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BY HAND DELIVERY

September 4, 2009

Stephen Gardner  
Project Manager  
Department of Planning  
1 Harrison Street, S.E., 3rd Floor  
Leesburg, Virginia 20177-7000



**RE: ZCPA 2006-0003/ZMAP 2006-0011, Stone Ridge Commercial**

Dear Stephen:

This letter includes our response to the review comments on the June 16<sup>th</sup> submission of the Application. The main elements of this revised Application are as follows:

- the relocation of the proposed R-24 district to the south in order to abut Tall Cedars Parkway, in response to certain Zoning comments,
- the inclusion of additional Stone Ridge land with the ZCPA application in support of proposed proffers regarding the library site, trail easement and linkage commitments, in response to certain Zoning comments,
- the removal of two previously requested zoning modifications and the addition of a new modification to address the PD-CC(SC) district size,
- the restoration of the currently approved tree conservation areas in Land Bay 1,
- a commitment to grant a 30-foot wide public access easement for future stream valley trail, and
- a commitment to design standards for the development of the PD-OP land bay.

Enclosed with this submission are 10 copies each of the revised Statement of Justification, the draft proffer statement and comparisons with the approved proffers and the last version of the proffers submitted for review. Ten copies of the revised Application plan set will be delivered to you under separate cover. Also enclosed are three copies each of the Stone Ridge development summary and the consolidated approved proffers for ZCPA 2002-0004/ZMAP 2002-0013 requested by Zoning, and three copies each of the approved wetlands permit and the previously submitted highway noise study requested by ERT.

The staff review comments are addressed below in chronological order. Each agency's comments are summarized (noted in *Italics*) and followed by our response.

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**Zoning Division, Department of Building and Development (comments dated 7/2/09)**

*1. In regard to the preamble, I note that the description of "the Property" does not include Land Bays 2, 3 or 4. However, a number of the proffer changes impact these land bays. I suggest that these land bays be included. In addition, I note that the proffers pertaining to the middle school site are being amended, but that the middle school site itself has not been included in the description of "the Property". I suggest that this site be included as well. Similarly, the proffers for the library site are being amended, but the land on which the library is to be located is not included and would not be subject to these proffers. I suggest that the land for the library should also be included in this application.*

The PINs of the tax parcels that include Land Bays 2, 3 and 4, and the library site have been added to the description of "the Property" in the Preamble. An alternative proffer has been developed to address the matter that previously involved the middle school proffer, so the middle school proffer will not be amended and the middle school site does not need to be referenced as part of "the Property."

*2. In further regard to the preamble, I note that while the applicant has referred to the mapping of a portion of the Property to the PD-H4 Zoning District, there is no mention as to how those portions are to be administered. In the initial rezoning for Stone Ridge, it was mentioned that the PD-H4 portion of the Property would be administered as R-8. If that is still the intent, then I suggest that this be clarified.*

The Preamble has been revised to clarify that the PD-H4 district will be administered as R-8.

*3. In regard to proffer I., in the second line thereof, I suggest that the phrase "entitled 'Stone Ridge Commercial ZMAP 2006-0011/ZCPA 2006-0003' and" be inserted following the word "plans".*

The referenced proffer has been revised as suggested.

*4. In regard to proffer I.A., Land Bay 1, I note that the applicant has indicated that this Land Bay may no longer be developed as residential units, but may instead be developed with any other use allowed in the TR1-UBF Zoning District. It is not clear if this proposed language change is intended to mean that if another use is developed then none of the 94 residential units will be constructed, or whether the intent is to allow for a mix of uses. I suggest that this be clarified.*

Proffer I.A. has been revised to clarify that the development of Land Bay 1 will include a minimum of 50 residential units and may include other TR1-UBF uses.

*5. In further regard to proffer I.A., in the last line thereof, the applicant states that the water tank site is identified on the CDP as "PIN: 247-19-1835". However, the site is not so identified on the CDP. Instead it is labeled "Dulles South Water Tank Site". While the PIN is accurate, the statement is not consistent with what is on the CDP. I suggest that this inconsistency be eliminated.*

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Proffer I.A. has been revised to be consistent with the rezoning plan set.

*6. In regard to proffer I.B.1., in the first line thereof, I suggest that the phrase "in Land Bay 5R" be inserted after the phrase "Active Recreation Facility".*

The referenced proffer has been revised as suggested.

*7. In regard to proffer I.C.1.a., in the third line thereof, I suggest that the number "6" be inserted prior to the term "ADUs".*

Inasmuch as Land Bay EE2A and the undeveloped portion of Land Bay EE2 may be consolidated for development purposes, the required number of ADUs may be distributed throughout the consolidated land bay. This proffer has been clarified to state the number of market rate units (84) and ADUs (6) approved for Land Bay EE2A, as well as the total number of market rate units (214) and ADUs (15) permitted within the consolidated area.

