



# County of Fairfax, Virginia

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October 15, 2015

**2015 Planning  
Commission**

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**John W. Cooper**  
*Clerk to the Commission*

Mark Looney, Esquire  
Cooley, LLP  
11951 Freedom Drive  
Reston, VA 20190

**Re: RZ/FDP 2015-SU-002/PCA 86-S-071-04 – JLB REALTY, LLC  
Sully District**

Dear Mr. Looney:

At its October 15, 2015 meeting, the Planning Commission voted 9-0 (Commissioners Lawrence, Murphy, and Strandlie were absent from the meeting) to **RECOMMEND APPROVAL** on the above referenced rezoning and Proffered Condition Amendment applications to the Board of Supervisors. A copy of the verbatim transcript, in addition to the proffer statement, dated October 15, 2015, and requested modifications, is attached.

This letter serves as a record of the Planning Commission's recommendation to the Board of Supervisors and not as the final approval. The application is still subject to the final decision by the Board of Supervisors.

Concurrently, the Planning Commission voted 9-0 (Commissioners Lawrence, Murphy, and Strandlie were absent from the meeting) to **APPROVE** the above referenced Final Development Plan application. As noted above, a copy of the verbatim transcript is attached.

This action does not constitute exemption from the various requirements of this County and State. The applicant is responsible for ascertaining if permits are required and for obtaining the necessary permits.

Sincerely,



John W. Cooper, Clerk  
Fairfax County Planning Commission

Attachments (a/s)

cc: Michael Frey, Supervisor, Sully District  
John Litzenberger, Planning Commissioner, Sully District  
Catherine A. Chianese, Assistant County Executive, Clerk to the Board of Supervisors, County Executive Office  
Bob Katai, Staff Coordinator, Zoning Evaluation Division (ZED), Department of Planning and Zoning (DPZ)  
Robert Harrison, ZED, DPZ  
October 15, 2015 date file

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Planning Commission Meeting  
October 15, 2015  
Verbatim Excerpt

RZ/FDP 2015-SU-002/PCA 86-S-071-04 – JLB REALTY, LLC

Decision Only During Commission Matters

Commissioner Litzenberger: Thank you, Mr. Chairman. I do have a question for Mr. Looney. Sir, will you request that the applicant confirm for the confirm for the record their agreement to the proposed RPA Exception conditions contained in Appendix 10 of the staff report and the and dated September 16<sup>th</sup>, 2015?

Mark Looney, Esquire, Applicant's Agent, Cooley LLP: Yes, sir, we do.

Commissioner Litzenberger: Okay, thank you. We don't need to ask for the development conditions since there aren't any, and the proffered conditions have already been signed. So, should I go ahead with the motions?

Vice Chairman de la Fe: Go ahead.

Commissioner Litzenberger: I MOVE THAT THE PLANNING COMMISSION RECOMMEND THAT THE BOARD OF SUPERVISORS APPROVE PCA 86-S-071-04.

Commissioner Flanagan: Second.

Vice Chairman de la Fe: Seconded by Commissioner Flanagan. Any discussion? All those in favor please signify by saying aye.

Commissioners: Aye.

Vice Chairman de la Fe: Opposed? The motion carries.

Commissioner Litzenberger: I MOVE THAT THE PLANNING COMMISSION RECOMMEND THAT THE BOARD OF SUPERVISORS APPROVE RZ 2015-SU-002 AND THE ASSOCIATED CONCEPTUAL DEVELOPMENT PLAN, SUBJECT TO THE EXECUTION OF PROFFERS CONSISTENT WITH THOSE DATED OCTOBER 15<sup>TH</sup>, 2015.

Commissioner Flanagan: Second.

Vice Chairman de la Fe: Seconded by Commissioner Flanagan. Any discussion? Hearing and seeing none, all those in favor please signify by saying aye.

Commissioners: Aye.

Vice Chairman de la Fe: Opposed? The motion carries.

Commissioner Litzenberger: I MOVE THAT THE PLANNING COMMISSION APPROVE FDP 2015-SU-002, SUBJECT TO THE BOARD APPROVAL OF RZ 2015-SU-002.

Commissioner Flanagan: Second.

Vice Chairman de la Fe: Seconded by Commissioner Flanagan. Any discussion? Hearing and seeing none, all those in favor please signify by saying aye.

Commissioners: Aye.

Vice Chairman de la Fe: Opposed? The motion carries.

Commissioner Litzenberger: Two more. I MOVE THAT THE PLANNING COMMISSION RECOMMEND THAT THE BOARD OF SUPERVISORS APPROVE THE WAIVERS AND MODIFICATIONS LISTED IN THE STAFF REPORT, WHICH HAVE ALSO BEEN DISTRIBUTED TO YOU ON A SHEET, DATED OCTOBER 14<sup>TH</sup>, 2015.

Commissioner Flanagan: Second.

Vice Chairman de la Fe: Seconded by Commissioner Flanagan. Any discussion? All those in favor please signify by saying aye.

Commissioners: Aye.

Vice Chairman de la Fe: Opposed? The motion carries.

Commissioner Litzenberger: Thank you. Lastly, I MOVE THAT THE PLANNING COMMISSION RECOMMEND THAT THE BOARD OF SUPERVISORS APPROVE THE ASSOCIATED RPA EXCEPTION REQUEST AND WATER QUALITY IMPACT ASSESSMENT, SUBJECT TO EXCEPTION CONDITIONS CONSISTENT WITH THOSE CONTAINED IN THE STAFF REPORT.

Commissioner Flanagan: Second.

Vice Chairman de la Fe: Seconded by Commissioner Flanagan. All those in - any discussion? Seeing none, all those in favor please signify by saying aye.

Commissioners: Aye.

Vice Chairman de la Fe: Opposed? The motion carries.

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October 15, 2015

RZ/FDP 2015-SU-002/PCA 86-S-071-04

(Each motion carried by a vote of 9-0. Commissioners Lawrence, Murphy, Strandlie were absent from the meeting.)

JN

**REQUESTED MODIFICATIONS AND WAIVERS**

**PCA 86-S-071-04, RZ/FDP 2015-SU-002**

**JLB Realty, LLC**

**Date: October 14, 2015**

- Modification of Section 2-505 of the Zoning Ordinance to allow the proposed structures, as shown on the CDP/FDP, to be located within corner lot restriction areas.
- Modification of loading requirements (per Section 11-202, Par. 3A), to allow two indoor loading docks instead of five required loading spaces.
- Modification of parking lot landscaping requirements, in lieu of landscaping shown on the CDP/FDP.
- Modification of bike trail requirements along Trinity Parkway, in favor of the cross section shown on CDP/FDP.

The Director of DPWES shall approve:

- PFM deviation from the Tree Preservation Target (per Sect. 12-0508.3A(1)), as described on the CDP/FDP

**PROFFER STATEMENT  
TRINITY CENTRE  
RZ/FDP 2015-SU-002**

**June 1, 2015  
Revised August 27, 2015  
Revised September 22, 2015  
Revised September 30, 2015  
Revised October 14, 2015  
Revised October 15, 2015**

Pursuant to Section 15.2-2303(A) of the Code of Virginia (1950, as amended) and Section 18-204 of the Fairfax County Zoning Ordinance (1978, as amended) (the “Zoning Ordinance”), Trinity Centre Land, LLC, as the owner and applicant, for itself and its successors and assigns (the “Applicant”), in this rezoning application hereby proffers that the development of the property identified on the Fairfax County Tax Map as 54-4 ((15)) 12A (the “Property”) shall be in accordance with the following conditions, including Exhibit A attached hereto, (collectively, the “Proffers”) if, and only if, approval of applications RZ/FDP 2015-SU-002 and PCA 86-S-071-04 (collectively, the “Application”) is granted by the Fairfax County Board of Supervisors. In the event that the Application is denied, these Proffers shall immediately be null and void and of no further force or effect, and the previous proffered conditions applicable to the Property shall remain in full force and effect.

**GENERAL**

1. Substantial Conformance. The Property shall be developed in substantial conformance with the Conceptual Development Plan/Final Development Plan (“CDP/FDP”) dated June 4, 2014, and revised through August 27, 2015, prepared by VIKA Virginia, LLC, and consisting of 35 sheets, as further described below, as limited by a companion Resource Protection Area (“RPA”) Exception 7265-WRPA-002-01, as the same may be amended from time to time.
2. CDP Elements. Notwithstanding that the Conceptual Development Plan and the Final Development Plan are presented on the same sheets and defined as the CDP/FDP in Proffer 1, it shall be understood that the proffered elements of the CDP are limited to: (a) the maximum gross floor area and maximum number of dwelling units as set forth on the CDP/FDP; (b) the general location and arrangement and maximum building heights of the building(s) on the Property as shown on the CDP/FDP; (c) the general location of the points of access to the Property and accompanying pedestrian and vehicular circulation routes through the Property; and (d) the minimum amount of open space (collectively, the “CDP Elements”). The Applicant reserves the right to request approval from the Fairfax County Planning Commission of a Final Development Plan Amendment (“FDPA”) pursuant to Section 16-402 of the Zoning Ordinance for elements other than the CDP Elements, provided such FDPA is in substantial conformance with these Proffers.
3. Minor Modifications. Minor modifications to the CDP/FDP shall be permitted pursuant

to Paragraph 4 of Section 16-403 of the Zoning Ordinance when necessitated by sound engineering or when necessary as part of final site design or engineering. Such modifications shall be permitted, provided: (a) the maximum gross floor area and maximum number of dwelling units are not increased, (b) the maximum building heights are not increased beyond the heights identified on Sheet C-2 of the CDP/FDP and Proffer 7; (c) the minimum amount of open space identified on Sheet C-2 of the CDP/FDP is not reduced, and (d) the development otherwise is in substantial conformance with these Proffers and the CDP/FDP.

