

PROFFERS
College Town Associates, L.P.
RZ 2009-BR-015
PCA C-83-02

April 5, 2011

Pursuant to Section 15.2-2303(a) of the Code of Virginia, 1950, as amended, the property owners and Applicant in this Rezoning and Proffer Condition Amendment (PCA) proffer that the development of the parcel under consideration and shown on the Fairfax County Tax Maps as Tax Map Reference No. 68-1((1))9A (rezoning parcel) and Tax Map Reference No. 68-1((1))9 (PCA Parcel) (hereinafter referred to as the "Property") will be in accordance with the following conditions if, and only if, said rezoning request for the C-6 District and PCA C-83-02 are granted by the Board of Supervisors of Fairfax County, Virginia (the "Board"). In the event said application requests are denied or the Board's approval is overturned by a court of competent jurisdiction, these proffers shall be null and void. The Owners and the Applicant ("Applicant"), for themselves, their successors and assigns, agree that these proffers shall be binding on the future development of the Property unless modified, waived or rescinded in the future by the Board, in accordance with applicable County and State statutory procedures. The Applicant hereby reaffirms the Proffered Development Conditions approved with PCA C-83-1 subject to the following amended Proffered Conditions that amend paragraph B of the Proffered Development Conditions dated September 11, 1984, and the proffers associated with the C-2 zoned portion (Tax Map 68-1((112))9B) of PCA C-83-1 shall remain in effect.

GENERAL

1. Substantial Conformance. Subject to the proffers and the provisions of Article 18 of the Zoning Ordinance, under which minor modifications to an approved development plan are permitted, development of the Property shall be in substantial conformance with the Generalized Development Plan/Special Exception Amendment Plat ("GDP/SEA Plat") entitled "College Town Associates, L.P.....University Mall" (hereinafter referred to as GDP/SEA Plat), prepared by Bohler Engineering Inc., and dated June 19, 2009 as revised through March 11, 2011.

2. Minor Modifications. In addition to that described above, pursuant to Paragraph 4 of Section 18-403 of the Zoning Ordinance, minor modifications to the GDP/SEA Plat and these proffers may be permitted as determined by the Zoning Administrator.

3. Maximum Density. The maximum floor area ratio ("FAR") permitted on the Property shall be .24. Based on the maximum FAR, the maximum gross floor area ("GFA") that may be constructed shall be 206,338 square feet. The Applicant reserves the right to construct a lesser amount of GFA provided that the buildings and Property remain in substantial conformance with that shown on the GDP/SEA Plat as determined by the Zoning Administrator.

4. Architecture.

A. The final architectural design shall be in substantial conformance with the general type, quality and proportion of materials depicted in the illustrative perspectives, elevations, and section shown on sheets 24 through 32 of the GDP/SEA Plat.

B. Rooftop Equipment. Telecommunications and other related equipment may be placed on the proposed Buildings' rooftops. Any such facilities must comply with the applicable requirements of the Zoning Ordinance. Rooftop mechanical equipment will be shielded from view using parapet walls and designed not to exceed roof coverage limitations of the Zoning Ordinance including the 25% limitation. Other screening measures may be used such as including the facilities as part of the architecture of the buildings, utilizing compatible colors, or employing telecommunication screening material and flush mounted antennas.

C. The following colors and materials shall be used on the main shopping center building and shall be compatible with each other and with the illustrations shown on Sheets 24 to 32 of the GDP/SEA Plat as determined by the Department of Public Works and Environmental Services (DPWES):

Materials - Color Palette:

- Masonry – Rusty Red-browns
- EISF (Exterior Finish and Insulation System) – Earth Tones

- Aluminum Storefront and Curtain wall - Silver
- Fabric Awnings – Varied Accent Colors and Patterns
- Corrugated Metal - Gray
- Decorative metal work elements – Black and Silver

- Sidewalk Paving - Buff and Brown

D. Retaining walls shall be constructed in substantial conformance with those shown on sheet 7, 8 and 9A of the GDP/SEA Plat and shall meet Public Facilities Manual ("PFM") requirements.

E. The outdoor play area for the child care center in Building F shall be a minimum area of 5000 s.f. and shall be screened with a solid fence or wall a minimum of 6 feet in height, as shown on the GDP/SEA Plat.

F. Buildings E, F and G shall have consistent 4 sided architectural treatments with compatible materials and color schemes with the Main Mall buildings. Techniques shall include but not be limited to features along the buildings facing Braddock Road and Ox Road.

5. Unifying Elements. All street furniture, including garbage cans, benches and lamp posts, shall be consistent, both in terms of materials and design, throughout the development. Such street furniture shall be consistent in quality and character with the illustrative examples included in Site Details Sheet 21 of the GDP/SEA Plat.

6. Signage.

A. All signage shall comply with Article 12; however, all signage for Buildings A, B, C, D, E and F shall be subject to a Special Exception for waiver of certain sign regulations to allow relocation of signs and additional sign areas that will not negatively impact adjacent neighborhoods; Pole signs shall not be permitted on the Property. All directional and way finding signage shall be consistent, both in terms of materials and design, throughout the development.

B. Accent lighting. All building accent lighting shall be in substantial conformance with the outdoor Lighting Standards of Par. 2C of Sect. 14-902 that provides for full cut-off or directionally shielded lighting fixtures that are aimed and controlled so that the directed light shall be substantially confined to the object intended to be illuminated.

