

PROFFER STATEMENT
RZ/FDP 2010-LE-020
May 23, 2011

Pursuant to Section 15.2-2303(a) Code of Virginia, 1950, as amended, FB Property, LLC (hereinafter referred to as the "Applicant"), for the owners, itself, successors and assigns in RZ/FDP 2010-LE-020, filed for property identified as Tax Map 99-1 ((1)) 5A and 6 (hereinafter referred to as the "Application Property") hereby proffers the following, provided that the Board of Supervisors approves a rezoning of the Application Property from R-1 Residential and C-8 Highway Commercial, respectively, to the PDC District in conjunction with a Conceptual/Final Development Plan ("CDP/FDP") for a hotel. These proffers shall replace and supersede all previous proffers, if any, approved on the Application Property.

1. Substantial Conformance: Subject to the proffers and the provisions of Article 16 of the Zoning Ordinance, under which minor modifications per Section 16-404 of the Zoning Ordinance to an approved development plan are permitted as determined by the zoning administrator, the development shall be in substantial conformance with the CDP/FDP containing sixteen (16) sheets prepared by Christopher Consultants and Cooper Carry, Inc., dated October 27, 2010, as revised through May 23, 2011.
2. Building Elevations and Materials: The building elevations and materials on all sides of the Embassy Suites Hotel (the "Hotel") shall be substantially in accordance with the approved conceptual elevations of the front and rear included in the CDP/FDP. The exterior of the ground floor of the Hotel shall be masonry, brick veneer or stone veneer, and the upper floors shall be commercial grade exterior insulating finishing system ("EIFS").

As shown on Sheets 5 and 5A of the CDP/FDP, the "Living Green" Retaining Wall at the northeast corner of the building will be modified from a retaining wall with a maximum height of 8 feet to an elevated exterior wall of the building up to a maximum height of 19 feet to facilitate a second level emergency egress. The façade of this wall will incorporate a living green element as noted on Sheets 5 and 5A of the CDP/FDP.

3. Stormwater Management:
 - a. Stormwater Treatment: Unless waived or modified by the Department of Public Works and Environmental Services ("DPWES"), the Applicant shall provide on-site stormwater management in accordance with the Public Facilities Manual ("PFM") designed with Best Management Practices in the facility shown on the CDP/FDP within an underground structure serving the Hotel, as is shown in the CDP/FDP subject to minor modifications. The maintenance of the underground facilities shall be the responsibility of the Applicant and its successors. The private ownership and maintenance responsibilities shall be disclosed in writing to future purchasers.
 - b. Adequate Outfall: To satisfy adequate outfall standards in accordance with the PFM, as determined by DPWES, at the time of site plan approval, the Applicant shall provide for onsite storm drainage pipes to convey storm water flows from the site to the existing

storm water drainage pipes located in the VDOT right-of-way of Loisdale Road – Route 789, as is shown in the CDP/FDP. The Applicant shall install the onsite outfall pipes needed to carry the stormwater in easements to be recorded in the land records maintained by the Clerk of the Circuit Court of Fairfax County, Virginia.

- c. Rainwater Collection: The Applicant shall install a rainwater collection system on the Application Property to collect stormwater subject to DPWES approval. The collected stormwater shall be used to supplement irrigation of landscaping installed on the Application Property.

4. Type and Physical Characteristics of Use:

- a. The primary use of the Application Property shall be a Hotel. An eating establishment, fast food restaurant, retail and rooftop telecommunications facilities may be permitted as ancillary uses on the property.
- b. The Hotel shall be 7 stories and contain approximately 183,218 gross square feet and a maximum of 219 suites; the ground level shall be “cellar” space as defined in the Zoning Ordinance and limited as shown on the CDP/FDP and, consequently, the gross floor area for the calculation of density is 138,906 gross floor area and the resulting Floor to Area Ratio is 0.70.
- c. Telecommunication Equipment: Antenna, satellite dishes, and other telecommunication facilities may be placed on the proposed building rooftops; however, any such facilities shall be screened and/or set back sufficiently from the perimeter of the roof and penthouse, such that they shall not be visible from the surrounding streets at street level. Other screening measures may be used, such as including the facilities as part of the architecture of the building, utilizing compatible colors, or employing telecommunication screening material, and flush-mounted antennas.

