, hereinafter described, by amending conditions proffered and accepted pursuant to Virginia Code Ann. § 15.2-2303(a), and

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

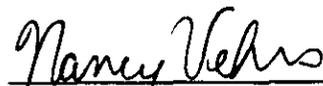
WHEREAS, this Board has today held a duly called public hearing and after due consideration of the reports, recommendation, testimony and facts pertinent to the proposed amendment, the Board is of the opinion that the Ordinance should be amended,

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

Be, and hereby is further restricted by the amended conditions proffered and accepted pursuant to Virginia Code Ann., § 15.2-2303(a), which conditions are incorporated into the Zoning Ordinance as it affects said parcel, and

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

GIVEN under my hand this 7th day of December, 1998.



Nancy Veirs

Clerk to the Board of Supervisors

DESCRIPTION OF
PROPOSED LAND BAY 5
DULLES GREENS
DRANESVILLE DISTRICT, FAIRFAX COUNTY, VIRGINIA
MARCH 18, 1998

Beginning at a point in the northerly right-of-way line of Washington Dulles Access and Toll Road, Route 267, said point also being the southeasterly corner of the land of The Innovative Technology Authority;

Thence, departing said northerly right-of-way line of Washington Dulles Access and Toll Road and running with the easterly lines of The Innovative Technology Authority, the following two (2) courses:

1. N 23° 41' 44" W, a distance of 529.21 feet;
2. N 08° 27' 02" W, a distance of 304.18 feet to a point on a curve in the easterly right-of-way line of Innovation Avenue;

Thence, with the easterly right-of-way line of Innovation Avenue, the following two (2) courses:

1. With a curve to the left having a central angle of 04° 39' 17", a radius of 827.00 feet, an arc distance of 67.19 feet and a chord length of 67.17 feet which bears N 32° 02' 54" E to a point of reverse curvature;
2. With a curve to the right having a central angle of 95° 04' 44", a radius of 50.00 feet, an arc distance of 82.97 feet and a chord length of 73.77 feet which bears N 77° 15' 38" E to a point of compound curvature in southerly right-of-way line of Dulles Greene Drive;

Thence, with said southerly right-of-way line of Dulles Greene Drive, the following three (3) courses:

1. With a curve to the right having a central angle of 51° 27' 13", a radius of 540.00 feet, an arc distance of 484.94 feet, and a chord length of 468.81 feet which bears S 29° 28' 24" E to a point of reverse curvature;
2. With a curve to the left having a central angle of 26° 04' 19", a radius of 610.00 feet, an arc distance of 277.58 feet and a chord length of 275.19 feet which bears S 16° 46' 58" E to a point of compound curvature;
3. With a curve to the left having a central angle of 03° 18' 39", a radius of 189.00 feet, an arc distance of 10.92 feet and a chord length of 10.92 feet which bears S 31° 28' 27" E to a point of compound curvature;

Thence, departing said southerly right-of-way line of Dulles Greene Drive and running through the right-of-way dedication for Dulles Greene Drive and through the land of Dulles Greene, L.P., the following two (2) courses:

1. With a curve to the left having a central angle of 117° 57' 25", a radius of 70.00 feet, an arc distance of 144.11 feet and a chord length of 119.98 feet which bears N 87° 53' 41" E;
2. N 57° 48' 29" E, a distance of 406.84 feet to a point in the southerly line of Section 6, Reflection Lake;

Thence, with the southerly and westerly lines of Section 6, Reflection Lake, the following three (3) courses:

1. S 45° 38' 12" E, a distance of 346.26 feet;
2. S 58° 21' 56" W, a distance of 551.58 feet;
3. S 59° 06' 54" W, a distance of 53.43 feet to a point in the northerly right-of-way line of Washington Dulles Access and Toll Road, Route 267;

Thence with said northerly right-of-way line of Washington Dulles Access and Toll Road, Route 267, N 66° 11' 05" W, a distance of 396.03 feet to the point of beginning.

CONTAINING 419,947 SQUARE FEET OR 9.6406 ACRES MORE OR LESS