7. Building Height Increase. The accompanying Special Exception application seeks an increase in the allowable height in a C-6 district from 40 feet to allow four building accent towers (a 46 foot tower on Building A, 60 and 65 foot towers on Building C and a 54 foot

tower on Building D) as well as a 42 foot building height for a portion of Building C) as depicted on the GDP/SEA Plat.

8. Building J1. Building J1 is currently occupied by a drive-in financial institution. At least 90 days prior to the expiration of the existing lease, the applicant shall inform the occupant of the building that upon expiration of the lease, the drive-in window and associated driveway will be removed and additional landscaping shall be provided per the recommendation of Urban Forest Management (UFM). If the current occupant leaves the building, the drive-in window and associated driveway shall be removed and additional landscaping shall be provided per the recommendation of UFM. In any event, the drive-in window shall be removed prior to the issuance of a Non-residential (Non-Rup) for a new occupant.

GREEN BUILDING PRACTICES

9. The applicant will include, as part of the site plan/subdivision plan submission and building plan submission for Buildings E, F and G1 to be constructed, a list of specific credits within the most current version of the U.S. Green Building Council's (USGBC's) Leadership in Energy and Environmental Design—Core and Shell rating system (LEED[®]-CS) that the applicant anticipates attaining. A LEED-accredited professional who is also a professional engineer or architect licensed to practice in the Commonwealth of Virginia will provide certification statements at both the time of site plan/subdivision plan review and the time of building plan review confirming that the items on the list will meet at least the minimum number of credits necessary to attain LEED Silver certification of the project.

10. In addition, prior to site plan approval for Buildings E, F and G1, the applicant will designate the Chief of the Environment and Development Review Branch of the Department of Planning and Zoning (DPZ) as a team member in the USGBC's LEED Online system. This team member will have privileges to review the project status and monitor the progress of all documents submitted by the project team, but will not be assigned responsibility for any LEED credits and will not be provided with the authority to modify any documentation or paperwork.

11. Prior to building plan approval for buildings E, F and G1, the applicant will submit, to the Environment and Development Review Branch of DPZ, documentation from the

U.S. Green Building Council demonstrating that LEED Silver precertification under the Core and Shell program has been attained for that building. Prior to release of the bond for the project, the applicant shall provide documentation to the Environment and Development Review Branch of DPZ demonstrating the status of attainment of LEED Certification from the U.S. Green Building Council for each building on the property.

12. As an alternative to the actions outlined in the above paragraphs, or if the applicant fails to attain LEED Silver precertification prior to building plan approval, the applicant will execute a separate agreement and post, for each building, a "green building escrow," in the form of cash or a letter of credit from a financial institute acceptable to DPWES as defined in the Public Facilities Manual, in the amount of \$2.00 per gross square foot of building. This escrow will be in addition to and separate from other bond requirements and will be released upon demonstration of attainment of certification, by the U.S. Green Building Council, under the most current version of the LEED-CS rating system or other LEED rating system determined, by the U.S. Green Building Council, to be applicable to each building. The provision to the Environment and Development Review Branch of DPZ of documentation from the U.S. Green Building Council that each building has attained LEED certification will 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 RUP/non-RUP for the building, the escrow will be released to Fairfax County and will be posted to a fund within the county budget supporting implementation of county environmental initiatives.

13. In the event building G2 is a Fast Food Restaurant the following measures shall be taken in lieu of LEED certification:

A. Prior to the issuance of the Non-Residential Use Permit, verification shall be provided to the Department of Planning and Zoning that the following green building elements have been completed. These elements shall be verified either by letter from a LEED-AP or other equivalent green building certified professional who is also a licensed architect or engineer but not a Fast Food Restaurant employee.

B. Prior to the issuance of the Non-Residential Use Permit, a copy of the draft electrical purchasing agreement detailing the purchase of renewable energy credits totaling 35% of the restaurant electrical use, and the methodology for determining the electrical use shall be provided to the Environment and Development Review Branch of the Department of Planning and Zoning .

C. The use of rooftop HVAC units with an 11 EER (Energy Efficiency Rating) for the 15 Ton Unit and a 13 SEER (Seasonal Energy Efficiency Rating) for the 4 Ton Unit.

D. The use of compact fluorescent light fixtures as the predominant fixture in the dining room.

E. The use of high efficiency fluorescent light fixtures in kitchen area.

F. The use of low flow water closets, urinals and lavatories.

G. The use of automatic faucets for restroom hand sinks (lavatories) and kitchen area hand sinks, as allowed by the Health Department.

H. The use of low volatile organic compound (VOC) adhesives, paints, and sealants, with the exception of fire caulking, mastic products used to seal the roof membrane and any flues used to weld PVC piping together. Specifically, architectural paints and coatings applied to interior walls and ceilings shall not exceed the VOC contents limits established in Green Seal Standard GS-11, Paints, 1st Edition, May 20, 1993. Anti-Corrosive and anti-rust paints applied to interior ferrous metal substrates shall not exceed the VOC content limit of 250 g/l established in Green Seal Standard GC-03, Anti-Corrosive Paints, 2nd Edition, January 7, 1997. Clear wood finishes, floor coatings, stains, primers, and shellacs applied to interior elements shall not exceed the VOC content limits established in South Coast Air Quality Management District (SCAM) Rule 1113, Architectural Coatings, rules in effect on January 1, 2004. Finally, adhesives, sealants, and sealant primers, with the exception of fire caulking, mastic products used to seal the roof membrane and glues used to weld PVC piping together, shall comply with South Coast Air Quality Management District (SCAM) Rule #1168.