*8. In further regard to proffer I.C.1.a., in the sixth line of the proffer, the applicant has indicated that the total contribution for the "consolidated land bay", which I presume means the combined Land Bays EE2 and EE2A, would equal \$12,611 x 84 or \$1,059,324. However, 84 is the number of market rate units in Land Bay EE2A alone, and this proposed contribution would not include any contribution for units in Land Bay EE2. This does not seem appropriate. I suggest that staff review this proposed capital facilities contribution for sufficiency. However, the proffer goes on to state that all market rate units in the consolidated land bay (EE2 and EE2A) beyond the 84 units shall be subject to the capital facilities contribution specified in ZMAP 2002-0013/ZCPA 2002-0004. This amount also appears to be \$12,611 and I do not understand why these units are being treated separately. I suggest that this proffer be clarified.*

This proffer is carried over from ZMAP 2002-0013/ZCPA 2002-0004 and recognizes that previously approved market-rate units under ZMAP 1994-0017 remain subject to the capital facilities contribution proffered with ZMAP 1994-0017, and that the 84 market rate units approved with ZMAP 2002-0013/ZCPA 2002-0004 remain subject to the capital facilities contribution proffered with ZMAP 2002-0013/ZCPA 2002-0004. The proffer is repeated here because the location of Land Bay EE2A is being changed and to better clarify the applicable capital facilities contributions.

*9. In further regard to proffer I.C.1.a., I note that the applicant states that there will be 84 market rate units, apparently in Land Bay EE2A, which leaves 6 ADUs in that Land Bay. However, Note 1 on Sheet 4 does not indicate that any ADUs will be provided in Land Bay EE2A. I suggest that this inconsistency be eliminated. Similarly, the same note fails to mention any ADUs for Land Bay EE2. If there are ADUs in this Land Bay, I suggest that this note be amended to so state.*

As noted above, required ADUs for Land Bays EE2 and EE2A may be distributed throughout the consolidated land bay. This proffer has been clarified.

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*10. In further regard to proffer I.C.1.a., I note that the trigger mechanism is being changed from the first residential zoning permit in Land Bay EE2A to the first residential zoning permit in the consolidated land bay (EE2A and EE2). However, not all of Land Bay EE2 is the subject of this application and it is unclear how this change can be effective against Land Bay EE2 if it is not included within this application. I suggest that the entire Land Bay be included in the application.*

Proffer I.C.1.a. has been revised to clarify that the consolidated land bay consists of Land Bay EE2A and the undeveloped portion of Land Bay EE2, which undeveloped portion has been added to the certified plat and the CDP.

*11. In regard to proffer I.C.1.a.(i), I note that the applicant proposes to construct a clubhouse and swimming pool prior to the issuance of the 80<sup>th</sup> residential zoning permit in Land Bay EE2A or the 250<sup>th</sup> residential zoning permit in combined Land Bays EE2 and EE2A. Pursuant to proffer I.C.1.a., Land Bay EE2A is limited to 90 multi-family units, while the CDP states that Land Bay EE2 is limited to 84 multi-family units. If this is the case, then only 174 residential units could be constructed on the combined land bays, and the 250<sup>th</sup> unit would never be reached. I suggest that the unit counts be clarified.*

Land Bay EE2 is approved for 223 multi-family units, of which 84 have been constructed. The notes on the CDP have been revised accordingly. This proffer has been revised to clarify that the recreational amenities will be constructed prior to the issuance of the 166<sup>th</sup> residential in the combined area of Land Bay EE2 and the undeveloped portion of Land Bay EE2, which together may have a total of 229 residential units.

*12. In regard to proffer I.D., I note that the applicant is proposing to create a new Land Bay EE1A, which is to be zoned PD-CC(SC). However, the size of this proposed rezoning is only 2.9 acres, while the minimum size for a PD-CC(SC) zoning district is 20 acres. Given the proposed size of the district, it appears that PD-CC(NC) would be more appropriate, and this district allows for the proposed commuter parking lot use as well, although a special exception would be required if this use is to constitute 100% of the uses for the proposed district. I suggest that consideration be given to changing the proposed district to PD-CC(NC).*

As discussed with staff on July 29<sup>th</sup>, this submission includes a zoning modification for a reduction of the PD-CC(SC) district size. Proposed Land Bay EE1A is a relocation of Land Bay EE1A and the PD-CC(SC) district approved with ZMAP 2002-0013, and is a portion of the original Land Bay EE approved with ZMAP 1994-0017.

*13. In regard to proffer I.E.1., I note that the applicant has created a new subparagraph "a". I question whether there is any intent to have any other subparagraph under proffer I.E.1. Subparagraph "a" addresses Land Bay 8 now, instead of Land Bay 7, as it previously did. So, it begs the question as to whether a subparagraph "b" addressing Land Bay 7 was intended.*

The referenced proffer has been revised to include Land Bay 7 as subparagraph "a" and Land Bay 8 as subparagraph "b".