5. Retail Area : The Applicant shall be able to locate, attached to the ground floor, up to 1,475 square feet for retail or other commercial use supporting the Hotel. Such use may include, but not be limited to, a coffee shop or shipping/copy store. The Applicant shall use reasonable commercial efforts to lease the supportive retail space for the identified supportive retail uses. In the event the space cannot be leased for supportive retail uses, the Applicant shall be able to use the space for general hotel purposes.

6. Transportation Improvements and Transportation Demand Management (“TDM”) Strategies: The Applicant shall design and construct the following transportation improvements and implement TDM strategies, in addition to those improvements otherwise required by the County and VDOT pursuant to law:

- a. Loisdale Road/Newington Road Intersection: Primary access to the Application Property shall be provided at the intersection of Loisdale Road and Newington Road, as shown on the CDP/FDP and in accordance with the recommendations of the Comprehensive Plan. Said improvements shall be designed and substantially constructed prior to the issuance of a Non-Residential Use Permit (“Non-RUP”) for the Hotel. Improvements to be

provided in conjunction with the provision of access at this location include the following:

- i. Closure and relocation of the existing site access on Loisdale Road located approximately 450 feet south of Newington Road.
 - ii. Modification of the existing signal at Newington Road/Loisdale Road to accommodate the new site access and pedestrian crossing.
 - iii. Provision of a left turn lane on northbound Loisdale Road at the planned site entrance to provide storage and a taper substantially as shown on the CDP/FDP. The Applicant, if requested by VDOT during the site plan approval for the Hotel, shall adjust the stacking area of this left turn lane in order to allow future construction (by others) of a stacking area for a “left in” and/or a “left out” turn for the benefit of the businesses on the east side of Loisdale Road. The Applicant shall have no responsibility to design or construct the stacking area for the “left in” and/or “left out” serving the business on the east side of Loisdale Road. Upon completion of construction by Applicant of the northbound left turn lane serving the Hotel, the Applicant shall have no further obligation to make any design changes or construction modifications of this left turn lane.
 - iv. Provision of a right-turn deceleration lane on southbound Loisdale Road at the planned site entrance to provide for storage and a taper substantially as shown on the CDP/FDP.
- b. Northern Site Access: The Applicant shall, prior to the issuance of a non-RUP for the Hotel, construct a right-in only entrance at the northern end of the site to a standard as may be approved by VDOT and as generally shown on Sheet 5 of the CDP/FDP. In the alternative, if DPWES, in consultation with the Fairfax County Department of Transportation (“FCDOT”), VDOT and the Lee District Supervisor’s office, shall determine, prior to Site Plan approval, that a right-in/right-out intersection shall be constructed, then the Applicant shall construct such an intersection, as shown on Sheet 5A of the CDP/FDP. If, in order to construct a right-in only entrance, an amendment to the County’s Comprehensive Plan is required, the Applicant shall pursue an out-of-turn amendment to the Comprehensive Plan after the rezoning process.
- c. Bus Shelter Pad: Prior to issuance of the Non-RUP for the Hotel, the Applicant shall construct a bus shelter pad and any related sidewalk modifications for a bus stop along the property’s frontage in a location coordinated with and approved by the FCDOT, but which, in any event, shall be no closer than 100 feet north of the main entrance opposite Newington Road.
- d. Trail: The Applicant agrees to provide a ten (10) foot wide asphalt trail as shown on the CDP/FDP; the portion of the trail from the Main intersection northward to the end of the property along Loisdale Road may be eliminated if during Site Plan Review the County deems it not desirable.

- e. Dedication of right-of-way. As shown in the area depicted on the CDP/FDP, the Applicant shall reserve for future dedication approximately 120 gross square feet of right-of-way along the property's Loisdale Road frontage, as generally shown in the CDP/FDP, for the future construction by others of an additional southbound left-turn lane on Loisdale Road at the Fairfax County Parkway subject to VDOT approval. Such dedication shall not require a modification of the CDP/FDP. Dedication of right-of-way shall be in fee simple without encumbrance to the Board of Supervisors. In addition, the Applicant shall grant ancillary 10-foot temporary construction easements along the property's Loisdale Road frontage if required to facilitate said future construction. The dedication and easements shall be provided at the time of site plan approval, or upon written request from Fairfax County Board of Supervisors whichever first occurs.