I. The use of highly reflective building roof to include an initial solar reflectivity index (SRI) equal to or greater than 78.

J. Develop and implement a construction and demolition waste program which provides for, at a minimum, construction waste management recycling for the existing building demolition, consisting of storefront windows, glass window lights in exterior doors, structural steel (columns, lintels, etc.), storefront glass window frames, hollow metal doors/frames, and steel supports from dining room seating/tables at site plan review. A copy of the waste program shall be provided to the Environment and Development Review Branch of the Department of Planning and Zoning prior to site plan approval.

14. Prior to the issuance of any permits for building signs for Building G, verification shall be provided to DPZ that LED illumination shall be used within the signs. The use of LED illumination shall be verified either by letter from a LEED-AP or other equivalent green building certified professional who is also licensed architect or engineer but not employed by the applicant.

15. Energy Conservation/Green Building. The Application shall utilize green building practices for the proposed improvements to the Building A and C expansion areas including, but not limited to, the following strategies:

- A. Consult a LEED accredited professional in the design of the addition;
- B. Provide space for storage and collection of recyclables within each building, including code-required paper and cardboard, and additional materials including but not limited to aluminum, plastic, and glass, and proof of a recycling commitment for these materials in the trash haul contract;
- C. Prohibit smoking in the interior public areas of the building and provision of designated smoking areas away from entries and operable windows;
- D. Design the addition to use insulated low e glass, or equivalent functioning glass; with a U factor of 0.35 or better;
- E. Utilize Energy Star (or equivalent) appliances; and
- F. Provide the Environmental Development Review Branch (EDRB) of the Department of Planning and Zoning with evidence of satisfaction of the above five requirements prior to issuance of building permits for the proposed expansion areas.

TRANSPORTATION

16. Reservation/Dedication for Ox Road and Braddock Road. The Applicant shall reserve for future dedication for public street purposes and conveyance in fee simple to the Board of Supervisors, for no additional consideration, monetary or otherwise, the right-of-way needed to widen Ox Road and Braddock Road across the Property's frontage as a grade separated interchange as shown on sheet 20 of the GDP/SEA Plat. The Applicant shall then dedicate the right-of-way as specified in Proffers 16B and 16C. Such right-of-way shall be of variable width, and shall be located within the Property in the areas as generally shown on Sheet 20 of the GDP/SEA Plat. The exact location and amount of right-of-way to be dedicated shall be determined in relation to the final engineering design of the Ox Road/Braddock Road Interchange as determined by DPWES and VDOT. Reservation and Dedication of such right-of-way shall be made as follows:

A. A Deed of Street Reservation to the Board of right-of-way along the Property's Braddock Road and Ox Road frontages as shown on sheet 20 entitled Phase 3 Plan shall be recorded among the land records at time of the first site plan approval for new development. The Deed shall be in conformance with that which is proffered. The Applicant shall provide a copy of the Deed to the Fairfax County Department of Transportation before recordation.

B. At such time in the future as VDOT or Fairfax County, whichever occurs first, shall demand, the Applicant shall prepare, submit for approval, and then execute a Deed of Dedication to the Board of Supervisors that conveys in fee simple and dedicates for public street purposes, for no additional consideration, monetary or otherwise, the land areas as shown on Sheet 19 of the GDP/SEA Plat or as determined by the final designs of the interim transportation improvements for the Ox Road/Braddock Road corridor. The Applicant shall provide temporary construction easements as deemed necessary by VDOT or FCDOT for no additional consideration monetary or otherwise. The Applicant shall vacate and demolish any structures in the dedication area and reconfigure land bays as necessary prior to dedication, at their own expense.

C. At such time in the future as VDOT or Fairfax County, whichever occurs first, shall demand, the Applicant shall prepare, submit for approval, and then execute a Deed of Dedication to the Board of Supervisors that conveys in fee simple and dedicates for public street purposes, for no additional consideration, monetary or otherwise, the land area as shown on Sheet 20 of the GDP/SEA Plat or as determined by the final designs for the Ox Road/Braddock Road interchange. The Applicant shall provide temporary construction easements as deemed necessary by VDOT or FCDOT for no additional consideration monetary or otherwise. The Applicant shall vacate and demolish any structures in the dedication area and reconfigure land bays as necessary prior to dedication at their own expense.

D. In the event the Applicant receives written notice to dedicate the Braddock Road and Ox Road right-of-way pursuant to paragraphs C. and D. above prior to the expiration of the leases governing Building "H" and the "Gas Station Building" lessees, (i) the Applicant shall request the County to acquire the necessary property rights held by Building "H" and the "Gas Station Building" lessees by means of its condemnation powers, at the Applicant's expense. The Applicant's request will not be considered until it has forwarded, in writing, to the appropriate County agency accompanied by: (1) plans and profiles showing the necessary right-of-way or easements to be acquired, including all associated details of the proposed transportation improvements to be located on said property; (2) an independent appraisal of the leasehold value of the right-of-way easements to be acquired and of all damages and benefits to the residue of the affected property; (3) a sixty (60) year title search certificate of the right-of-way or easements to be acquired; and (4) Letter of Credit or cash (at the Applicant's discretion) in an amount equal to the appraised value of the right-of-way or easements to be acquired and of all damages to the residue, which Letter of Credit can be drawn upon by the County. In the event the property owner and Lessees of the right-of-way or easements to be acquired are awarded more than the appraised value of same and of the damages to the residue in a condemnation suit, the amount of the award in excess of the Letter of Credit or cash posted amount shall be paid to the County by the Applicant within fifteen (15) days of said award. All other costs incurred by the County in acquiring the right-of-way, including relocation costs and attorney's fees associated with condemnation, shall be paid to the County by the Applicant on

demand. The Applicant agrees to waive its condemnation award for its fee simple interests in the condemned right-of-way.