4. Proposed Development. The Applicant shall be permitted to develop the Property with up to 403,323 square feet of gross floor area of development consisting of up to 355 multi-family residential units (each a “Residential Unit”) and associated structured parking facilities (collectively, the “Proposed Development”). The Proposed Development may be constructed and occupied in phases based on the Applicant’s selected construction methodology and staging requirements. Moreover, the Applicant may complete the amenities and facilities to be provided as part of the Proposed Development, such as landscaping, pedestrian facilities, the Lakeside Park (as defined below) and internal and exterior courtyards, in phases concurrent with the construction of the residential building, as more particularly described in these Proffers.

5. Future Applications. Any portion of the Property may be the subject of a Conceptual Development Plan Amendment (“CDPA”), FDPA, Proffered Condition Amendment (“PCA”), Rezoning, Special Exception (“SE”), Special Exception Amendment (“SEA”), Comprehensive Sign Plan, Special Permit (“SP”), Variance or other zoning action without the joinder and/or consent of the owner(s) of the other land area(s), provided that such application complies with Paragraph 6 of Section 18-204 of the Zoning Ordinance and Section 15.2-2302 of the Code of Virginia, as applicable. Previously approved proffered conditions or development conditions applicable to a particular portion of the Property that is not the subject of such an application shall remain in full force and effect.

## **BUILDING DESIGN**

6. Architecture. The character of the architectural design of the building shall be in general conformance with the conceptual architectural elevations shown on Sheets A-202 and A-203 of the CDP/FDP. The Applicant reserves the right to adjust or modify the architectural design as part of final architectural design and engineering without requiring approval of a PCA, CDPA, or FDPA, provided the general quality and character of the architectural design remain in general conformance with those shown on Sheets A-202 and A-203 of the CDP/FDP.

A. Building Materials. Exterior building materials for the building shall be selected by the Applicant from among the following: brick, masonry/stone, aluminum, steel, glass, cementitious paneling and siding, aluminum/vinyl windows, architectural pre-cast concrete headers, sills, and trim details, provided that final architectural details, roofs and accents may include other materials. Bay windows, balconies, awnings, and other architectural features may be provided along any façade of the residential building and may extend beyond the building footprints shown on the CDP/FDP.

- B. Key Architectural Features. The final architectural designs selected by the Applicant shall include elements intended to minimize the mass and bulk of the building by providing horizontal and vertical interest along the building's façade, particularly along the portion fronting Trinity Parkway, as generally shown on Sheets A202 and A-203 of the CDP/FDP. In particular, the Applicant shall provide vertical roof elements at the building corners, such as a gable roof, hip roof, gambrel roof, dome or dormer (or a mixture thereof), so as to add variation in the roofline. The Applicant's final architectural design also should provide horizontal elements and/or fenestration along the expanse of the façade to provide character and depth to the building, including balconies, window bay repetitions, variations in materials at the upper and lower floors and similar techniques, as determined by the Applicant.

7. Building Height. The building height for the Proposed Development shall not exceed the maximum height identified on Sheet C-2 of the CDP/FDP. Building height shall be measured in accordance with the provisions of the Zoning Ordinance and shall be exclusive of those accessory structures that are excluded from the maximum building height as set forth in Section 2-506 of the Zoning Ordinance. Notwithstanding the foregoing, however, nothing shall preclude the Applicant from constructing the Proposed Development to a lesser building height than the maximum building height shown on the CDP/FDP, provided the building retains a comparable urban form to that shown on the CDP/FDP.

8. Universal Design. The Applicant shall provide a minimum of two percent (2%) of the total number of Residential Units constructed on the Property with universal design features that may include, but shall not be limited to, the following:

- i. At least one accessible route that connects all spaces and elements that are part of the unit as defined by ANSI;
- ii. User passage doorways with a minimum width of 32 inches;
- iii. Threshold beveled changes between ¼ and ½ inch maximum;
- iv. Compliance of lighting controls, electrical switches and receptacle outlets, environmental controls and user controls for security and intercom systems with clear floor spaces and heights as defined by ANSI;
- v. Reinforcement for furniture installation of bath fixtures by ANSI; and
- vi. Levered knobs throughout the Unit.

9. Rooftop Telecommunications Equipment and Mechanical Units. Telecommunications equipment, mechanical units, and all appurtenant facilities may be placed on the rooftop of the Proposed Development, shall comply with the applicable requirements of the Zoning Ordinance, and shall be screened and/or set back sufficiently from the perimeter of the roof so that such equipment and facilities generally are not visible at street level when viewed at the property line

of the Property.

10. Sustainable Design. In order to promote energy conservation and green building techniques, the Applicant shall select one or more of the following sustainable design programs to be implemented as part of the Proposed Development. As part of the first site plan submission for the portion(s) of the Proposed Development for which a particular certification will be sought, the Applicant will inform the Environment and Development Review Branch (“EDRB”) of the Department of Planning & Zoning (“DPZ”) of its choice(s) for sustainable design.

- A. NGBS. If the Applicant selects the Home Innovations Research Lab’s 2012 National Green Building Standard (“NGBS”), then the Applicant shall seek NGBS certification using either the ENERGY STAR® Qualified Homes Path for energy performance as demonstrated through documentation submitted to the Department of Public Works & Environmental Services (“DPWES”) and the EDRB from a home energy rater and/or an NGBS Verifier certified through the Home Innovations Research Lab. Documentation demonstrating certification under the NGBS rating system in accordance with this Proffer shall be submitted to DPWES and the EDRB prior to the issuance of the first Residential Use Permit (“RUP”) for the residential building.
- B. LEED for Homes Multi-Family Mid-Rise. If the Applicant selects the U.S. Green Building Council (“USGBC”) Leadership in Energy and Environmental Design (“LEED”) for Homes Multi-Family Mid-Rise (“LEED for Homes Mid-Rise”) rating system, then the Applicant shall pursue LEED certification under the most recent version of the LEED rating system in effect at the time the Applicant registers the project with the USGBC.
  - i. Project Checklist. The Applicant will include, as part of the site plan submission and building plan submission, a list of specific credits that the Applicant anticipates attaining for the Proposed Development (or portion thereof) under the applicable LEED rating system. A LEED-accredited professional (“LEED-AP”) who is also a professional engineer or licensed architect will provide certification statements at both the time of site plan review and the time of building plan review for the building(s) for which certification is sought confirming that the items on the list will meet at least the minimum number of credits necessary to attain LEED certification of the project.
  - ii. County Team Member. In addition, the Applicant will designate the Chief of the EDRB as a team member in the USGBC’s LEED Online system (as applicable or available, depending on the form of LEED pursued). This team member will have privileges to review the project status and monitor the progress of all documents submitted by the project team, as applicable, but will not be assigned responsibility for any LEED credits and will not be provided with the authority to modify any documentation or paperwork.

- iii. Design-Related Credit Review. Prior to building plan approval, the Applicant will submit documentation to the EDRB regarding the USGBC's preliminary review of design-oriented credits in the LEED program (as applicable or available, depending on the form of LEED pursued) for the building(s) for which certification is sought. This documentation will demonstrate that such building is anticipated to attain a sufficient number of design-related credits that, along with the anticipated construction-related credits, will be sufficient to attain LEED Silver certification. Prior to release of the bond for the residential building, the Applicant shall provide documentation to the EDRB demonstrating the status of attainment of LEED certification from the USGBC for such building.
- iv. Green Building Escrow. If the Applicant is unable, prior to building plan approval, to provide documentation of the USGBC's preliminary review of the design-oriented credits demonstrating that such building for which certification is sought is anticipated to attain a sufficient number of design-related credits that, along with the anticipated construction-related credits, will be sufficient to support the attainment of LEED Silver certification, the Applicant will, prior to building plan approval for such building(s), post a "Green Building Escrow" in the form of cash or a letter of credit from a financial institution authorized to do business in the Commonwealth of Virginia in the amount of \$2 per gross square foot for such residential building. This escrow will be in addition to, and separate from, other bond requirements and will be released upon demonstration of attainment of LEED certification, or a higher level of certification, by the USGBC under the applicable version of the LEED rating system. The provision to the EDRB of documentation from the USGBC that such building has attained LEED certification will be sufficient to satisfy this commitment.
- v. Release of Green Building Escrow. The Green Building Escrow for building, as applicable, shall be released in accordance with the following:
  - a. If the Applicant is able, subsequent to building plan approval, to provide documentation of the USGBC's preliminary review of the design-oriented credits demonstrating that the building(s) subject to such building plan approval is/are anticipated to attain a sufficient number of design-oriented credits that, along with the anticipated construction-related credits, will be sufficient to support the attainment of LEED Silver certification, the County shall release the entirety of the Green Building Escrow for such building(s) to the Applicant. Prior to the release of the bond for such building(s), the Applicant shall provide documentation to the EDRB demonstrating the status of attainment of LEED certification from the USGBC for the building(s).