If the left turn lane noted above, which is to be constructed by others, does not include a raised median in order to allow "left outs" for the benefit of the businesses on the east side of Loisdale Road, VDOT may, in the future, determine that there should be a raised median in Loisdale Road due to safety reasons. Such determination shall be made by VDOT, after consultation with the Lee Magisterial District Supervisor, the Mt. Vernon Magisterial District Supervisor, FCDOT and the Community. Final configuration of the median shall be determined by VDOT.

- f. Substantially Complete: For purposes of this proffer, the term "substantially complete" shall mean constructed and available for use by the public, but not necessarily accepted by VDOT for maintenance.
- g. Transportation Demand Management Program:
- i. This Proffer sets forth a program for a Transportation Demand Management Plan (the "TDM Plan") that shall be implemented by the Applicant to encourage the use of transit (Metrorail and bus), other high-occupancy vehicle commuting modes, walking and biking, all in order to reduce automobile trips generated by the Application Property:
- (a) Program Manager. Thirty (30) days after issuance of a building permit for the Application Property, the Applicant shall designate an individual to act as the Program Manager ("PM") for the Hotel, whose responsibility will be to implement the TDM strategies. The duties of the PM may be part of other duties assigned to the individual(s). The Applicant shall participate in available Springfield area-wide TDM programs (if available), activities and transportation improvement endeavors provided by Fairfax County, and other various stakeholders in the area, if also available.
- (b) TDM Plan. Ninety (90) days after the appointment of the PM, the PM shall submit to FCDOT for review and approval, the TDM Plan to be implemented for the Application Property. The TDM Plan, and any amendments thereto, shall include, but not be limited to, provisions for the following with respect to the Application Property.

- Information Dissemination. The PM shall make Metrorail and bus maps, schedules and forms, ridesharing and other relevant transit option information available to Hotel employees, visitors, and guests in a common area; such as the central lobby, community room, and/or Hotel management office. The PM shall also make multi-modal transportation information available as part of in-room service guides, or Hotel information through the closed-circuit television system to its Hotel guests.
- Ride Matching. The PM shall coordinate and assist with vanpool and carpool formation programs, ride matching services, and established guaranteed ride home programs for employees.
- High Speed Internet Data. Hotel guests shall be provided access to high speed internet data.
- Teleworking. Encourage Hotel guests to telework through the utilization of high capacity data/network connections available through their employers.
- Board Room. The Applicant shall continually provide a minimum of 400 square feet of space for use by Hotel guests to meet with business associates on site.
- Car Sharing Information. The PM shall make information available regarding the availability of car sharing program(s) to Hotel employees, visitors, and guests (such as ZipCar).
- Preferential Parking. The Applicant shall provide preferential Hotel parking for car/van pools within the Application Property.
- Shuttle Service. The Applicant shall coordinate and/or provide, through other services, the opportunity for both Hotel guests and employees to utilize shuttle services to the Franconia Springfield Metrorail station, or elsewhere, during the A.M. and P.M. peak hours.
- Coordination. The PM shall work with FCDOT, and any other transportation management entities established in the local area of the development, to promote alternatives to single-occupant automobile commuter trips.
- Wayfinding. The Applicant shall provide signage which directs traffic leaving the Hotel to Interstate 95 and the main gate of Fort Belvoir and directs guest traffic entering the Hotel to use the main entrance at Newington Road. Any such signage placed in a VDOT right-of-way shall be subject to VDOT approval.

If FCDOT has not responded with any comments to the PM within sixty (60) days of receipt of the TDM Plan, the TDM Plan shall be deemed to be approved and the Applicant, through the PM, shall implement the TDM Plan.