E. The Applicant shall not renew the leases for Building H and the Building I Service Station and shall not enter into any new leases that would convey any leasehold interest in the reservation area described above. All new leases of leasehold interests outside the reservation area shall include full disclosure of the reserved right-of-way and shall include a lease termination paragraph upon dedication.

F. If not previously approved by the Board of Supervisors, an SEA will be required for Building I (service station) to reflect Phase II and III improvements as shown on the GDP/SEA Plat.

17. Bike Parking. At the time of each site plan for new construction, the Applicant shall provide and install a minimum of one (1) bicycle storage space per 7,500 square feet of total commercial gross floor area unless demonstrated that a minimum of twenty-eight (28) bicycle storage spaces have been provided on-site. The design and placement of bicycle storage spaces shall be done in consultation with the Fairfax County Department of Transportation and shall not be located in vehicular parking spaces.

18. New Southern Entrance on Ox Road and Inter-Parcel Access to the South.

A. Prior to the issuance of the first new Non-RUP, the Applicant shall (1) construct a temporary right in/right out only entrance along Ox Road generally as shown on Sheet 7 and Sheet 19 of the GDP/SEA Plat, (2) dedicate additional right of way needed to construct the inter-parcel access to the south (as shown on the GDP/SE Plat on Sheets 7, 8, 19, and 20) to the Board of Supervisors in fee simple for public street purposes, for no additional consideration, monetary or otherwise, and (3) escrow with the County one-half (1/2) of the cost not to exceed \$125,000 to design, equip and install a new traffic signal at a shared common full movement entrance located off-site of the Property approximately 565 feet to the south of the existing north Property entrance on Route 123.

B. Prior to final bond release, the applicant shall conduct a signal warrant study for a traffic signal in the general vicinity, which may be off-site, of the New Ox Road Entrance as shown on Sheet 7 and Sheet 19 of the GDP/SEA Plat.

(i) In the event that the signal is found warranted, the applicant shall (1) fully fund the installation of the traffic signal, (2) close the temporary southern right in/right out access point on Ox Road (Rt. 123) shown on the GDP/SE Plat if not already complete by VDOT, (3) construct the inter-parcel access travel-way to the southern property line with the flexibility to slightly shift the inter-parcel access to accommodate access from the south, and (4) record a public access easement for the inter-parcel access if the inter-parcel access falls outside of the previously dedicated land.

(ii) In the event that the signal is deemed necessary by VDOT, or VDOT closes the new southern entrance on Ox Road the Applicant shall escrow an additional \$125,000.00 for signalization of the shared common full movement entrance located off-site to the south as referenced above. Said escrow contribution shall be made within thirty (30) days of receipt of a written request by either VDOT or FCDOT. The Applicant shall also (1) close the temporary southern right in/right out access point on Ox Road (Rt. 123) shown on the GDP/SE Plat if not already completed by VDOT, (2) construct the inter-parcel access travel-way to the southern property line with the flexibility to slightly shift the inter-parcel access to accommodate access from the south, and (3) record a public access easement for the inter-parcel access if the inter-parcel access falls outside of the previously dedicated land.

C. In the event that a traffic signal is not warranted by the signal warrant study or deemed necessary by VDOT, the right in/right out only entrance along Ox Road generally as shown on Sheet 7 and Sheet 19 of the GDP/SEA Plat may remain and those funds escrowed by the Applicant shall be returned with interest no later than 10 years after final bond release or at the time VDOT deems the traffic signal is not necessary.

19. Existing Ox Road Entrance. Prior to the issuance of the first new NON-Rup, the Applicant shall lengthen the throat to the entrance on Ox Road, construct a sidewalk connection to Ox Road and paved crosswalks connecting to Building A as shown on sheet 7 and 8. It is understood that this entrance will be eliminated by VDOT with the interchange improvements as shown on sheet 20 of the GDP/SEA Plat. At such time, the Applicant shall reconfigure the parking area and plant additional landscaping along Ox Road to conform with the landscaping on either side at their own expense.

20. Eastern Braddock Road Entrance. Prior to the issuance of the first new Non-RUP, the Applicant shall widen the entrance/exit along Braddock Road to provide a left turn exit, through exit and right turn exit lanes as shown on sheets 7, 8, 19 and 20 of the GDP/SEA Plat (at the intersection of Roanoke River Road and Braddock Road).

21. Westbound Left Turn on Braddock Road. Prior to the issuance of the first new Non-RUP the Applicant shall lengthen the westbound left turn lane at the Roanoke River Road and Braddock Road intersection to provide a 335 foot turn lane, with a 200 foot taper as shown on the GDP/SEA Plat sheet number 7.

22. Shared Parking Study/Parking Reduction Study. At the time of dedication of right-of-way for the "Phase 2 Plan" and/or "Phase 3 Plan", a shared parking study and/or parking reduction study that demonstrates that adequate parking is available for the entire shopping center shall be submitted for approval in accordance with the Zoning Ordinance. If it is determined in review of the revised shared parking and/or parking reduction study that the parking is not adequate for the shopping center, the Applicant shall be permitted to provide additional parking spaces on the Property without a proffered condition amendment, provided that open space is not reduced, or to reduce the number of uses and adhere to the limits specified by DPWES.