- b. If the Applicant provides to the EDRB, within three (3) years of the issuance of the final RUP for the applicable residential building(s), documentation from the USGBC demonstrating that LEED certification has been attained, the entirety of the Green Building Escrow for such building(s) shall be released to the Applicant.
  - c. If the Applicant provides to the EDRB, within three (3) years of the issuance of the final RUP for the applicable residential building(s), documentation from the USGBC demonstrating that LEED certification has not been attained for such building(s) but that the USGBC has determined that such building(s) fall(s) within three points of attainment of LEED certification, then fifty percent (50%) of the Green Building Escrow for such building(s) will be released to the Applicant and the other fifty percent (50%) will be released to Fairfax County to be posted to a fund within the County budget supporting the implementation of County environmental initiatives.
  - d. If the Applicant fails to provide to the EDRB, within three (3) years of the issuance of the final RUP for the applicable residential building(s), documentation from the USGBC demonstrating that such building(s) has/have fallen short of LEED certification by three or fewer points, the entirety of the Green Building Escrow for such building(s) will be released to Fairfax County and will be posted to a fund within the County budget supporting the implementation of County environmental initiatives.
- vi. Extension of Time. If the Applicant provides documentation from the USGBC demonstrating, to the satisfaction of the EDRB, that USGBC completion of the review of the LEED certification application has been delayed through no fault of the Applicant, the Applicant's contractors or subcontractors, the time frame may be extended as determined appropriate by the Zoning Administrator, and no release of escrowed funds shall be made to the Applicant or to the County during the extension.
- C. EarthCraft. If the Applicant selects EarthCraft, then the Applicant shall provide documentation to DPWES and DPZ demonstrating certification under the EarthCraft Program in accordance with this Proffer prior to the issuance of the first RUP for building for which such certification is sought.

12. Lighting. All on-site outdoor and parking garage lighting provided with the Proposed Development shall comply with the Outdoor Lighting Standards of Section 14-900 of the Zoning Ordinance. All proposed parking lot and building mounted security lighting shall utilize full cut-off fixtures.

## **AFFORDABLE HOUSING**

13. Affordable Dwelling Units. Unless otherwise exempt pursuant to Part 8 of Article 2 of the Zoning Ordinance in effect as of the approval date of this Application (the “ADU Ordinance”), the Applicant shall provide Affordable Dwelling Units (“ADUs”) pursuant to the ADU Ordinance.

14. Workforce Dwelling Units. In addition to any ADUs required pursuant to Proffer 13, the Applicant also shall provide for-sale and/or rental housing units with the Proposed Development to be sold/rented as Workforce Dwelling Units (“WDUs”) administered as set forth in the “Board of Supervisors’ Workforce Dwelling Unit Administrative Policy Guidelines” adopted on October 15, 2007, in effect as of the approval date of this Application (the “Policy Guidelines”), such that a total of twelve percent (12%) of the total number of Residential Units constructed as part of the Proposed Development are sold/rented as either ADUs or WDUs. Such WDUs shall be in addition to any requirement to provide ADUs in accordance with the ADU Ordinance in effect as of the approval date of this Application, provided the total number of ADUs and WDUs is not less than twelve percent (12%) of the total number of Residential Units constructed as part of the Proposed Development. When the required number of WDUs results in a fractional unit less than 0.5, the number shall be rounded down to the next whole number. When the required number of WDUs results in a fractional unit equal to or greater than 0.5, the number shall be rounded up to the next whole number. Notwithstanding Sections 7.G and 8.E of the Policy Guidelines, for a period of five years commencing upon the issuance of the first RUP for the first WDU, the Applicant shall provide one-half of any WDUs required under this proffer priced to serve households with an income of up to eighty percent (80%) of the Area Median Income for the Washington Standard Metropolitan Statistical Area (“AMI”) and one-half of any WDUs required under this proffer priced to serve households with an income of up to one hundred percent (100%) of AMI. Upon the expiration of such five-year period, the Applicant shall be permitted to provide any WDUs required under this proffer in three (3) evenly distributed income tiers of up to eighty percent (80%) of AMI, one hundred percent (100%) of AMI, and one hundred twenty percent (120%) of AMI in accordance with Sections 7.G and 8.E of the Policy Guidelines.

The Applicant reserves the right to enter into a separate binding written agreement with the appropriate Fairfax County agency as to the terms and conditions of the administration of the WDUs following approval of this Application without the need for a PCA. Such an agreement shall be on terms mutually acceptable to both the Applicant and Fairfax County and may occur after the approval of this Application. Neither the Board of Supervisors nor Fairfax County shall be obligated to execute such an agreement. If such an agreement is executed by all applicable parties, then the WDUs shall be administered solely in accordance with such an agreement and the provisions of this proffer shall become null and void. Such an agreement and any modifications thereto shall be recorded in the land records of Fairfax County.

## **LANDSCAPING, OPEN SPACE, AND RECREATION**

15. Landscape Plan. The Applicant shall implement the landscape design for the Proposed Development shown on Sheets L-1 through L-5 of the CDP/FDP (the “Conceptual Landscape Plan”), which illustrate the plantings and other features to be provided with the Proposed

Development, including streetscapes, plazas, and park area. The Conceptual Landscape Plan is conceptual in nature and the tree species and planting locations may be modified by the Applicant as part of final engineering and building design, provided such modifications provide a similar quality and quantity of landscape plantings and materials as shown on the Conceptual Landscape Plan. The Applicant shall install street trees with tree species and planting sites consistent with the Conceptual Landscape Plan. The Applicant shall install the landscaping in phases based on the Applicant's order of construction and staging requirements, provided that the exterior landscaping for each such phase shall be installed prior to issuance of the first RUP for the Residential Units located along the exterior wall of the portion or side of the building immediately abutting such landscape area or features. Notwithstanding the foregoing sentence, the Applicant may, due to weather or other conditions and with the concurrence of UFMD, defer installation of all or portions of the required landscaping to the next available planting season so as to provide a better chance for its long term survival. In the event of such delay or deferral, the Applicant may continue to receive RUPs for the Residential Units, provided the Proposed Development otherwise remains in substantial conformance with the CDP/FDP and these Proffers.

- A. Native and Regionally Appropriate Species. The Applicant shall use native and regionally appropriate, non-invasive species as determined by the Virginia Department of Conservation and Recreation Native Plant Finder for plantings and landscaping materials throughout the Proposed Development, provided that the Applicant reserves the right, in consultation with and approval by the Urban Forest Management Division of DPWES ("UFMD"), to modify as part of site plan approval the exact species to be used, such as where some plant materials are not available or have been deemed by UFMD to no longer be appropriate.
- B. Site Plan(s). As part of site plan approval for the Proposed Development, the Applicant shall submit to UFMD for review and approval a detailed landscape and tree cover plan (the "Landscape Plan") for such building(s), which shall include, among other things:
  - i. Irrigation information;
  - ii. Design details for tree wells or grates and other similar planting areas above structures and along streets;
  - iii. Composition of the planting materials and/or structural soils used for street trees or where plantings are to be located within or on top of structures and other methods to be used to ensure the viability of the proposed plantings; and
  - iv. Information demonstrating that the Landscape Plans are consistent with and are part of the implementation of the SWM Facilities defined below.
- C. Planting Quality. The Landscape Plan shall be consistent with the quality and quantity of plantings and materials shown on the Conceptual Landscape Plan, as may be modified by the Applicant as described above, and may include the use of

additional shade trees and other plant materials as determined by the Applicant. The Applicant may adjust the type and location of vegetation and the design of the open spaces, courtyard areas and streetscape improvements and plantings as approved by the Zoning Evaluation Division (“ZED”) of DPZ and UFMD, provided such adjustments otherwise are in substantial conformance with the CDP/FDP.

- D. Pre-Installation Meeting. Prior to the installation of plants to meet the requirements of the approved Landscape Plan and these Proffers, the Applicant shall coordinate a pre-installation meeting on site with the landscape contractor and a representative of UFMD to review the landscape requirements of the approved Landscape Plan. Any proposed changes to the location of planting, size of trees/shrubs, and any proposed plant substitutions of species specified on the approved Landscape Plan shall be reviewed at this time and must be approved by UFMD prior to planting. The Applicant shall provide notice to UFMD not less than 72 hours prior to the Applicant’s implementation of the tree planting.
  
- E. Fire Marshal and Sight Distance Coordination. The Applicant has coordinated with the Fire Marshal and FCDOT regarding the site design and layout of the Proposed Development and the Fire Management Plan shown on Sheet C-10 of the CDP/FDP. Notwithstanding such coordination, however, if it is determined during site plan review that elements of the streetscape improvements, plantings, tree preservation areas, and/or open space designs conflict with subsequent comments from either the Fire Marshal, FCDOT or VDOT (related to sight distance), the Applicant shall be permitted to relocate, remove, or modify such conflicting elements in response to such comments without the need for a PCA, CDPA, or FDPA, provided any such modifications: (i) are made in consultation with, and subject to the approval of, DPZ, FCDOT, and UFMD, (ii) with the intent to provide the streetscape improvements, plantings, tree preservation areas, and open space designs shown on the CDP/FDP to the extent possible given the Fire Marshal’s and/or FCDOT/VDOT’s comments, and (iii) the overall tree canopy shown on the CDP/FDP is not reduced.

16. Offsite Landscaping. The Applicant shall obtain a license or easement agreement from the owner of the adjacent parcel located northwest of the Property (Fairfax County Tax Map # 054-3 ((21) 9B) to permit the Applicant to relocate a portion of the existing drive aisle and install landscaping along the Property’s western boundary (near the garage as more particularly shown on the CDP/FDP. The Applicant shall provide evidence of such agreements to DPWES prior to site plan approval for the Proposed Development and shall complete the relocation of the drive aisle and install the offsite landscaping prior to issuance of the RUP representing fifty percent (50%) of the total Residential Units constructed on the Property. In the event the Applicant is unable to obtain the required license/easement to permit such improvements, the Applicant shall be required to file and have approved by the Planning Commission a FDPA detailing an alternative design for the garage entry and associated screening.