- ii. The Applicant shall provide a SmarTrip card, with a value of twenty-five dollars (\$25.00) to each Hotel employee at the time of initial employment and, if requested, continue to provide a card of the same value on a monthly basis to employees.
 - iii. The Applicant shall become a member of TAGS and pay annual dues. As a member of TAGS, the Applicant shall use best efforts to modify and/or enhance existing TAGS bus routes to serve the Application Property.
 - iv. The Applicant shall provide a secure area to accommodate a minimum of ten (10) bicycles.
 - h. Prior to Site Plan approval, the Applicant shall provide an escrow of twenty-five thousand dollars (\$25,000.00) toward a future additional southbound left turn lane from southbound Route 7100 onto northbound Loisdale Road.
 - i. The Applicant shall contribute fifty thousand dollars (\$50,000) to the County to be used towards the cost of designing and constructing a second left turn lane from southbound Loisdale Road onto southbound Route 7100, as referenced in Section 6.e. Such funds shall be contributed no later than thirty (30) days after Site Plan approval.
 - j. The Applicant shall contribute, prior to the issuance of the Non-RUP for the Hotel, two thousand five hundred (\$2,500) dollars for use in traffic calming measures in the Newington Residential subdivision.
 - k. All traffic improvements shall be designed and constructed in compliance with VDOT standards (or as may be modified) in effect at the time of Site Plan approval.
7. Green Building Practices:
- a. The Applicant shall include a U.S. Green Building Council (“USGBC”) Leadership in Energy and Environmental Design (“LEED”) accredited professional as a member of the design team. This professional shall also be a professional engineer, landscape architect, or architect. The LEED accredited professional shall work with the team to incorporate sustainable design elements and innovative technologies into the project, with the goal of having the project attain LEED certification. At the time of site plan submission, the Applicant shall provide documentation to the Environment and Development Review Branch of DPZ demonstrating compliance, with the commitment to engage such a professional.
 - b. The Applicant shall include for information, as part of the site plan submission and building plan submission, a LEED Scorecard, listing specific credits within the latest version of the USGBC LEED New Construction (LEED –NC) rating system in effect at the time of site plan submission that the Applicant anticipates attaining. A professional

engineer, landscape architect, or architect will provide certification statements at both the time of site plan review and the time of building plan review, confirming that the items on the list are consistent with LEED certification credits.

- c. Prior to site plan approval, the Applicant shall designate the Chief of the EDRB of 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, will not be provided with the authority to modify any documentation or paperwork, and shall not provide any documentation or paperwork to the public unless written permission is provided by the Applicant.
- d. LEED certification.
 - Prior to the issuance of a building permit, the Applicant shall execute a separate agreement and post a "green building escrow," in the form of cash or a letter of credit from financial institute acceptable to DPWES as defined in the Public Facilities Manual, in the amount of thirty thousand dollars (\$30,000.00). This escrow shall be in addition to and separate from other bond requirements and shall be released upon demonstration of attainment of LEED Certification, by the USGBC, under the version of the USGBC's LEED-NC rating system in effect at time of site plan submission. The provision of documentation to the EDRB of DPZ from the USGBC that the hotel has attained LEED Certification shall be sufficient to satisfy this commitment
 - If, within one (1) year of the issuance of the Non-RUP for the hotel, the Applicant provides to the EDRB of DPZ documentation demonstrating that LEED Certification for the hotel has not been attained, but that the hotel has been determined by the USGBC to fall within three (3) points of attainment of LEED Certification, 50% of the escrow shall be released to the Applicant, and the other 50% shall be released to Fairfax County and will be posted to a fund within the County budget supporting implementation of County environmental initiatives. However, if the Applicant provides documentation demonstrating, to the satisfaction of the EDRB of DPZ, that USGBC completion of the review of the LEED Certification application has been delayed through no fault of the Applicant and/or the Applicant's contractors or subcontractors, this proffered time frame shall be extended for one (1) year, and no release of escrowed funds shall be made to the Applicant or to Fairfax County during the extension unless the Applicant provides documentation from the USGBC to ERDB within this time frame that the LEED Certification has been obtained. After this one (1) year extension, additional one (1) year extensions may be granted if the Applicant provides documentation at the end of the previous one (1) year extension period demonstrating, to the satisfaction of EDRB of DPZ, that USGBC completion of the review of the LEED Certification application has continued to be delayed through no fault of the Applicant or the Applicant's contractors or subcontractors.
 - Should the Applicant fail to provide documentation to the EDRB of DPZ demonstrating attainment of LEED Certification within one (1) year of issuance of the Non-RUP for the hotel, and no extensions have been granted as described herein, the

escrow shall be released to Fairfax County and will be posted to a fund within the County budget supporting implementation of County environmental initiatives.