23. Pedestrian Signal Timing. Subsequent to completing the improvements outlined in paragraphs 19 and 20, the Applicant shall submit a pedestrian signal study to VDOT seeking an increase in the amount time allocated for pedestrians using the crosswalks at the intersection of Braddock Road and Roanoke River Road and pay for any modifications to the timing of the pedestrian signal at the intersection of Braddock Road and Roanoke River Road, as approved and determined to be necessary by VDOT.

STORMWATER MANAGEMENT

24. Stormwater Management ("SWM") Facilities. The Applicant will fulfill such requirements through the use of an underground system shown on the GDP/SEA Plat in accordance with the stormwater management narrative and Fairfax County requirements in the Public Facilities Manual. SWM and outfall shall be reviewed for adequacy by DPWES at the

time of site plan approval. If measures depicted on the GDP/ SEA Plat are determined not to be adequate, a PCA may be required.

25. Interim SWM Facilities. Concurrent with the construction of the underground system during the first phase of development, the Applicant shall phase construction of SWM facilities as approved by DPWES.

LANDSCAPING

26. Landscaping and Landscaped Open Space. The site plan submitted for the development shall include a landscape plan consistent with that on Sheets 17, 18, 19 and 20 of the GDP/SEA Plat. The Applicant shall maintain the existing landscaping on site and the proposed landscaping as shown on the GDP/SEA Plat. All new deciduous trees provided as shown on such landscape plan, shall be a minimum of 2 to 2.5 inches in caliper at the time of planting. All new evergreen trees used in peripheral screening and landscaping areas and public spaces shall be a minimum of six (6') feet in height at the time of planting. Such landscape plan shall be provided in substantial conformance with the landscaping concepts shown on the GDP/SEA Plat as determined and approved by UFM.

27. Location of Utilities. Along all existing and proposed public rights-of-way, utility lines shall be generally located so as to not interfere with the landscaping concepts shown on the GDP/SEA Plat. The Applicant reserves the right to make minor modifications to relocate such landscaping to reasonably accommodate utilities lines and Virginia Department of Transportation (VDOT) sight distances provided such relocated landscaping shall retain a generally equivalent number of plantings and continues to reflect the concepts illustrated on the GDP/SEA Plat and shall conform to the tree canopy calculations specified in the County Public Facility Manual (PFM). Any tree or shrub determined to impact utilities lines and sight distance shall be replaced with an appropriate size or relocated elsewhere on the site with equal size and quality, as determined by UFM. For all other areas of the Property, in the event that, during the process of site plan review any landscaping shown the GDP/SEA Plat cannot be installed in order to locate utility lines, as determined by DPWES, then an area of additional landscaping

consisting of equivalent flora generally consistent with that displaced shall be substituted at an alternate location on the Property, subject to approval by UFM.

28. Tree Preservation. The applicant shall submit a Tree Preservation Plan and Narrative as part of the first and all subsequent site plan submissions. The preservation plan and narrative shall be prepared by a Certified Arborist or a Registered Consulting Arborist or Landscape Architect, and shall be subject to the review and approval of the Urban Forest Management Division DPWES.

A. The tree preservation plan shall include a tree inventory that identifies the location, species, critical root zone, size, crown spread and condition analysis percentage rating for all individual trees to be preserved, as well as all on and off-site trees, living or dead with trunks 8 inches in diameter and greater (measured at 4 ½ feet from the base of the trunk or as otherwise allowed in the latest edition of the Guide for Plant Appraisal published by the International Society of Arboriculture) located within 25 feet to either side of the limits of clearing and grading. The tree preservation plan shall provide for limits of clearing and grading shown on the GDP/SEA Plat and those additional areas in which trees can be preserved as a result of final engineering. The tree preservation plan and narrative shall include all items specified in PFM 12-0506 and 12-0508. Specific tree preservation activities that will maximize the survivability of any tree identified to be preserved such as: crown pruning, mulching, fertilization, and others as necessary, shall be included in the plan.

29. Tree Preservation Walk-Through. The Applicant shall retain the services of a certified arborist or Registered Consulting Arborist or Landscape Architect, and shall have the limits of clearing and grading marked with a continuous line of flagging prior to the walk-through meeting. The owners of the Lots subject to the Amended Covenant dated September 15, 1984 as recorded in Deed Book 6040 at page 971 of the land records, the Braddock District Planning Commission and abutting Property Owners shall be invited to the walk-through meeting. During the tree-preservation walk-through meeting, the Applicant's certified arborist or landscape architect shall walk the limits of clearing and grading with an UFM, DPWES, representative to determine where adjustments to the clearing limits can be made to increase the area of tree preservation and/or to increase the survivability of trees at the edge of the limits of

clearing and grading, and such adjustment shall be implemented. Trees that are identified as dead or dying may be removed as part of the clearing operation. Any tree that is so designated shall be removed using a chain saw and such removal shall be accomplished in a manner that avoids damage to surrounding trees and associated understory vegetation. If a stump must be removed, this shall be done using a stump-grinding machine in a manner causing as little disturbance as possible to adjacent trees and associated understory vegetation and soil conditions.

30. Limits of Clearing and Grading. The Applicant shall conform strictly to the limits of clearing and grading as shown on the GDP/SEA Plat, subject to a 5 foot clearing area along the southern property line to allow construction of the retaining walls. A replanting plan shall be developed and implemented, subject to approval by the UFM for the 5 foot wide area protected by the limits of clearing and grading that must be disturbed for the retaining wall.