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*14. In further regard to proffer I.E.1., in the last line of subparagraph "a", I suggest that the phrase "as shown on the CDP" be retained.*

The suggested phrase has been added to both subparagraphs "a" and "b".

*15. In regard to proffer I.E.2., I again note that there is a subparagraph "a" with no other subparagraphs. I question whether there was intended to be another subparagraph "b", perhaps dealing with Land Bay FF2A, as this paragraph only deals with Land Bay FF2B. I suggest that this be clarified.*

The subparagraph "a" notation for Land Bay FF2B has been deleted. Subparagraphs "a" through "f" have been added to describe the design standards that will apply to Land Bay FF2B.

*16. In regard to proffer I.F., concerning pedestrian access, I suggest that the trail network proposed by the applicant should connect to the stream valley trail proposed in proffer III.B.4. However, no such connection is shown on the CDP. I suggest that this be addressed.*

The CDP has been revised to show a trail connection, as suggested.

*17. In regard to proffer I.G., concerning the Stone Ridge Development Summary, I note that the amount of office that could be developed in Stone Ridge is now 852,946 square feet. I urge staff to review this level of office development to ensure that the proposed road network is capable of serving it.*

The Application's traffic analysis shows that the road network is capable of serving the maximum potential amount of office floor area, which has been recalculated to be 847,406 square feet (including 12,765 sq.ft. of existing by-right PD-OP uses on the former Choi Property, now consolidated in PIN: 205-36-2224) or an increase of 133 square feet over the currently approved total for Stone Ridge combined with the 12,765 sq.ft. of existing by-right PD-OP uses.

*18. In regard to proffer II.B.3., I note that in the last line thereof, the applicant states that construction of Route 50 improvements shall commence "prior to the issuance of the first residential zoning permit in Land Bays 1, 2, 3, 4, or 5R". However, in proffer I.A., the applicant indicates that development other than residential may occur in Land Bay 1. If that's the case, it is not clear what will happen in the event that Land Bay 1 develops with other than residential uses. As written, such development will not trigger the Route 50 improvement requirement. I urge staff to review this to determine if non-residential development in Land Bay 1 is acceptable without the Route 50 improvements, or whether non-residential development in Land Bay 1 should also trigger the need for the Route 50 improvements.*

As noted above, Proffer I.A. has been revised to clarify that in any event a minimum of 50 residential units will be constructed in Land Bay 1. Therefore, the referenced trigger is valid. Any proposed special exception use in Land Bay 1 will need to address transportation impacts not otherwise mitigated by the proffers.

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*19. In regard to proffer II.B.4.(c), in the ninth line thereof, I again note that a trigger mechanism, this time for intersection improvements to the Route 50/Future West Spine Road Intersection, is based on the issuance of the first "residential" zoning permit in Land Bays 1, 2, 3, 4, or 5R. I again urge staff to review this provision in light of the applicant's proposed change to proffer I.A., and the potential use change in Land Bay 1.*

As noted above, Proffer I.A. has been revised to clarify that in any event a minimum of 50 residential units will be constructed in Land Bay 1. Therefore, the referenced trigger is valid.

*20. In regard to proffer II.B.4.(d)(i), I note that the applicant's agreement to the closure of existing Gum Springs Road/Route 50 intersection requires that VDOT actually accept Stone Springs Boulevard, between Route 50 and the North Collector Road, for maintenance. I suggest that this be changed to "open for use".*

It is our understanding that a replacement road must be accepted by VDOT for maintenance before VDOT will vacate/abandon the existing road. However, the referenced proffer has been revised as suggested.

*21. In regard to proffer II.B.4.(d)(iv), I note that the applicant has stated that the portion of Gum Springs Road between Route 50 and the North Collector Road must be abandoned by VDOT and/or the County before they will agree to the closure of the existing Gum Springs Road/Route 50 intersection. I do not see a connection between the need for such abandonment and the closure of the intersection. I suggest that this item be deleted.*

The referenced proffer mirrors a similar agreement to the closure of the Gum Springs Road/Route 50 intersection made in proffer IV. L. of ZMAP 2006-0007, Glascock Field at Stone Ridge, and is included with the Application as this intersection will be used by portions of the Property. However, the referenced proffer has been revised to eliminate subparagraph (iv) as suggested.

*22. In regard to proffer II.B.6., concerning Millstream Drive Extended, in the first line thereof, I suggest that the phrase "Millstream Drive westward and southward to Tall Cedars Parkway" be changed to "Millstream Drive westward and southward from its current terminus to Tall Cedars Parkway".*

The referenced proffer has been revised as suggested.

*23. In further regard to proffer II.B.6., in the third line thereof, I note that the applicant has proposed that the width of the road will narrow from 64 feet to 52 feet "at its intersection with Tall Cedars Parkway". Usually, roadways widen at intersections to accommodate turn lanes. I urge staff to review the appropriateness of this reduction in roadway width.*

The referenced proffer has been clarified to address potential turn lanes.