- A. The Applicant shall obtain a license or easement agreement from the owner of the adjacent stormwater management pond located west of the Property (Fairfax

County Tax Map # 054-3 ((21) 13B2) to permit the Applicant to install supplemental landscaping along the edge of the pond as shown on Sheet L1 of the CDP/FDP and RPA Exception 7265-WRPA-002-01, as the same may be amended from time to time. The Applicant shall install the supplemental landscaping concurrent with the Applicant's construction of the Lakeside Park (as defined in Proffer 18 below).

17. Tree Survey and Preservation Plan. As part of site plan approval for the Proposed Development, the Applicant shall demonstrate that the Proposed Development will meet the tree preservation requirements of this Proffer, as supplemented by Exhibit A to these Proffers.

- A. Preservation of Existing Trees. The Applicant shall implement tree preservation measures for the Proposed Development generally in accordance with the preliminary tree preservation plan and narrative shown on Sheets C-6 and L-2 of the CDP/FDP (the "Preliminary Tree Preservation Plan"). The Preliminary Tree Preservation Plan is conceptual in nature and may be modified by the Applicant in consultation with UFMD at the time of site plan. As part of the first site plan submission for the Proposed Development, the Applicant shall submit a detailed tree preservation plan (the "Tree Preservation Plan") prepared by a professional with experience in the preparation of tree preservation plans, such as a Certified Arborist or a Registered Consulting Arborist, which shall be subject to the review and approval of UFMD.

In addition to the trees included on the Preliminary Tree Preservation Plan, the Applicant also shall evaluate the potential to include in the final Tree Preservation Plan the 22" oak tree located in the southeast corner of the Property and identified as tree #518 ("Tree 518") on Exhibit A attached to these Proffers by relocating a portion of the pedestrian trail serving the Lakeside Park (as defined in Proffer 18 below) and reducing the size of the open lawn area. In the event the Applicant, in consultation with UFMD and DPWES, determines that (i) inclusion of Tree 518 in the Applicant's Tree Preservation Plan would violate the conditions of approval for either RPA Exception 7265-WRPA-002-01 or Water Quality Impact Assessment #7265-WQ-001-1, or necessitate an amendment to such approval(s), or (ii) relocation of the adjacent pedestrian trail to accommodate the saving of Tree 518 would result in a trail design/grade that violates applicable standards of the Americans with Disabilities Act ("ADA") or other laws or ordinances governing accessibility, then the Applicant shall have no obligation to preserve Tree 518 and may proceed with its removal and construction as shown on the CDP/FDP. Otherwise, the Applicant shall include Tree 518 in its Tree Preservation Plan and may modify the design of the Lakeside Park (as defined in Proffer 18 below) and associated facilities from that shown on the CDP/FDP to the extent necessary to protect Tree 518 and maximize its chances for long term survivability.

The Tree Preservation Plan shall consist of a tree survey that identifies the general 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-site and

off-site trees, living or dead, with trunks twelve (12) inches in diameter and greater located within 25 feet to either side of the limits of clearing and grading shown on the CDP/FDP. As part of preparing the Tree Preservation Plan, the Applicant shall field locate and tag all trees to be preserved under such plan. The Tree Preservation Plan shall provide for the preservation of those areas shown for tree preservation, those areas outside of the limits of clearing and grading shown on the CDP/FDP (as the same may be modified to permit preservation of Tree 518 identified on Exhibit A of these Proffers), and those additional areas in which trees can be preserved as a result of final engineering. The condition analysis ratings shall be prepared using methods outlined in the latest edition of the Guide for Plant Appraisal published by the International Society of Arboriculture. Specific tree preservation activities that will maximize the survivability of any tree identified to be preserved, such as crown pruning, root pruning, mulching, fertilization, and others as necessary, shall be included in the plan.

- A. Tree Preservation Walk-Through. The Applicant shall retain the services of a Certified Arborist or Registered Consulting Arborist, and shall have the limits of clearing and grading marked with a continuous line of flagging prior to the walk-through meeting. During the tree preservation walk-through meeting, the Applicant's Certified Arborist or Registered Consulting Arborist shall walk the limits of clearing and grading with a representative of UFMD to determine where adjustments to the clearing limits can be made, if any, 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 adjustments, if any, shall be memorialized in writing and implemented by the Applicant. 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.
- B. Limits of Clearing and Grading. The Applicant shall conform strictly to the limits of clearing and grading as shown on the CDP/FDP, subject to allowances specified in these Proffers or any required changes to such limits to accommodate the preservation of Tree 518 identified on Exhibit A to these Proffers, and for the installation of utilities and/or trails as determined necessary by the Director of DPWES, as described herein. If it is determined necessary to install utilities and/or trails in areas protected by the limits of clearing and grading as shown on the CDP/FDP, they shall be located in the least disruptive manner necessary as determined by the Applicant and UFMD. A replanting plan shall be developed and implemented, subject to approval by UFMD, for any areas protected by the limits of clearing and grading that must be disturbed for such trails or utilities. Alteration of the limits of clearing and grading due to the circumstances described above shall not require the approval of a PCA, CDPA, or FDPA.

- C. Tree Preservation Fencing. All trees shown to be preserved on the Tree Preservation Plan shall be protected by tree protection fencing. Tree protection fencing may be 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 Phase I & II erosion and sediment control sheets, as may be modified in accordance with Proffer 18.E below.

All tree protection fencing shall be installed after the tree preservation walk-through meeting but prior to any clearing and grading activities. The installation of all tree protection fencing shall be performed under the supervision of a Certified Arborist, and accomplished in a manner that does not harm existing vegetation that is to be preserved. Three business days prior to commencement of any clearing or grading activities, but subsequent to the installation of the tree protection devices, the Applicant shall provide UFMD notice and the opportunity to inspect the site to ensure that all tree protection devices have been correctly installed. If it is determined that the tree preservation fencing has not been installed correctly, no grading or construction activities shall occur until the fencing is installed correctly, as determined by UFMD.

- D. Root Pruning. The Applicant shall root prune, as needed to comply with the tree preservation requirements of these Proffers. All treatments shall be clearly identified, labeled, and detailed on the erosion and sediment control sheets of the submitted site plan. The details for these treatments shall be reviewed and approved by UFMD 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.
- Root pruning shall be conducted under the supervision of a Certified Arborist.
- A UFMD representative shall be informed when all root pruning and tree protection fence installation is complete.

- F. Site Monitoring. During any clearing or tree/vegetation removal on the Property, a representative of the Applicant shall be present to monitor the process and ensure that the activities are conducted in accordance with these Proffers and as approved by UFMD. The Applicant shall retain the services of a Certified Arborist or Registered Consulting Arborist to monitor all construction work adjacent to any vegetation to be preserved and tree preservation efforts in order to ensure conformance with all tree preservation proffers and UFMD approvals. The monitoring schedule shall be described and detailed in the Tree Preservation Plan, and reviewed and approved by UFMD.

G. Invasive Management Plan. At the time of the first site plan submission, the Applicant shall provide an invasive management plan for the tree preservation areas shown on Sheet 13 of the CDP/FDP to include the following information:

- Identify targeted species to be suppressed or managed.
- Identify targeted area of invasive management or suppression.
- Method of management or suppression.
- Timing of treatments.
- Identify potential areas for reforestation.
- Monthly monitoring reports to UFMD.
- Duration of invasive management program.

18. Lakeside Park. In furtherance of its intent to provide active and passive recreation opportunities for residents of the Proposed Development and the and the surrounding office buildings and residential developments, the Applicant shall install landscaping, hardscape areas, sidewalks and other amenities along the eastern edge of the existing pond/lake located west of the Property in general conformance with the designs set forth on Sheet L4 of the CDP/FDP (the “Lakeside Park”). The Lakeside Park shall include, but not be limited to, naturalized lawns, off-leash areas, natural or manmade climbing structures, knee walls, benches and similar facilities and structures and shall be substantially complete and open for use prior to issuance of the RUP representing fifty percent (50%) of the total Residential Units constructed on the Property. Notwithstanding the foregoing sentence and the designs shown on the CDP/FDP, the Applicant may modify the design and facilities for the Lakeside Park in accordance with Exhibit A to these Proffers in order to preserve the tree identified thereon, including relocation of the trail connection(s), the establishment of new or different grades and/or the construction of a retaining or knee wall, all without need to amend the CDP/FDP and these Proffers. The proposed off-leash area shall (a) be fenced using a vinyl-coated chain link fence with an entry vestibule in a manner acceptable to the Fire Marshal; (b) contain benches, trash receptacles and a water fountain; (c) use decomposed granite and/or synthetic turf on the primary surface areas; (d) include water service for pets and maintenance; and (e) be installed with a gradient slope no greater than two percent (2%) to reduce the rate of surface runoff entering the managed turf and riparian buffer area.