31. Tree Preservation Fencing.

A. All trees shown to be preserved on the tree preservation plan shall be protected by tree protection fence. Tree protection fencing in the form of four (4) foot high, fourteen (14) gauge welded wire attached to six (6) foot steel posts driven eighteen (18) inches into the ground and placed no further than ten (10) feet apart, or super silt fence to the extent that required trenching for super silt fence does not sever or wound compression roots which can lead to structural failure and/or uprooting of trees shall be erected at the limits of clearing and grading as shown on the demolition Plan, as may be modified by the "Root Pruning" development condition below.

B. 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 any existing structures. The installation of all tree protection fencing shall be performed under the supervision of a certified arborist or landscape architect, and accomplished in a manner that does not harm existing vegetation that is to be preserved. Three (3) days prior to the commencement of any clearing, grading or demolition activities, but subsequent to the installation of the tree protection devices, UFM shall be notified and given the opportunity to inspect the site to ensure that all tree protection devices have been correctly installed. If it is

determined that the fencing has not been installed correctly, no grading or construction activities shall occur until the fencing is installed correctly, as determined by UFM.

32. Root Pruning. The Applicant shall root prune, as needed to comply with the tree preservation requirements of these development conditions. 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 UFM and accomplished in a manner that protects affected and adjacent vegetation to be preserved, and may include, but not be limited to the following:

- Root pruning shall be done with a trencher or vibratory plow to a depth of 18 inches.
- Root pruning shall take place prior to any clearing and grading, or demolition of structures.
- Root pruning shall be conducted with the supervision of a certified arborist or landscape architect.
- A UFM representative shall be informed when all root pruning and tree protection fence installation is complete.

33. Site Monitoring. During any clearing or tree/vegetation/structure removal on the Applicant Property, a representative of the Applicant shall be present to monitor the process and ensure that the activities are conducted as proffered and as approved by the UFM. The Applicant shall retain the services of a certified arborist or Registered Consulting Arborist or landscape architect to monitor all construction and demolition work and tree preservation efforts in order to ensure conformance with all tree preservation proffer development conditions, and UFM approvals. The monitoring schedule shall be described and detailed in the Landscaping and Tree Preservation Plan, and reviewed and approved by the UFM.

34. Bonding.

A. A professional with experience in plant appraisal, such as a certified arborist or landscape architect, shall be retained to determine the replacement value of trees noted "to be saved" on the tree preservation plan including both on-site trees and off-site trees 8 inches in diameter and greater, and 25 feet from the limits of clearing and grading. These trees and their value shall be identified on the tree preservation plan at the time of the first submission

of the site plan. The replacement value shall take into consideration the age and size of the trees and shall be determined by the so called "Trunk Formula Method" contained in the latest edition of the Guide for Plant Appraisal published by the International Society of Arboriculture, subject to review and approval by UFM.

B. The Applicant shall practice due diligence to preserve healthy trees determined worthy of saving by Urban Forestry Management. At the time of site plan approval, a cash bond or letter of credit payable to the County of Fairfax shall be posted to ensure preservation and/or replacement of the designated trees that die or are dying due to unauthorized construction activities. The letter of credit shall be equal to fifty percent (50%) of the replacement value of the bonded trees. The cash bond shall consist of thirty-three percent (33%) of the amount of the letter of credit. At the time of the issuance of the Non-RUP, the Applicant shall be entitled to request a release of any monies remaining in the cash bond and a reduction in the letter of credit to any amount up to twenty percent (20%) of the total amounts originally committed. The amount of funds to be released shall be determined by UFM. Any funds remaining in the letter of credit or cash bond will be released concurrently with the site performance bond release, or sooner, if approved by UFM.

C. If at the time of final bond release, trees are found to be dead or dying despite adherence to approved construction activities by UFM, the cash bond or letter of credit shall be used as necessary to plant similar size and species, or species appropriate to the site, in consultation with UFM, and the Applicant's certified arborist or landscape architect. The cash bond or letter of credit shall not be used for the removal of the dead/dying trees normally required by the PFM. In addition to the replacement obligation, the Applicant shall also make a payment to Fairfax County equal to the value of any tree shown to be preserved on the GDP Plat that is determined by UFM to be dead or dying due to unauthorized construction activities. This payment shall be based on the "Trunk Formula Method" noted above and be paid to a Tree Preservation and Planting Fund established by the County for furtherance of tree preservation objectives in the Braddock District.

35. Native Trees. Native species of trees shall be used within the landscaping, streetscape and parking lot landscaping space areas as determined appropriate by the County

Urban Forester per the County PFM. Applicant shall remove, replace and maintain any dead trees in the parking lot landscaping.

36. Supplemental Landscaping in the R-1 zoned area. At the time of planting, the minimum size of deciduous canopy and understory trees shall be 2"-2 ½" caliper, and the minimum height of evergreen trees shall be 8 feet per the County PFM. Areas that are cleared and graded for construction of the retaining wall next to the 50 foot buffer shall be replanted by the Applicant with native species more typically found at the edges of forests, such as *Acer rubrum* (Red maple), *Amelanchier arborea* (Serviceberry), *Cercis canadensis* (Redbud), *Carpinus caroliniana* (American Hornbeam), *Carya glabra* (Pignut hickory), *Cornus florida* (Dogwood), *Hamamelis virginiana* (Witchhazel), *Juniperus virginiana* (Redcedar), *Ilex opaca* (American holly), and *Quercus coccinea* (Scarlet oak), as determined and approved by UFM, as soon as construction activities in the retaining wall area are completed and planting conditions are appropriate, but in no instance shall this occur later than the issuance of a Final NonRUP for any structure adjacent to a cleared area.