*24. In regard to proffer II.B.7., Phasing Plan, I note that the applicant intends to change the restriction on the cumulative number of residential zoning permits for Land Bays 1, 2, 3, 4, and*

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*5R. Currently, the restriction limits to 300 the number that can be issued within two years of the approval of ZMAP 2002-0013/ZCPA 2002-0003. However, the applicant proposes to change this to read "prior to the construction of the improvements listed in Phase IIIB of Exhibit B". It is not clear how this change can be made effective against Land Bays 2, 3, and 4, as they are not part of this application. In essence, you would have Land Bays 2, 3, and 4 subject to the two year restriction and Land Bays 1 and 5R subject to the construction of improvements provision. I suggest that Land Bays 2, 3 and 4 be made a part of this application in order to avoid such a split.*

Land Bays 2, 3 and 4 have been added to the ZCPA Application for purposes of the proffer amendments only, as suggested.

*25. In further regard to proffer II.B.7., I note that the applicant's proposed trigger for construction of improvements in Phase IIIB is the 301<sup>st</sup> residential zoning permit in the combined Land Bays 1, 2, 3, 4, and 5R. However, if Land Bay 1 does not develop with residential uses, as stated in proffer I.A., then this number will never be reached. Land Bays 2, 3, 4, and 5R, combined, are capped at 289 units, as stated in proffer I.B. I believe that the proposed change to Land Bay 1 causes a serious problem with the proposed Phasing for the entire project. I strongly suggest that changes to the phasing plan and to the trigger mechanism need to be addressed if Land Bay 1 does not develop with residential uses.*

As noted above, Proffer I.A. has been revised to clarify that in any event a minimum of 50 residential units will be constructed in Land Bay 1. Therefore, the referenced trigger is valid.

*26. In regard to proffer II.C.3.(a), in the third line thereof, I suggest that the word "formerly" be changed to "a.k.a.", as the CDP still refers to "Northstar Boulevard" as Route 659 Relocated, as do numerous references within the proffers.*

The referenced proffer has been revised as suggested.

*27. In further regard to proffer II.C.3.(a), I note that while dedication of right of way for Route 659 Relocated, from Tall Cedars Parkway to the southern property line is addressed, I do not see any dedication for right of way from Tall Cedars Parkway to the northern property line. The CDP states that this right-of-way is reserved per ZMAP 2002-0013. However, I cannot find such provision in the proffers for ZMAP 2002-0013. I urge staff to be sure that this right of way reservation for future dedication has been adequately addressed.*

The CDP for ZMAP 2002-0013 includes a label regarding the referenced right-of-way reservation. The applicable proffer in ZMAP 2002-0013 for this future dedication is II.C.3.(b), which is not being amended with this Application.

*28. In further regard to proffer II.C.3.(a), in the last sentence thereof, I note that the applicant has included a provision that addresses the possibility that Land Bay 1 may be developed as other than residential, by including a new, alternative, trigger tied to the first zoning permit issued in Land Bay 1. However, this only addresses this one particular improvement. It does*

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*not address the entire Phase IIIB situation if Land Bay 1 is not developed with individual residences.*

As noted above, Proffer I.A. has been revised to clarify that a minimum of 50 residential units will be constructed in Land Bay 1. Therefore, the commitments in Proffer III.B. are valid.

*29. In further regard to proffer II.C.3.(a), the first trigger for the Route 659 Relocated is currently listed as the 301<sup>st</sup> residential zoning permit in Land Bays 1, 2, 3, 4 or 5R. I suggest that this be changed to read "the 301<sup>st</sup> residential zoning permit, cumulatively, in Land Bays 1, 2, 3, 4 and 5R".*

The referenced proffer has been revised as suggested.

*30. In regard to proffer II.F., in the third line thereof, I suggest that the phrase "during site plan review process" be changed to "in conjunction with submission of the first site plan".*

The referenced proffer, now Proffer II.F.3., has been revised as suggested.

*31. In further regard to proffer II.F., concerning the signal at Stone Springs Boulevard and Millstream Drive, I note that this signal is internal to the development, and I do not understand why the applicant would pay for the signal as opposed to installing the signal. I suggest that this be considered.*

The County has previously accepted contributions from others for a signal at this intersection to be installed by the County or VDOT. The offered contribution would be added to the existing funds.

*32. In regard to proffer III.A.2., concerning the Middle School Site, I note that the site itself is not part of this application. Therefore, the proposed change to the proffer will not apply to the site itself. I suggest that consideration be given to including the site in this application.*

The proffer statement has been revised to forego any changes to Proffer III.A.2.

*33. In further regard to proffer III.A.2., I note that throughout the proffer the "Developer" is referenced instead of the "Owner". I suggest that this inconsistency be eliminated.*

As noted above, the proffer statement has been revised to forego any changes to Proffer III.A.2.