19. Courtyard Areas. The Applicant shall provide private outdoor courtyard spaces as part of the Proposed Development generally in the location and configuration shown on Sheet L3 of the CDP/FDP. The courtyards shall include features for passive and active recreation such as, but not limited to, lawn areas, hardscape and landscape areas, outdoor furniture, benches/seating areas, pedestrian-scaled lighting, an outdoor kitchen/grill area, fire pit, and/or similar amenities as conceptually shown on Sheet L3 of the CDP/FDP. The Applicant shall provide such features with the intent to create private outdoor recreation areas to serve the residents of the Proposed Development. The Applicant may adjust the type and location of vegetation, the design of the open spaces, and the features/amenities comprising the courtyards as approved by ZED and UFMD, provided the general character and quality of the courtyards are consistent with Sheets L2 and L3 of the CDP/FDP. The Applicant shall complete each courtyard in accordance with the Applicant’s phased construction of the Proposed Development, provided that each courtyard

is substantially complete prior to issuance of the first RUP for the Residential Unit(s) located along the interior or exterior wall of the portion of the building immediately abutting such courtyard, as applicable.

20. Utility Locations. Utilities, including, but not limited to, water, electric, gas, cable, telephone, sanitary sewer and storm sewer lines, as applicable, shall be installed within the street network to the maximum extent feasible as determined by DPWES or shall be placed in locations that do not conflict with the plantings, tree preservation areas, and open space areas shown on the CDP/FDP. If there is no other option, utilities may be placed within the plantings, tree preservation areas, and open space areas, provided that the long-term health of trees and other plantings is ensured by the provision of sufficient soil volume, as determined by UFMD. The Applicant shall be permitted to relocate, remove, or modify the plantings, tree preservation areas, and/or open space areas to avoid conflicts with utilities without the need for a PCA, CDPA, or FDPA, provided any such modifications: (i) are made in consultation with, and subject to the approval of, UFMD and DPWES, (ii) with the intent to provide the plantings, tree preservation areas, and open space areas shown on the CDP/FDP to the extent possible given the utility needs, and (iii) the overall tree canopy shown on the CDP/FDP is not reduced.

21. Signage. Signage for the Property shall be provided in accordance with the requirements of Article 12 of the Zoning Ordinance and/or pursuant to a Comprehensive Sign Plan approved by the Planning Commission in accordance with Section 12-210 of the Zoning Ordinance (“CSP”). The Applicant reserves the right to install up to two (2) monument entry signs at the Property’s entrances along Trinity Parkway without need to amend the CDP/FDP or these Proffers. The Applicant shall depict the location of the monument sign(s) on the initial site plan for the Proposed Development, which location shall be subject to the modification of Section 2-505 of the Zoning Ordinance requested concurrent with this Application.

22. Private Amenities and Recreation Facilities for Residents. Pursuant to Paragraph 2 of Section 6-409 of the Zoning Ordinance, the Applicant shall provide on-site recreational facilities for the future residents of the Property and shall expend a minimum of \$1,800.00 per non-ADU unit on such recreational facilities. In the event the total cost of recreational facilities constructed on the Property is demonstrated to be less than \$1,800.00 per unit, the Applicant shall contribute the balance of any funds not expended for on-site recreational facilities to the Fairfax County Park Authority (“FCPA”) prior to bond release for the Proposed Development for the provision of recreational facilities in the vicinity of the Property.

## **PARKING**

23. Parking and Future Parking Reductions. Parking for the Proposed Development shall be provided in accordance with the parking requirements of Article 11 of the Zoning Ordinance, as determined by DPWES. The Applicant reserves the right to pursue a parking reduction for the Proposed Development, as may be permitted by Article 11 of the Zoning Ordinance and approved by the Board of Supervisors.

24. Bicycle Parking. The Applicant shall install bicycle racks, bike lockers, and/or bike storage areas in the Proposed Development (“Bicycle Parking”). The Bicycle Parking shall include a minimum of one (1) long-term bicycle parking space for every three (3) residential

units, or portion thereof, and one (1) short-term bicycle parking space for every 50 residential units, or portion thereof. Specific locations for the Bicycle Parking shall be determined as part of the first site plan approval for the Proposed Development and in consultation with FCDOT and will be consistent with the Fairfax County Policy and Guidelines for Bicycle Parking. The Applicant shall install the Bicycle Parking prior to the issuance of the first RUP for the portion of the building in which such facilities are to be provided.

25. Electric Vehicle Charging Facilities. The Applicant shall provide a minimum of one (1) recharging station that serves two (2) parking spaces for electric cars within the parking garage on the Property. The Applicant also shall provide space and infrastructure to accommodate additional electric vehicle-ready parking spaces in the parking garage on the Property. “Electric vehicle-ready” means the provision of space, conduit banks, conduits, and access points allowing for the easy installation of vehicle charging stations in the future, and does not include the installation of transformers, switches, wiring, or charging stations.

### **TRANSPORTATION DEMAND MANAGEMENT**

26. Transportation Demand Management. This proffer sets forth the programmatic elements of a transportation demand management program (the “TDM Program”) that shall be implemented by the Applicant, and/or its successors and assigns, which may include any Umbrella Owners Association (“UOA”), Homeowners Association (“HOA”), Condominium Owners Association (“COA”), Commercial Association (“CA”), or other association established for the Property, to reduce the vehicle trips generated by the Proposed Development during weekday peak hours in accordance with Fairfax County’s TDM Guidelines dated January 1, 2013. The vehicle trip reduction goal for the Proposed Development is twenty percent (20%).

#### **A. Definitions.**

- i. Applicant Control Period. The “Applicant Control Period” is the period starting immediately following approval of this Application and ending on the date when three (3) consecutive Trip Counts conducted starting at least one (1) full calendar year after the Proposed Development reaches Build Out show that vehicle trips generated by the Residential Units are less than or equal to the TDM Goal (as defined herein). Upon expiration of the Applicant Control Period, the Applicant may assign responsibility for the ongoing implementation of the TDM Program to a UOA/HOA/COA/CA, provided the Applicant gives written notice to FCDOT within ten (10) days of any such assignment. Upon such an assignment, the Applicant shall have no further obligations under this Proffer 26.
- ii. Build Out. For purposes of this Proffer, “Build Out” of the Proposed Development shall be deemed to occur upon eighty-five percent (85%) occupancy of the Residential Units, except as otherwise agreed to by the Applicant and FCDOT.
- iii. Peak Hours. For purposes of this Proffer, the relevant weekday “Peak Hours” shall be that 60-minute period during which the highest weekday

volume of mainline trips occurs between 7:00 to 9:00 AM and 4:00 to 6:00 PM, as determined by mechanical traffic counts conducted at two select locations abutting the Property as approved in consultation with FCDOT. To determine the Peak Hour, such counts shall be collected beginning on a Monday at 24:00 hours and continuing to the following Thursday at 24:00 hours at a time of year that reflects typical travel demand conditions (e.g. September to May, not during a holiday week or when public schools are not in session). The relevant Peak Hours shall be defined in conjunction with each of the Trip Counts described below. The methodology for determining the Peak Hours may be modified subject to approval of FCDOT, but without requiring a PCA, in order to respond to technological and/or other improvements in trip counting.

- B. Transportation Demand Management Work Plan. The proffered elements of the TDM Program will be more fully described in a Transportation Demand Management Work Plan (the “TDM Work Plan”). It is the intent of this Proffer 26 that the TDM Work Plan will adapt over time to respond to the changing transportation related circumstances of the Property, the surrounding community and the region, as well as to technological and/or other improvements, all with the objective of meeting the trip reduction goals for the Proposed Development as set forth in these Proffers. Accordingly, modifications, revisions, and supplements to the TDM Work Plan, as coordinated with FCDOT, can be made without the need for a PCA, provided the TDM Work Plan continues to reflect the proffered elements of the TDM Program as set forth below.
- C. Trip Reduction Goal. The objective of the TDM Program shall be to reduce the number of weekday peak hour vehicle trips generated by the Proposed Development in accordance with TDM Guidelines for Fairfax County dated January 1, 2013.
- i. Baseline Residential Trips. The baseline number of weekday peak hour vehicle trips for the residential units constructed on the Property (the “Baseline Trips”) against which the TDM Goal (as defined in subparagraph ii) will be measured shall be derived by using the trip generation rates/equations applicable to the Residential Units as set forth in the Institute of Transportation Engineers, Trip Generation, 9th Edition, based on a total of 355 Residential Units. The product of the Baseline Trips multiplied by the TDM Goal shall be the “Maximum Residential Trips After Reduction.” For purposes of this calculation, the maximum number of Residential Units proposed to be constructed on the Property shall be 355, and shall be applied to the calculation described in the preceding sentence.
  - ii. TDM Goal. The TDM strategies shall be utilized to reduce the peak hour vehicular trips by a minimum of twenty percent (20%) for the Proposed Development as measured for the PM peak hour (the “TDM Goal”).