- e. Within six (6) months of the issuance of a Non-RUP, the Applicant shall provide to the EDRB of DPZ a letter from a LEED-accredited professional certifying that a green building maintenance reference manual has been prepared for use by future building owners, managers and operators and that this manual, at a minimum
 - provides a narrative description of the green building component, including a description of the environmental benefits of that component and including information regarding the importance of maintenance and operation in retaining the attributes of a green building;
 - provides, where applicable, product manufacturer's manuals or other instructions regarding the operations and maintenance needs for the green building component, including operational practices that can enhance energy and water conservation;
 - provides, as applicable, either or both of the following: (1) a maintenance staff notification process for improperly functioning equipment; and/or (2) a list of local service providers that offer regularly scheduled service maintenance contracts to assure proper performance of green building-related equipment and the features, sealants, and caulks; and
 - provides contact information that building occupants can use to obtain further guidance on each green building component. Within six (6) months of the issuance of the Non-RUP, the Applicant shall provide an electronic copy of the manual in pdf format to the Environment and Development Review Branch of DPZ.
 - f. All references to the USGBC shall apply to similar certifying agencies presently in place, or that are created subsequent to approval of this rezoning application, provided that the alternative certifying agency is acceptable to Fairfax County and the Applicant.
8. Density Credit: The Applicant shall retain the density and/or development rights associated and in accordance with the Zoning Ordinance with all eligible dedications as shown on the CDP/FDP, or as may be required by Fairfax County and/or VDOT as part of their approval of the site plan for the Hotel.
9. Environmental:
- a. Landscape Plan and Maintenance Agreement: A landscape plan shall be submitted as part of the initial submission of the site plan for the Hotel, and as part of each subsequent submission of such site plan, and shall be coordinated with and approved by the Urban Forest Management Division ("UFM") and DPWES. This landscape plan shall be in substantial conformance with the landscape concepts illustrated on the CDP/FDP. Exact location and type of plantings may be modified based on utility location, sight distance easements, and final engineering details as determined by the UFM — provided the modifications are in substantial conformance with the CDP/FDP.

The Urban Forest Management Division, DPWES, or Director of DPWES is directed to permit a deviation from the tree preservations target percentage to the extent requested in the CDP/FDP.

b. Stormwater Management Facilities/Best Management Practices Techniques/Low Impact Development: As shown in the CDP/FDP, SWMs, and BMPs shall be provided, as determined by DPWES, in a combination of an underground SWM/BMP facility and individual BMP facilities. At the time of the site plan, the Applicant may incorporate Low-Impact Development features into the site design. Examples include, but are not limited to, the use of vegetated swales, natural open space, or Filterstrips.

c. Lighting and Noise:

- i. All lighting standards shall comply with Zoning Ordinance Article 14, Part 9, Outdoor Lighting Standards, unless such standards conflict with requirements imposed by the Federal Aviation Administration ("FAA"), in which case such FAA requirements shall govern.
- ii. Prior to final site plan approval, the Applicant shall submit a noise analysis based on final site grades and future traffic volumes to DPZ for review and approval, in accordance with the established guidelines for noise analysis at the time of rezoning approval. The noise analysis shall utilize standard measures to evaluate noise, and shall demonstrate that exterior noise within outdoor recreational areas is reduced to below DNL 65 dBA. In order to reduce interior noise to a level of no greater than DNL 45 dBA within a highway noise impact zoning of DNL 65-70 dBA, the Applicant shall employ the following acoustical treatment measures:

- (a) Exterior walls shall have a laboratory sound transmission class ("STC") rating of at least 39.
- (b) Doors and windows shall have a laboratory STC rating of at least 28, unless windows constitute more than 20% of any façade exposed to noise levels of DNL 65 dBA or above. If glazing constitutes more than 20% of an exposed façade, then the windows should have a STC rating of at least 39.
- (c) All surfaces shall be sealed and caulked in accordance with methods approved by the American Society for Testing and Materials ("ASTM") to minimize sound transmission.