*34. In further regard to proffer III.A.2., I do not understand the applicant's intent. The applicant has proposed that \$550,000 of the capital facilities funds contributed by the Owner may be drawn to finish grade the school site. It is not clear if the intent is for the applicant to provide such funds at the time needed in the event that they have not yet been contributed. Currently, it says that the funds are to be drawn "from the funds contributed" while the applicant then mentions "to the extent the Developer advances such funds" they shall receive a credit against the contributions required by Proffer III.F. I suggest that this be clarified.*

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As noted above, the proffer statement has been revised to forego any changes to Proffer III.A.2. The \$550,000 referenced in approved Proffer III.F. is not a credit, but represents a portion of the proffered capital facilities contribution that was earmarked for the grading/site preparation of the middle school site. The only "credit" contemplated was for any additional funds contributed by the Developer, not to exceed \$550,000, to make up a shortfall in collected capital facilities contributions needed to fund the grading/site preparation of the middle school site. No shortfall was encountered, no additional funds from the Developer were needed, and the County today maintains an account with a balance of \$553,465.50.

*The applicant then states that "the balance of the \$550,000 shall be used to reimburse either the County or the Developer for the construction of the commuter parking facility on Public Use Site #4". It is not clear if this \$550,000 is sufficient to both grade the school site and pave the parking facility. If it is anticipated that it is, then I suggest that it may be better to simply have the applicant proffer to do both and avoid the confusing aspect of how these funds are to be used to reimburse anyone. The applicant has already indicated the intent to receive a credit for these funds anyway and it is not clear what happens in the event that these funds are not sufficient to do both projects. However, I note that currently there is no mention of this credit in proffer III.F., which deals with the capital facilities contribution and lists all other credits. I suggest that this provision be clarified.*

As noted above, the proffer statement has been revised to forego any changes to Proffer III.A.2. The County today maintains an account with a balance of \$553,465.50. Proposed Proffer III.G.4.a. suggests that the left-over funds be used to reimburse the party, either the Owner or the County, that constructs the commuter parking lot. These funds are not referenced in Proffer III.F. because they do not represent a credit, but previously collected capital facilities contributions.

*35. In regard to proffer III.B.1., in the first line thereof, I suggest that the reference to the "Developer" be changed to the "Owner". Additionally, in the second and third lines of the proffer, I suggest that the phrase "shown on Sheets 4 and 5 of the Concept Development Plan" be changed to "shown on the CDP".*

The referenced proffer has been revised as suggested.

*36. In regard to proffer III.B.3., I note that the proposed trigger mechanism for the contribution towards a concession stand at Byrne Ridge Park is the "301<sup>st</sup> residential zoning permit in Land Bays 1, 2, 3, 4 or 5R". I again point out the problem of this proposed trigger mechanism in the event that Land Bay 1 is developed with other than residential uses, in that there are only 289 residential units planned for Land Bays 2, 3, 4, and 5R combined. I suggest that this be addressed. I also suggest that the term "301<sup>st</sup> residential zoning permit in Land Bays 1, 2, 3, 4, or 5R" be changed to "301<sup>st</sup> residential zoning permit, cumulatively, in Land Bays 1, 2, 3, 4, and 5R".*

The referenced proffer has been revised to provide a trigger of prior to the first residential zoning permit in either Land Bay 1, 2, 3, 4 or 5R.

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*37. In further regard to proffer III.B.3., concerning a contribution towards the concession stand at Byrne Ridge Park, I note that this is a new proffer and that it is subjecting Land Bays 2, 3 and 4 to its terms, even though these land bays are not included in this application. I suggest that they be included.*

As noted above, the referenced proffer has been revised to provide a different trigger for this contribution. However, Land Bays 2, 3 and 4 have been added to the ZCPA Application for purposes of the proffer amendments only.

*38. In regard to proffer III.B.4., concerning the grant of an easement within the South Fork of the Broad Run stream valley, I suggest that the existing sanitary sewer line be shown on the CDP, and that the applicant specify from where to where this easement is to be granted. I further suggest that the applicant's internal trail system connect to this easement area and that consideration be given to whether or not to have the easement provide access to the archaeological site 44LD 1187 shown on the CDP.*

The location of the proposed trail easement has been added to the CDP and the internal trail system has been revised to provide a connection to this easement.

*39. In regard to proffer III.C., concerning the Library site, I note that the applicant has proposed that all permits and approvals for the building housing the Library will be obtained prior to approval of the 1,601<sup>st</sup> residential zoning permit, and that the library will be conveyed to the County on or before June 30, 2011. First, I note that the Library site is not part of this application, so the provision stating that the site will be conveyed prior to June 30, 2011 will not actually apply to the Library itself. I suggest that consideration be given to including the site in this application. Secondly, I note that the two different timing provisions could conflict with each other, depending on how far in advance of June 30, 2011 the 1,601<sup>st</sup> residential zoning permit is issued. I urge staff to ascertain whether this is a potential problem or not.*

The library parcel has been added to the ZCPA Application for purposes of the proffer amendments only. In regard to timing, all approvals for building the library have already been obtained and the building permit issuance is pending. The proffered completion date of June 30, 2011 includes ample time to complete the library shell construction.