- D. TDM Strategies. The following list represents potential TDM strategies the Applicant may select and implement as part of the TDM Work Plan in order to meet the TDM Goal. It is the Applicant’s intent to identify a non-exclusive list of potential TDM strategies, which the Applicant may amend and supplement from time to time, subject to approval by FCDOT, without the need for a PCA. The TDM strategies are as follows:
- i. Property-wide TDM Program Management;
  - ii. Financial Incentives/Disincentives;
  - iii. Alternative Work Arrangements;
  - iv. Dissemination of Fairfax County/Regional Program Information;
  - v. Live-Work-Play Marketing;
  - vi. Bicycle Facilities;
  - vii. Regular TDM Monitoring and Reporting; and/or
  - viii. Parking Management.
- E. Process of Implementation. The TDM Program shall be implemented as follows, provided that modifications, revisions, and supplements to the implementation process as set forth herein as coordinated with FCDOT can be made without requiring a PCA.
- i. TDM Program Manager. The Applicant shall appoint and continuously employ, or cause to be employed, a TDM Program Manager (“TPM”) for the Property. The TPM shall be appointed by no later than sixty (60) days after the issuance of the first building permit for the first residential building to be constructed on the Property. The TPM duties may be part of other duties associated with the appointee. The Applicant shall notify FCDOT and the Sully District Supervisor in writing within ten (10) days of the appointment of the TPM. Thereafter, the Applicant or UOA/HOA/COA/CA, as applicable, shall continuously employ, or cause to be employed, a TPM for the Property, and shall notify FCDOT and the Sully District Supervisor in writing within ten (10) days of any change in such appointment.
  - ii. Annual Report and Budget. If not already effectuated for the then-current calendar year, the TPM shall prepare and submit to FCDOT an initial TDM Work Plan and an initial TDM budget for one (1) calendar year of implementation of the TDM Work Plan (the “Annual Budget”) no later than 180 days after the issuance of the first building permit associated with the first new residential building on the Property. The TDM Work Plan shall include TDM strategies for the residential building for which a

building permit has been issued by the County. Every calendar year thereafter, but not later than May 1<sup>st</sup>, the TPM shall submit an annual report of the TDM Program (“Annual Report”), based on a report template provided by FCDOT, which may revise the Annual Budget in order to incorporate any changes that would affect the TDM Program. The Annual Report shall summarize the results of the TDM Program and may update the TDM Work Plan and the Annual Budget for the coming calendar year. The Annual Report shall include, at a minimum:

- a. Details as to the start-up/ongoing components of the TDM Program
- b. The estimated budget needed to implement the TDM program for the coming calendar year;
- c. A determination of the Maximum Trips After Reduction for the Property in accordance with the above; and
- d. Provision of the specific details associated with the monitoring and reporting requirements of the TDM program in accordance with the TDM Work Plan.

The initial TDM Work Plan and initial Annual Budget, and subsequently the Annual Reports, the Annual Budgets, and any changes to the TDM Work Plan, shall be reviewed by FCDOT. If FCDOT has not responded with any comments within sixty (60) days after submission, then the TDM Work Plan, the Annual Report, and the Annual Budget shall be deemed approved and the program elements shall be implemented. If FCDOT responds with comments on the TDM Work Plan, the Annual Report, and/or the Annual Budget, then the TPM will meet with FCDOT staff within fifteen (15) days of receipt of the County’s comments. Thereafter, but in any event, no later than thirty (30) days after the meeting, the TPM shall submit to FCDOT reasonable revisions to the TDM Work Plan, the Annual Report, and/or the Annual Budget as discussed and mutually agreed to with FCDOT, with such agreement not to be unreasonably withheld by the Applicant, the TPM or FCDOT, which shall be deemed approved. Thereafter, the TPM shall begin implementation of the approved TDM Program and fund the approved Annual Budget. Subsequent Annual Reports shall be subject to the same review and approval process as described in this Proffer for the initial submission.

- iii. TDM Account. If not previously established, the Applicant shall establish a separate interest bearing account with a financial institution qualified to do business in Virginia (the “TDM Account”) within thirty (30) days of the approval of the TDM Work Plan and the first Annual Budget. All interest earned on the principal shall remain in the TDM Account and shall be used by the TPM for residential TDM purposes. The TDM Account

shall be funded by the Applicant, or any successors and assigns, which may include any UOA/HOA/COA/CA, as applicable, through the TPM. Funds in the TDM Account shall not be utilized for purposes other than to fund TDM strategies/programs and/or specific infrastructure needs as may be approved in consultation with FCDOT. Funding of the TDM Account shall be in accordance with the Annual Budget for the TDM Program elements to be implemented in each calendar year. The TPM shall provide written documentation to FCDOT demonstrating the establishment of the TDM Account within ten (10) days of its establishment. The TDM Account shall be replenished annually following the establishment of each year's Annual Budget and submission of the Annual Report. The TDM Account shall be managed by the TPM.

- iv. TDM Remedy Fund. At the same time the TPM creates and funds the TDM Account, the TPM shall establish a separate, interest bearing account (referred to as the "TDM Remedy Fund") with a financial institution qualified to do business in Virginia. Such funding of the TDM Remedy Fund shall be made one time at the rate of \$0.10 per gross square foot of the Residential Units to be constructed on the Property. Funding shall be provided by the Applicant for the TDM Remedy Fund prior to the issuance of the first RUP for the first residential building to be constructed on the Property. The amount of the one-time funding for the TDM Remedy Fund shall escalate annually from the date of the approval of this Application in accordance with Proffer 42 below. Funds from the TDM Remedy Fund shall be drawn upon only for purposes of immediate need for TDM funding and may be drawn on prior to any Annual Budget adjustments as may be required.
- v. TDM Incentive Fund. The "TDM Incentive Fund" is an account into which the Applicant, through the TPM, shall deposit contributions to fund a multimodal incentive program for initial purchasers/lessees of the Residential Units within the Property. Such contributions shall be made one time at the rate of \$0.02 per gross square foot of new Residential Units constructed on the Property and provided prior to the issuance of the first RUP for the residential building. The amount of the one-time funding for the TDM Incentive Fund shall escalate annually from the date of the approval of this Application in accordance with Proffer 42 below. If funds remain after incentives are provided to initial purchasers/lessees, the Applicant shall continue to provide incentives until the fund is depleted.
- vi. Monitoring. The TPM shall verify that the proffered TDM Goal for the Proposed Development is being met through the completion of surveys of the residents of the Residential Units ("Surveys"), vehicular trip counts of the Residential Units ("Trip Counts"), and/or other such methods as may be reviewed and approved by FCDOT. The results of such Surveys and Trip Counts shall be provided to FCDOT as part of the Annual Reports.

Surveys and Trip Counts shall be conducted for the Proposed Development beginning with the first January after Build Out of the Proposed Development. Such Surveys shall be conducted every three (3) years and such Trip Counts shall be collected annually for the Proposed Development until the results of three (3) consecutive annual Trip Counts conducted upon Build Out of the Proposed Development show that the TDM Goal has been met. At such time as three (3) consecutive annual Trip Counts conducted upon Build Out show that the TDM Goal for the Proposed Development has been met, and notwithstanding Proffer 26.F below, Surveys and Trip Counts shall thereafter be provided for the Proposed Development every five (5) years. Any time during which Survey response rates do not reach twenty percent (20%), FCDOT may request additional surveys be conducted the following year. Notwithstanding the aforementioned, at any time prior to or after Build Out, FCDOT may suspend such Surveys and/or Trip Counts if conditions warrant such without the need for a PCA.

- F. Evaluation and Remedies. The results of each Trip Count shall be compared to the Maximum Trips After Reduction to determine whether the TDM Goal is being met for the Proposed Development.
- i. Trip Counts. In the event three (3) consecutive Trip Counts conducted upon Build Out of the Proposed Development show that the vehicle trips generated by the Residential Units are equal to or less than the Maximum Trips After Reduction, then (a) the Applicant Control Period shall expire, (b) any funds remaining in the TDM Remedy Fund shall be released back to the Applicant, and (c) the TDM Program shall continue to be administered in accordance with Proffer 26.I. In the event a Trip Count conducted upon Build Out of the Proposed Development shows that the vehicle trips generated by the Residential Units exceed the Maximum Trips After Reduction, then the TPM shall meet and coordinate with FCDOT to review the results of the Trip Count and develop modifications to the TDM Work Plan and the Annual Budget to address the surplus of trips. The TPM shall submit any revisions to the TDM Work Plan and the Annual Budget to FCDOT within thirty (30) days of such meeting. If no written response is provided by FCDOT within sixty (60) days, the TPM's revisions to the TDM Work Plan and the Annual Budget shall be deemed approved. Following approval of the revised TDM Work Plan and Annual Budget, the TPM shall: (a) drawn down on the TDM Remedy Fund, as may be necessary, to fund additional/alternative TDM strategies under the updated TDM Work Plan, (b) increase the TDM Account with TDM Remedy Funds, as may be necessary, to cover any additional costs to implement the updated Annual Budget, and (c) implement the provisions of the updated TDM Work Plan as developed in consultation with FCDOT.

- ii. Remedy Expenditures. Remedial measures and additional/alternative TDM Strategies implemented in accordance with Proffer 26.F(i) above shall be funded by the TDM Remedy Fund based on the expenditure program that follows. There shall be no requirement to replenish the TDM Remedy Fund at any time. Any cash left in the TDM Remedy Fund shall be released to the Applicant once three (3) consecutive Trip Counts conducted upon Build Out show that the Maximum Trips After Reduction have not been exceeded.