MISCELLANEOUS

37. Pedestrian Elements.

A. The Applicant shall construct and maintain pedestrian walk-ways and crosswalks as sheet shown on sheets 10 and 11 of the GDP/SEA Plat as follows:

- Paver crossways connecting Buildings G1 and G2 and to sidewalk from Braddock Road entrance. See Area Detail "D" sheet 11.
- Paver crosswalk leading to Building C. See Area Detail "B" Sheet 11.
- A paver landing area with a knee wall at the center's entrance on Roanoke River Road aligned with the crosswalks from George Mason University connecting to the center's interval sidewalk system. See Sheet 10.
- A pedestrian sidewalk with a raised crosswalk connection to the neighborhood along the southern property line. See Area Detail "C" Sheet 11.

- Each pedestrian element shall be constructed concurrently during construction of the building in closest proximity, and the entire pedestrian circulation plan must be provided with the first phase of construction.

B. The Applicant shall maintain sidewalks and/or trails located outside the public right-of-way. The pedestrian connection to the neighborhood to the south shall include street lights lit and be maintained, including snow removal by the Applicant. The Applicant shall also remove snow/ice from the 50 foot segment of sidewalk north of the property line.

38. Trash. All outdoor trash receptacles shall conform to the standards set forth in the Public Facilities Manual for the screening of such receptacles. The Applicant shall: (a) provide trash cans in the general vicinity of each outdoor seating and patio area; (b) provide for the removal of the trash bi-weekly from this area and (c) generally clean and clear each outdoor seating and patio area of trash daily. The Applicant shall arrange for trash pick ups to occur, no earlier than 7 a.m. and no later than 9 p.m.

39. Loading. All loading activities shall strictly comply with time of day restrictions set forth in the Public Facilities Manual.

40. Food Odor. The applicant shall not allow the discharge of air contaminants/objectionable odors generated by the restaurants or their solid waste. The Applicant shall employ, but not be limited to, the following control measures: A. All putrescible material as defined by the Fairfax County Code Section 109-1-1-2, shall be stored in sealed containers and shall be disposed in a container(s) reserved exclusively for use by the restaurants. Such putrescible material shall not be shredded or unsealed. B. All putrescible materials shall be removed from the subject property by a commercial refuse hauler as needed, Monday through Saturday. Said trash removal shall occur, no earlier than 7 a.m. and no later than 9 p.m. These standards shall be in addition to any other performance standards, regulations, ordinances, or restrictions provided by law.

41. Parking Enforcement. The Applicant shall prohibit parking of vehicles by people not visiting the shopping center and shall provide signage to alert the public. The Applicant shall maintain a contract with a towing service and have parked vehicles which are in violation towed from the Property at the violator's expense.

42. Security Cameras and Security Guards. A. The Applicant shall install and monitor 24 hour surveillance cameras recording outdoor activity within all parking lots of the shopping center. The Applicant shall provide 24 hour access to camera website to the Fairfax County Police Department. B. Security guards shall patrol the property on Friday and Saturday nights and on nights where live entertainment is provided in any of the eating establishments.

43. Community Room. The Applicant shall construct at no cost to the County, a community meeting space of not less than 1000 square feet at or above grade in the shopping center for uses coordinated by the Applicant. This meeting space shall be used at no cost to the community other than a nominal deposit which would be fully refundable. The Applicant shall provide utilities, cleaning services and general maintenance at no cost to the County. The Applicant shall also provide basic office furniture including desks, chairs and tables and post scheduling information and a phone number.

44. Escalator Clause; Escalation in Contribution Amounts. All proffers specifying contribution amounts, the contribution amount shall escalate on a yearly basis from the base year of 2010 and change effective each January 1 thereafter, based on changes in the Consumer Price Index for all urban consumers (not seasonally adjusted) ("CPI-U"), both as permitted by Virginia State Code Section 15.2-2303.3.

45. Successors and Assigns. These proffers shall bind and inure to the benefit of the Applicant and its successors and assigns. Each reference to "Applicant" in these proffers shall include and be binding upon the Applicant's successor(s) in interest and/or developer(s) of any portion of the Property.

46. Counterparts. These proffers may be executed in one or more counterparts, each of which when so executed shall be deemed an original document and all when taken together shall constitute but one and the same instrument.

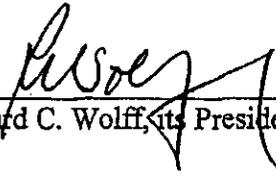
47. University Mall Management Contact Information. Telephone numbers and email addresses for Mall Management Officials shall be provided to the Braddock District Supervisors Office for contact on Mall Management issues.

48. Building G. Applicant shall commence construction of the main shopping center renovation and/or building additions prior to the issuance of a NON-RUP for a use in Building E, F and G.

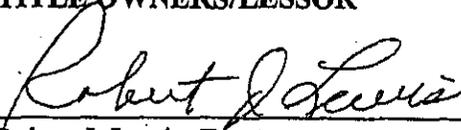
49. Applicant shall replace any on-site fencing that is removed or damaged during construction of the retaining wall next to the 50 foot buffer. The replacement fencing shall be the same type of material and same height as the original fencing.