*40. In regard to proffer III.F., in the eleventh line thereof, I suggest that the definition of "Net Contribution" is inaccurate. I suggest that the phrase "the Gross Contribution less the" be inserted following the phrase "The Net Contribution shall be". Additionally, in the fourteenth line of the proffer I suggest that the term "3#" be changed to "#3". Finally, I believe that the Net Contribution would equal \$12,602,774 minus the 11,271,300 credit for a total of \$1,331,474, and not the stated amount of \$11,271,300, which equals the capital facilities credit. I suggest that this be clarified.*

The referenced proffer has been revised as suggested.

*41. In further regard to proffer III.F., in the sixteenth line of the proffer, I suggest that the phrase "and the remaining Net Contribution balance" can be deleted.*

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The referenced phrase has been deleted as suggested.

42. *In further regard to proffer III.F., in the last line thereof, I suggest that the reference to "ZMAP 2002-0011/ZCPA 2002-0004" be changed to "ZMAP 2002-0013/ZCPA 2002-0004".*

The referenced proffer has been revised as suggested.

43. *In regard to proffer III.G.3.a., in the first line thereof, I suggest that the word "Extended" be inserted, following the phrase "Millstream Drive".*

The referenced proffer has been revised as suggested.

44. *In regard to proffer III.G.3.b., in the sixth line of the proffer, I suggest that the word "Extended" be inserted following the phrase "Millstream Drive".*

The referenced proffer has been revised as suggested.

45. *In regard to proffer III.G.4., in the fourth line thereof, the applicant states that the zoning for the Public Use Site #4 would be PD-IP. However, I believe that the correct zoning would be either PD-CC(SC) or PD-CC(NC), but not PD-IP. I suggest that the correct zoning be referenced.*

As discussed with staff, the zoning for Public Use Site #4 has been changed to PD-CC(SC) and a modification for a reduction of the minimum district size has been requested with this submission.

46. *In regard to proffer III.G.4.a., I note that the applicant has indicated the intent to construct 100 parking spaces on Public Use Site #4 at such time as development occurs on Land Bay EE2A. The applicant has indicated that they "shall be entitled to reimbursement of the construction costs from the funds referenced in Proffer III.A.2." However, it is not clear whether those funds are sufficient to cover the costs of the school grading for which they are to be provided and to reimburse the applicant. It is not clear what is to happen if those funds are not sufficient. I suggest that this be clarified.*

As discussed with staff on July 29<sup>th</sup>, the available funds from approved Proffer III.A.2., approximately \$553,465.50, are sufficient to cover the costs of the commuter parking lot construction.

47. *In further regard to proffer III.G.4.a., I note that while the Public Use Site #4 is to be conveyed to the County, the applicant shall be responsible for ordinary maintenance, landscaping, trash collection and snow removal, while the County shall be responsible for all other maintenance and repair. I question how this arrangement is going to work, how it is going to be documented, and who is to be responsible for the applicant's duties once the applicant has finished with development of the Property. I suggest that these matters be clarified.*

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The referenced proffer has been revised to state that the maintenance responsibilities will be made part of the deed of conveyance, which will be joined by the commercial owners association.

*48. In regard to proffer VI.C.1., in the first line thereof, I suggest that the phrase "on the Property" be inserted following the word "outfalls".*

The referenced proffer has been revised as suggested.

*49. In regard to proffer VII.C., concerning the linkage between the commercial and residential uses, I note that the applicant has proposed amending the current requirement. I do not see how you can have one standard for the Property and another for the balance of Stone Ridge. I suggest that the change not be made.*

Proffer VII.C. has been revised to address this concern.

*50. These proffers will need to be signed by all landowners, and be notarized, prior to the public hearing on this application before the Board of Supervisors.*

Comment acknowledged.

**Loudoun County Public Schools (comments dated 7/6/09)**

*School Board staff has reviewed the third submission and offers no further comment. The applicant's commitment to constructing a pedestrian system that connects the residential areas with both Arcola Elementary School and Mercer Middle School is noted and appreciated.*

Comments acknowledged.

**Proffer Matrix Team, Office of Capital Construction (comments dated 7/8/09)**

***Proffer II.B.6.*** *Staff recommends that an additional trigger be included to provide for the realignment and construction of Millstream Drive westward and southward to Tall Cedars Parkway as depicted on the CDP. Staff recommends that an option exist for the construction of Millstream southward to Tall Cedars Parkway independent of the County's request for this road, so that construction of this road segment can also occur to provide access to Land Bay 8 in the event this land bay will be developed prior to the County developing the 5.60 acre Public Use Site. Please consult with OTS regarding the appropriate phasing and construction of realigned Millstream Drive.*

Proffer II.B.6 has been revised to provide for the commencement of construction of Millstream Drive extended at the earlier of (i) within 6 months of notification by the County that access for Public Use Site #3 is needed, or (ii) the approval of a site plan for Land Bay 8.