<u>Trip Goals Exceeded</u>	<u>Remedy Expenditure</u>
Up to 1%	No Remedy needed
1.1% to 3%	3% of Remedy fund
3.1% to 6%	6% of Remedy Fund
6.1% to 10%	10% of Remedy Fund
Over 10%	15% of Remedy Fund

- G. Additional Trip Counts. After the expiration of the Applicant Control Period, if an Annual Report indicates that a change has occurred in the vehicle trip characteristics for the Proposed Development that reasonably calls into question whether the TDM Goal continues to be met, then FCDOT may require the TPM to conduct additional Trip Counts (pursuant to the methodology set forth in the TDM Work Plan) within ninety (90) days to determine whether in fact such objectives are being met. If any such Trip Counts demonstrate that the applicable vehicle trip reduction goals are not being met, then the TPM shall meet with FCDOT to review the TDM strategies in place and to develop modifications to the TDM Work Plan to address the surplus of trips.
- H. Review of Trip Reduction Goals. At any time and concurrent with remedial actions as outlined in Proffer 26.F(i), the Applicant may request that FCDOT review the TDM Goal established for the Proposed Development and set a revised lower TDM Goal for the Proposed Development consistent with the results of Trip Counts and Surveys provided under this Proffer or consistent with future changes in County policy. In the event a revised lower TDM Goal is established for the Proposed Development, the Maximum Trips After Reduction shall be revised accordingly for the subsequent review period without the need for a PCA.
- I. Continuing Implementation. Upon the expiration of the Applicant Control Period, the Applicant, and/or its successors and assigns, including any UOA/HOA/COA/CA or other association, as applicable, shall bear sole responsibility, through the TPM, for continuing implementation of the TDM Program and compliance with this Proffer. The Applicant, through the TPM, shall continue to administer the TDM Program in the ordinary course in accordance with this Proffer, including submission of Annual Reports.
- J. Notice to Owners. The Applicant, its successors and assigns, shall advise each successor owner and/or developer of its funding obligations pursuant to the

requirements of this Proffer 26 prior to purchase and the requirements of the TDM Program, including the annual contribution to the TDM Program (as provided herein), shall be included in all initial and subsequent purchase documents.

- K. Enforcement. If the TPM fails to timely submit a report to FCDOT as required by this Proffer, the County will thereafter issue the TPM a written notice stating the TPM has violated the terms of this Proffer and providing the TPM with sixty (60) days within which to cure such violation. If after such sixty (60) day period the TPM has not submitted the delinquent report, then the Applicant shall be subject to a penalty of \$75 per day until such time as the report is submitted to FCDOT. Such penalties shall be payable to the County and shall be used for transit, transportation, or congestion management improvements within the vicinity of the Property.

## **STORMWATER MANAGEMENT**

27. Stormwater Management. The Applicant shall provide the stormwater management (“SWM”) and Best Management Practices (“BMP”) measures as generally depicted on Sheets C-11 through C-13 of the CDP/FDP (the “SWM Facilities”) sufficient to meet the requirements of the PFM. The SWM Facilities may include, but are not limited to, the following: underground filtration and/or detention vaults, urban bio-retention, conservation and reforestation, compost amended managed turf/landscaped areas, and the downstream regional pond system (C-03). The Applicant shall be permitted to use the existing regional stormwater management pond to satisfy its BMP requirements; other BMP facilities shown on the CDP/FDP may be used in the event the existing pond is insufficient for such purposes. The Applicant shall identify the specific SWM Facilities to be provided with the Proposed Development as part of initial site plan approval and shall provide as part of such site plan computations demonstrating conformance with applicable state and County SWM requirements, including 9VAC25-870, Fairfax County Code Chapter 124, the PFM (Chapter 6), and computations in support of the requested RPA Exception 7265-WRPA-002-01. Further, the site plan shall also demonstrate compliance with the minimum water quality requirements of the Water Supply Overlay District applicable to the Property. The final location, sizing and performance of the specific SWM Facilities shall be as approved by DPWES and in substantial conformance with the CDP/FDP, 7265-WRPA-002-01 and 7265-WQ-001-1. The Applicant shall utilize the existing downstream (off-site) regional (SWM water quality and quantity) pond system (C-03) for treatment of on-site improvements.

- A. Maintenance Responsibility. Prior to site plan approval for the Proposed Development, the Applicant shall execute an agreement with the County in a form satisfactory to the Office of the County Attorney (the “SWM Agreement”) providing for the perpetual maintenance of the onsite SWM Facilities. The SWM Agreement shall require the Applicant (or its successors/assigns) to perform regular routine maintenance of the SWM Facilities and to provide a maintenance report annually to the Fairfax County Maintenance and Stormwater Management Division of DPWES, provided DPWES requests such a maintenance report. The SWM Agreement also shall address easements for County inspection and

emergency maintenance of the SWM Facilities to ensure that the facilities are maintained by the Applicant in good working order.

- B. Future Regulations. In the event the U.S. Environmental Protection Agency, the Commonwealth of Virginia, Fairfax County or their designee, issue new or additional stormwater management requirements or regulations affecting the Proposed Development, the Applicant shall have the right to accommodate necessary changes to its stormwater management designs without the need for a PCA, CDPA, or FDPA, provided such changes to the stormwater management design do not materially affect the limits of clearing and grading, building locations or road layouts, and otherwise are in general conformance with the CDP/FDP, as determined by the Zoning Administrator.

### MISCELLANEOUS

28. Fairfax County Public Schools Contribution. Per the Residential Development Criteria Implementation Motion adopted by the Board of Supervisors on January 7, 2003, prior to the issuance of the first RUP the Proposed Development, the Applicant shall contribute \$1,191.45 per residential unit (based on an assumed rate of 0.10 students per unit multiplied by \$11,749 per student) within such building to the Fairfax County Board of Supervisors for transfer to the Fairfax County School Board to be utilized for capital improvements to the schools serving the Property. Such contribution shall escalate in accordance with Proffer 33 below. Prior to the commencement of construction for the Proposed Development, the Applicant shall notify the Fairfax County Public Schools of the intended construction and anticipated completion date for the Proposed Development.

29. Traffic Signal Preemption Funds. Prior to issuance of the first RUP for the Proposed Development, the Applicant shall contribute \$10,000 to the Fairfax County Department of Fire and Rescue to be used for traffic signal preemption devices on existing traffic signals serving Trinity Centre and the Property. Such contribution shall escalate in accordance with Proffer 33 below.

30. Parks Contribution. Prior to the issuance of the first RUP for the Proposed Development, the Applicant shall contribute \$893.00 per resident (based on 1.75 residents per Residential Unit, exclusive of ADUs) constructed on the Property to the Fairfax County Park Authority for public parks in the vicinity of the Property.

31. Centreville Historic District Contribution. In lieu of a previously proffered commitment to install a single historical marker at the Property, the Applicant shall contribute \$50,000.00 to the Fairfax County Park Authority to be used to establish a series of historic markers and/or signage documenting the significance of the Sully District and the Centreville Suburban Centre area. The Applicant shall contribute the funds to the Park Authority prior to issuance of the first RUP for the Proposed Development.

32. Trinity Parkway Contribution. The Applicant shall contribute \$250,000 to the Board of Supervisors (the "Trinity Parkway Contribution") to be used to make improvements to Trinity Parkway necessary to secure its acceptance into the VDOT system for street maintenance (the

“VDOT Acceptance Plan”). The Trinity Parkway Contribution shall escalate in accordance with Proffer 33 below. To reduce the risk that VDOT could reject the VDOT Acceptance Plan as a result of the duplication of construction work in the Trinity Parkway right-of-way by the Applicant and/or the County, the Applicant shall coordinate its site plan for the Proposed Development with DPWES’s construction of the VDOT Acceptance Plan. In particular, within sixty (60) days following approval of this Application, the Applicant shall prepare for and submit to DPWES a public improvement or site plan in accordance with applicable VDOT and/or PFM standards for public streets that includes, but is not limited to, (a) extensions of existing utilities located within Trinity Parkway to the Property and (b) a new stubbed-in entrance to the Property (CG-6/11 design, including handicap ramps and striping) at the southeast corner of the Property (collectively, the “Trinity Parkway Upgrades”). The Applicant’s payment of the Trinity Parkway Contribution shall be contingent on DPWES (or its designee) constructing the Trinity Parkway Upgrades as part of the VDOT Acceptance Plan. The Applicant shall contribute the Trinity Parkway Contribution prior to issuance of a building permit (core and shell) for the Proposed Development. In the event the County has not completed the Trinity Parkway Upgrades prior to the issuance of a building permit (core and shell) for the Proposed Development, then the Applicant may elect to construct using its own contractors the Trinity Parkway Upgrades and to deduct from the Trinity Parkway Contribution the Applicant’s cost to complete the Trinity Parkway Contribution as such cost is determined in consultation with DPWES. Notwithstanding anything set forth in this Proffer 32, the Applicant shall have no obligation or requirement to construct any improvements shown on the VDOT Acceptance Plan or to assure acceptance of Trinity Parkway, in whole or in part, into the VDOT system for maintenance, which obligation shall remain with the County.

33. Escalation in Contribution Amounts. All monetary contributions specified in these Proffers shall be adjusted on a yearly basis from the base year of 2015 and change effective each January 1 thereafter, as permitted by Section 15.2-2303.3 of the Code of Virginia, as amended.

34. Transformer Locations. In consultation with DPWES as part of site plan approval for the Proposed Development, the Applicant shall identify on such site plan the location of transformers to serve the Property and shall provide supplemental landscaping or other measure to help screen the transformers. The final location and installation of such transformers shall not require approval of a PCA, CDPA, or FDPA.

35. Ongoing Maintenance Obligations. Prior to recording any declaration of condominium for all or part of the Property, the Applicant shall record a declaration and/or establish an Umbrella Owners’ Association (the “UOA”) for the Property to address the general maintenance and other obligations of the owner(s) (and their successors and assigns), including the fulfillment of these Proffers. The declaration and/or UOA documents shall acknowledge that the Property already is a member of and subject to the owners association for the larger Trinity Centre development and shall identify those maintenance or proffer obligations that will or are expected to fall principally on the owners of any future condominium units as a result of being subjected to the respective declarations. Purchasers of individual dwelling units shall be advised in writing of these proffer conditions and maintenance obligations prior to entering into a contract of sale.