College Town Associates Limited Partnership
Applicant/Groundlessee

By: Geo. H. Rucker Realty Corporation its
General Partner

By: 
Richard C. Wolff, its President

TITLE OWNERS/LESSOR

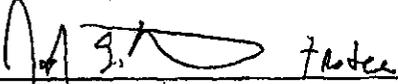


Robert J. Lewis, Trustee

John T. Whatley, Trustee

TITLE OWNERS/LESSOR

Robert J. Lewis, Trustee

 trustee

John T. Whatley, Trustee

DEVELOPMENT CONDITIONS

SEA 87-A-086-02

March 23, 2011

If it is the intent of the Board of Supervisors to approve SEA 87-A-086-02 on Tax Maps 68-1((1)) 9A and 9 pt. previously approved for a child care center with the University Mall Shopping Center to permit a relocation of the child care center, a fast food restaurant with a drive-in, drive-in financial institutions, an increase in building height from 40 feet up to a maximum of 65 feet, a service station with a mini-mart, and other site modifications pursuant to Sect. 4-604 and 9-607 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 previously approved conditions as they pertain to this site (those conditions carried forward from the previous approval are marked with an asterisk*).

1. This Special Exception Amendment is granted for and runs with the land indicated in this application and is not transferable to other land.*
2. This Special Exception Amendment is granted only for the purpose(s), structure(s) and/or use(s) indicated on the special exception amendment plat approved with the application, as qualified by these development conditions.*
3. This Special Exception Amendment is subject to the provisions of Article 17, Site Plans. Any plan submitted pursuant to the special exception shall be in substantial conformance with the approved Special Exception Amendment (SEA) Plat entitled "College Town Associates, L.P. . . . University Mall," prepared by Bohler Engineering dated and sealed on March 11, 2011. Minor modifications to the approved special exception may be permitted pursuant to Par. 4 of Sect. 9-004 of the Zoning Ordinance.
4. A copy of this Special Exception Amendment and the Non Residential Use Permits SHALL BE POSTED in a conspicuous place on the property of the use and made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
5. All exterior lighting, including streetlights, security lighting, signage lighting and pedestrian or other incidental lighting shall be in accordance with the Performance Standards contained in Part 9, of Article 14 of the Zoning Ordinance. Any signage lighting that faces the residential communities to the south shall be dimmed at least 50 percent from 10 PM to dawn.
6. All signage shall comply with Article 12 of the Zoning Ordinance. As proffered, the applicant shall file a Special Exception Amendment in the future for a

waiver of certain sign regulations to allow relocation of signs and additional sign areas that will not negatively impact the adjacent neighborhoods.

7. Parking spaces shall meet the provisions of Article 11 of the Zoning Ordinance and the geometric design standards in the Public Facilities Manual, as determined by DPWES; a parking tabulation which demonstrates that parking requirements are met for every use in the shopping center shall be submitted and approved by DPWES prior to issuance of a Non-Residential Use Permit (Non-Rup) for any additional uses on the property.
8. Pedestrian sidewalks and crosswalks located along the access point leading from George Mason University on Roanoke River Road to the north and the residential community to the south as shown on the GDP/ SEA Plat shall be depicted on the first site plan and shall be completed prior to the issuance of the first Non-residential Use Permit (Non-RUP).
9. Notwithstanding that shown on the GDP/ SEA Plat, an accurate setback from Ox Road for Building H shall be measured and provided on all site plan submissions. If the setback is determined to not meet the Zoning Ordinance requirement of 40 feet in a C-6 District, the applicant shall 1) provide evidence that the existing building has been taxed for a period of 15 years pursuant to Section 15.2307 of the Code of Virginia (which would deem the building as a legal nonconforming use without the ability to expand), or 2) apply for a modification of yard requirement during the first submission of the site plan. In the event that these options fail, the applicant may need to remove the drive-in canopy on Building H to comply with the setback requirement.

Child Care Center

10. The maximum daily enrollment shall be limited to 150 students.*
11. The maximum number of staff for the child care center shall not exceed eighteen (18) persons on site at any one time.*
12. The hours of operation of the child care center shall be limited to 6:00 AM to 7:00 PM, Monday through Friday.*
13. The play area shall include a six foot tall wooden board on board fence as shown on the SEA Plat.
14. Cautionary signage shall be provided on or near Building F to enhance safety for pedestrian access to the child care center.
15. The parking area shall not be used for recreational purposes.
16. Based on the minimum required square footage of outdoor play area per child, no more than 50 children shall be in the outdoor play area at any one time.*

Fast Food Restaurant with Drive-in

17. There shall be a maximum of one fast food restaurant in Building G2 which may have a drive-in lane as shown on the SEA Plat.

Building Heights

18. The height of the accent towers on Buildings A, C, and D shall not exceed the maximum heights shown on the GDP/ SEA Plat. No gross square footage as defined by the Zoning Ordinance shall be permitted in the towers. In addition, no flagpoles or temporary signage shall be displayed on the towers.

Service Station

19. There shall be no separate free standing sign associated with the proposed service station/ mini-mart.*
20. The hours of operation shall be limited to 6:00 A.M. to Midnight, seven days a week.*
21. Landscaping shall be provided as shown on the SEA Plat. The service station bay entrance screening shall be evergreen and graduated in height to provide for safety and good visual buffer.*

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-six (36) months after the date of approval unless, at a minimum, the use has been established or construction has commenced and been diligently prosecuted for one of the buildings in the proposed development options. 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.