***Proffer III.G.*** *Please revise the proffer statement to stipulate that all permanent water and sewer, underground telephone, electric, gas, cable, broadband and telecommunication lines will*

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*be provided to the proffered Public Use Site, at no cost to the County, prior to the dedication of the site to the County. To ensure all public water and sewer are being provided to the site at no cost to the County, staff requests that the Applicant pay for all tap fees and hookup charge backs to access the public water and sewer systems at the Public Use Site. The proffer statement also needs to stipulate that the proffered Public Use Site will be excluded from the Owner's Association.*

Proffer III.G.3.a. has been revised to provide for the extension of electric, gas and telecommunication lines, as well as the extension of public water and sewer, to Public Use Site #3 and for the granting of other easements at no cost to the County. As discussed with staff, the County does include tap fees and utility hook-up charges in its capital budget estimates and are factored into the anticipated capital facilities contribution; therefore, these costs are accounted for. Proffer III.G.3. also has been revised to exclude this site from the owner's association.

***Proffer III.G.4.*** *Please revise the first sentence of this proffer to provide that the conveyance of Public Use Site #4 to the County will be 2.9012 acres zoned PD-CC-SC as shown on Sheet 5 of the CDP.*

The referenced proffer has been revised as requested.

*Please clarify in Proffer III.G.4.a whether the amenities to be provided in the proffered Commuter Parking Lot will include bicycle racks.*

The referenced proffer has been revised to include bike racks for at least 10 bikes.

***Proffer VI.B.1.*** *Please clarify whether or not the Applicant is requesting to receive a credit on their open space contributions to complete all new trail segments as depicted on the CDP. It is not clear to staff if the Applicant is requesting credits on open space contributions for specific trail segments, or for all trail segments depicted on the CDP that currently are not constructed.*

The Applicant is not requesting a change in the previously approved trail construction credit specified in Proffer VI.B.1. Accordingly, Proffer VI.B.1. has been removed from the proposed amended proffers and will remain in effect for the Property. However, for Proffer VI.B.3. has been added to clarify that the trail locations shown on the proposed CDP will apply to the Property.

***Proffer VI.B.2.*** *Please revise the last sentence of this proffer to provide "Such contributions shall escalate each year in accordance with increase in the Consumer Price Index, and shall be utilized to defray the costs of acquiring and/or improving County Parks in the Dulles Planning Subarea."*

No changes are proposed to Proffer VI.B.2., and it has been removed from the proposed proffer statement.

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**Department of Fire, Rescue and Emergency Management (comments dated 7/9/09)**

*Staff concurs with the referral submitted by the Proffer Matrix Group regarding Proffer III.G.4 and respectfully requests that the applicant revise the proffer statement to reflect the recommendations of the proffer matrix group.*

Comment acknowledged.

**Virginia Department of Transportation (comments dated 7/21/09)**

*1. All traffic signals and signal modifications associated with this application are to be borne by the applicant. Verbiage to this effect should be included in the proffers including the associated warrant analyses. The intersection of particular interest has Level of Service (LOS) "F" on the side streets and is the following:*

*a. Stone Springs Boulevard/Tall Cedars Parkway*

The warrant analyses proffered with ZMAP 1994-0017 have been completed and signal warrants for this intersection were not met. This Application does not result in any additional traffic at this intersection. Nevertheless, Proffer II.F.4. has been added to provide for a warrant analysis for this intersection following the extension of Tall Cedars Parkway to Lenah Road and, if a signal is warranted, to provide a contribution to the County for the construction of a signal.

*2. Please see the attached memo dated 7/16/09 from Mr. Arsalan Faghri of VDOT's Traffic Engineering Section regarding the Traffic Impact Study Update (TIS).*

We are pleased that Mr. Faghri finds the updated TIS acceptable.

*3. Please see the attached e-mail dated 7/13/09 from Rahul Trivedi, P.E., of VDOT's Transportation Planning Section.*

We are pleased that Mr. Trivedi finds the updated TIS acceptable.

**Environmental Review Team, Department of Building and Development (comments dated 7/22/09)**

*1. The Statement of Justification information regarding Land Bay 1 does not cover the removal of open space corresponding to the southern portion of the tributary that parallels Northstar Boulevard. As shown on sheets 10 and 12, the current proposal allows for a road and lots to impact the stream area. Staff does not support this layout change and recommends that the tributary be included as open space, as previously approved, and identified as a tree conservation area to ensure its protection.*

The CDP has been revised to reflect the approximate tree conservation areas depicted on the CDP approved with ZCPA 2002-0004/ZMAP 2002-0013. There are no new impacts to the existing stream area.