36. Public Access Easements to Lakeside Park. Prior to initial site plan approval for the Proposed Development, the Applicant shall provide a public access easement in a form acceptable to the County Attorney to permit the public to access the trails, sidewalks and other amenities of the Lakeside Park located on the Subject Property.

37. Density Credit. The Applicant hereby reserves all intensity/density credit attributable to any eligible dedications and/or conveyances of land at no cost to the Board of Supervisors, VDOT, or any other public entity pursuant to these Proffers in accordance with the provisions of Paragraph 4 of Section 2-308 of the Zoning Ordinance and any such intensity/density credit is hereby reserved to the Property.

38. Binding Effect. These Proffers will bind and inure to the benefit of the Applicant and its successors and assigns. If any portion of the Property is sold or otherwise transferred, the associated Proffers become the obligation of the purchaser or other transferee and shall no longer be binding on the seller or other transferor.

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

**[SIGNATURES ON FOLLOWING PAGES]**

**TITLE OWNER/APPLICANT**

TRINITY CENTRE LAND LLC, a Delaware  
limited liability company

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**CONTRACT PURCHASER**

JLB REALTY LLC, a Texas limited liability  
company

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_



# County of Fairfax, Virginia

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October 15, 2015

RECEIVED  
Department of Planning & Zoning

OCT 19 2015

Zoning Evaluation Division

**2015 Planning  
Commission**

**Peter F. Murphy**  
Chairman  
*Springfield District*

**Frank de la Fe**  
Vice Chairman  
*Hunter Mill District*

**James R. Hart**  
Secretary  
*At-Large*

**Timothy J. Sargeant**  
Parliamentarian  
*At-Large*

-----  
**Ellen J. "Nell" Hurley**  
*Braddock District*

**John Ulfelder**  
*Dranesville District*

**James Migliaccio**  
*Lee District*

**Julie Strandlie**  
*Mason District*

**Earl L. Flanagan**  
*Mount Vernon District*

**Kenneth A. Lawrence**  
*Providence District*

**John L. Litzenberger**  
*Sully District*

**Janyce N. Hedetniemi**  
*At-Large*

-----  
**Jill G. Cooper**  
*Executive Director*

**Kimberly A. Bassarab**  
*Assistant Director*

**John W. Cooper**  
*Clerk to the Commission*

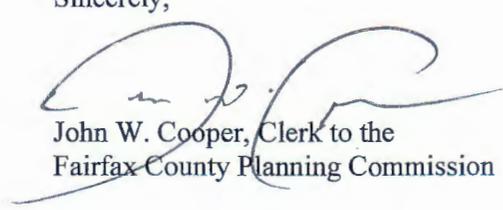
Mark C. Looney, Esquire  
Cooley LLP  
11951 Freedom Drive  
Reston, Virginia 20190

**Re: RZ/FDP 2015-SU-002/PCA 86-S-071-04 – JLB REALTY, LLC  
Sully District**

Dear Mr. Looney:

At its October 14, 2015 meeting, the Planning Commission voted 10-0 (Commissioners Lawrence and Murphy were absent from the meeting) to **DEFER THE DECISION ONLY** on the above-referenced application to a date certain of October 15, 2015. A copy of the verbatim transcript is attached.

Sincerely,

  
John W. Cooper, Clerk to the  
Fairfax County Planning Commission

Attachments (a/s)

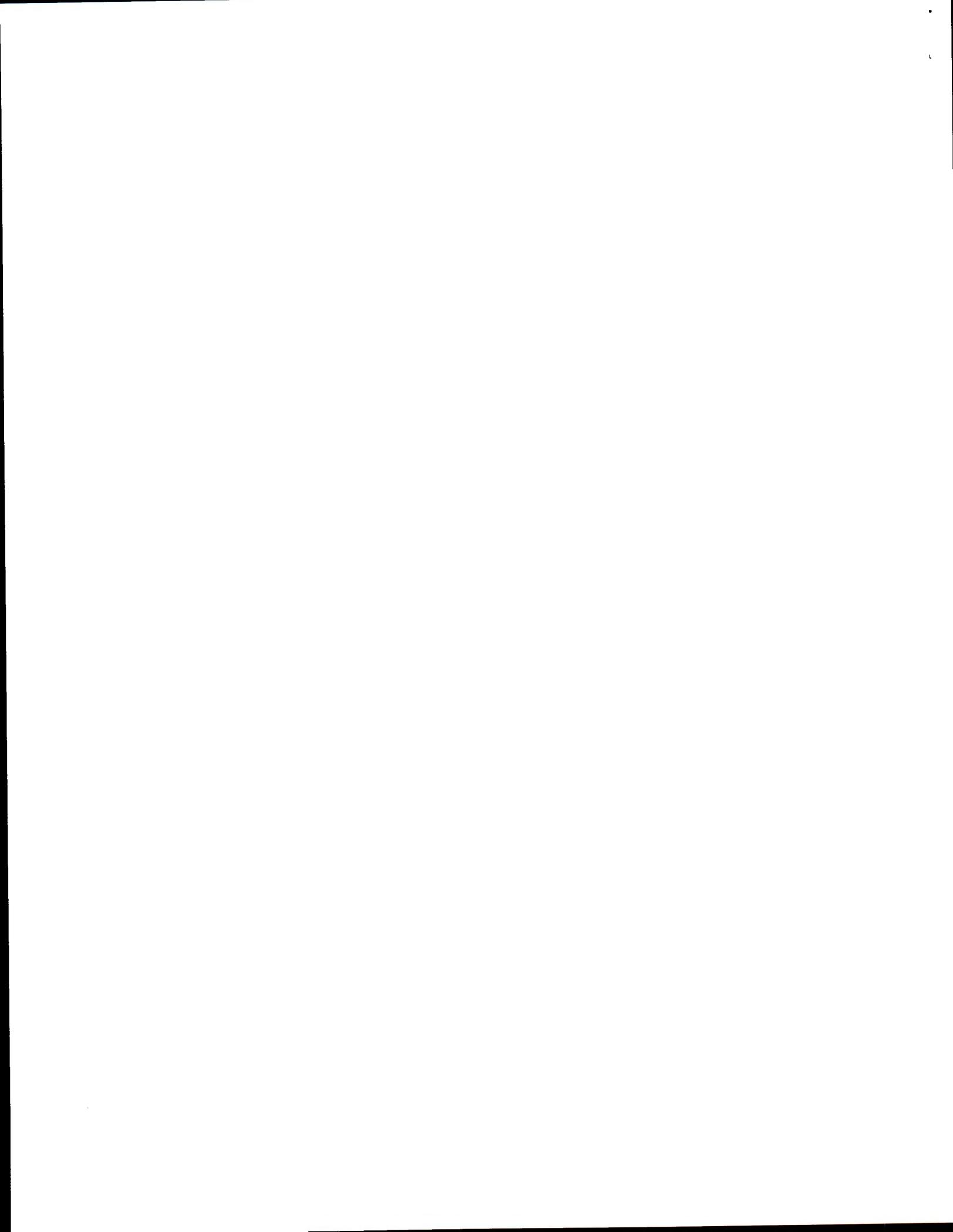
cc: Michael R. Frey, Supervisor, Sully District  
John L. Litzenberger, Planning Commissioner, Sully District  
Catherine A. Chianese, Assistant County Executive, Clerk to the Board of Supervisors, County Executive Office  
Michael H. Lyskey, Staff Coordinator, Zoning Evaluation Division (ZED), Department of Planning and Zoning (DPZ)  
Robert Harrison, ZED, DPZ  
October 14, 2015 date file

 To request special accommodations, call the Planning Commission office at 703-324-2865, TTY 703-324-7951. Please allow seven working days to make the appropriate arrangements.

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**Fairfax County Planning Commission**  
12000 Government Center Parkway, Suite 330, Fairfax, VA 22035  
703-324-2865 (Voice) 703-324-7951 (TTY) 703-324-3948 (Fax)  
[www.fairfaxcounty.gov/planning](http://www.fairfaxcounty.gov/planning)





Planning Commission Meeting  
October 14, 2015  
Verbatim Excerpt

RZ/FDP 2015-SU-002/PCA 86-S-071-04 -- JLB REALTY, LLC

After the Close of the Public Hearing

Vice Chairman de la Fe: Public hearing is closed; this is in the Sully District, Mr. Litzenberger.

Commissioner Litzenberger: Thank you, Mr. Chairman. Well, we're going to meet tomorrow at 11 a.m., in Supervisor Frey's office, to finalize any last minute changes and I'll ask staff to do an extra- be extra vigilant in reviewing the spell check portions for Mr. Hart; therefore, Mr. Chairman I MOVE THE PLANNING COMMISSION DEFER DECISION ONLY FOR PCA 86-S-071-04 AND RZ/FDP 2015-SU-002 TO A DATE CERTAIN OF OCTOBER 15<sup>TH</sup>, 2015.

Commissioners Flanagan and Hedetniemi: Second.

Vice Chairman de la Fe: Seconded by Commissioners Flanagan and Hedetniemi. Any discussion? Defer the decision on these applications to tomorrow night with the record remaining open for any comment. All those in favor, please signify by saying aye.

Commissioners: Aye.

Vice Chairman de la Fe: Opposed? The motion carries.

//

(The motion carried by a vote of 10-0. Commissioners Lawrence and Murphy were absent from the meeting.)

TMW