Prior to issuance of building permits, the Applicant reserves the right to pursue other methods of mitigating noise impacts that can be demonstrated through an independent noise study, as reviewed and approved by DPZ, that these methods will be effective in reducing noise levels to DNL 45 dBA Ldn or less. Should the highway noise impact zone exceed DNL 70 dBA, the Applicant shall employ additional treatment measures as approved by DPZ to achieve an interior noise level of approximately DNL 45 dBA.

d. Right-of-Way Landscaping: The Applicant shall provide, subject to approval of a

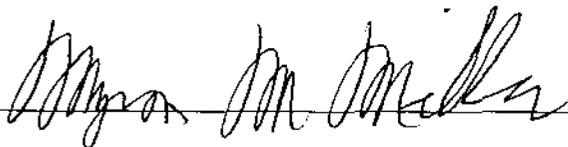
license agreement by VDOT, trees and shrubs in the VDOT right-of-way bordered by Loisdale Road and the Fairfax County Parkway, and landscaping in the VDOT right-of-way on Loisdale Road fronting the Application Property.

- e. Tree Preservation and Proposed Tree Coverage: The proposed 11 percent tree coverage requirement shall be met through on-site tree planting, as illustrated on the Landscape Plan on page 6 of the CDP/FDP, as determined by UFM and DPWES.
10. Parks and Recreation: The Applicant shall contribute the sum of fifteen thousand dollars (\$15,000) to the Board of Supervisors for transfer to the Fairfax County Park Authority, at the time of site plan approval, to be used to help construct a park(s) in the Authority service district of the Lee Magisterial District.
11. Signage: All signage on the Application Property shall conform to the requirements of Article 12 of the Zoning Ordinance. Specifically, the Applicant intends to provide a monument sign, as shown on the CDP/FDP, as well as Hotel signs and signs for the supporting retail, the approximate locations, and conceptual designs of which are shown in the CDP/FDP. No temporary signs (including "Popsicle" style paper or cardboard signs), which are prohibited by Article 12 of the Zoning Ordinance, and no signs that are prohibited by Chapter 7 of Title 33.1 or Chapter 8 of Title 46.2 of the Code of Virginia, shall be placed on or off-site by the Applicant. The Applicant shall also provide directional signs in accordance with Article 12 of the Zoning Ordinance to facilitate vehicular and pedestrian movements through the Application Property and towards Interstate 95 and the main gate of Fort Belvoir.
12. Energy Conservation: Suites constructed on the Application Property shall meet thermal guidelines of the Virginia Power Energy Saver Program for energy-efficient homes, or its equivalent, as determined by DPWES.
13. Successors and Assigns: These proffers will bind and inure to the benefit of the Applicant and his/her successors and assigns.
14. Counterparts: These proffers may be executed in one or more counterparts, each of which, when so executed and delivered, shall be deemed an original document, and all of which taken together, shall constitute but one in the same instrument.
15. Escalation: All monetary contributions required by the Proffers shall be annually adjusted on January 1 upwards or downward, based on changes to the Marshall and Swift Building Cost Index, subsequent to the date of the Board of Supervisors' approval of this rezoning, and up to the date of payment.

[SIGNATURES BEGIN ON NEXT PAGE]

PROFFER STATEMENT
RZ/FDP 2010-LE-020

FB Property, LLC

By: 

Name: Myron M Miller

Title: Member and Co-Manager

Date: Monday, May 23, 2011

PROFFER STATEMENT
RZ/FDP 2010-LE-020

E. V. Hunter Trust, for the benefit of
Edith H. Rameika

By: Edith H. Rameika, Trustee

Name: Edith H. Rameika

Title: Edith H. Rameika, Trustee, as the Successor Trustee
of the E. V. Hunter Trust, for the benefit of
Edith H. Rameika

Date: 5/23/11