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*2. The application has not demonstrated compliance with the "no net loss to wetlands in the County" policy. Please identify the location of the mitigation and provide a copy of the approved wetland permit authorizing the impacts. If mitigation is proposed outside of Loudoun County, staff recommends that the permit be modified to provide mitigation within Loudoun County.*

The changes proposed with this Application will not increase the amount of wetlands impacts beyond what has already been permitted by the COE under permit #2007-964 (copy enclosed).

*3. With this submission, the tree conservation area located along the western side of landbays 7 and 8, adjacent to the stream, has been removed from the rezoning plan set. To better protect the stream corridor, including adjacent steep slopes, please depict this area as a tree conservation area.*

The referenced area is outside the limits of this Application and remains a commitment, but has been depicted on the CDP.

*4. Existing Proffer VI.A. does not adequately protect steep slopes and the stream corridor as it relates to the construction of proposed Millstream Drive. Staff recommends that the applicant commit to: 1) no land disturbing activities within the 50-foot management buffer; and 2) for all land disturbing activities on moderately steep slopes outside the 50-foot management buffer, strict erosion and sediment control practices such as super silt fence for all silt fence application; stabilizing matting; and phasing development to avoid extensive areas of disturbance for extended periods of time.*

Millstream Drive previously was shifted to the east to address this concern. In addition, Proffer II.B.6.(a). has been added to incorporate staff's recommendations.

*5. To demonstrate compliance with Section 5-1508 of the Revised 1993 LCZO, please update sheets 4-13 with the current LOGIS steep slopes layer. Alternative steep slope depictions should only be provided when based on more detailed topographic information (i.e. 2-foot topography).*

The steep slope areas shown on the Existing Conditions Map are based on 2-foot contours obtained from aerial photography. Please see Note 17 on the Cover Sheet.

*6. Two small areas located along the north side of South Point Drive have been identified as tree conservation areas on sheets 5, 11 and 13. To better illustrate the location of the proposed tree conservation areas in relation to existing vegetation, please provide the current LOGIS forest cover layer on sheets 4-7 and 10-13. The forest cover currently depicted on the plan set does not reflect existing conditions in the area of South Point Drive. Attachment A depicts the approximate location of the mature oak trees.*

At staff's request, the trees on the north side of South Point Drive were field located and the depiction of these treed areas on the CDP is more accurate than the LOGIS forest cover layer. The two tree conservation areas referenced represent areas where the Applicant is confident that desirable trees can be saved. These areas are shown in more detail on Sheet 5.

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Adherence to the area shown on staff's Attachment A would severely limit the development potential of this office landbay. We note that Proffer VI.G. does not limit the extent of tree conservation areas to those shown on the CDP. Final site design may allow for other tree areas to be preserved, although this area is impacted by sewer line construction.

*7. The statement of justification refers to mature trees that will screen the light-industrial area proposed along Millstream Drive from the residential uses. Staff recommends that the mature trees be identified as tree conservation areas on the CDP.*

The Statement of Justification has been revised to clarify this matter. As noted above in the response to comment #3, the previously approved tree conservation area to the west of Land Bays 7 and 8 is outside the limits of this Application, but has been depicted on the CDP.

*8. This application proposes to revise Proffer VI.G and excludes the "General Tree Protection" and "Long-Term Care" paragraphs that were provided in the existing proffer approved as part of ZMAP 2002-0013/ZCPA 2002-0004.*

The proposed proffers do not exclude the General Tree Protection and Long Term Care provisions of the approved proffer VI.G. The Proffer Statement preamble clearly states that all previously approved proffers continue to apply to the Application property except as specifically amended with the Application. The referenced sections of proffer VI.G., subparagraphs 1 and 2, are not included in the proposed Proffer Statement because they are not being amended.

*9. Proposed Proffer VI.G refers to a tree conservation area with the PD-H4 landbay, which is Land Bay 5R. However, the CDP does not include a tree conservation area within that landbay. Also, the tree conservation area located southwest of Land Bay FF1A is not located within the R-24 landbay limits as described in the proposed proffer.*

Proffer VI.G. has been revised to remove the references to specific zoning districts and land bays. The CDP has been revised to depict an additional tree save area on the east side of Land Bay 5R.

*10. The CDP identifies a tree conservation area corresponding to the existing SWM/BMP pond located northeast of the library site. Please correct this discrepancy.*

The CDP has been revised as requested.

*11. The northeastern SWM/BMP facility in Land Bay 1 is located on-line with a jurisdictional stream, which is problematic. On-line SWM/BMP facilities are typically not permitted by the Corps and DEQ.*

The location of the SWM/BMP facility in Land Bay 1 has been discussed with the Corps and DEQ, who have agreed that the location is acceptable and have issued permits.

*12. Staff recommends removing the "Proposed HOA Recreation Facility" exclusion, related to the 36-foot buffer yard with 6-foot berm and Type 1 rear buffer yard plantings, from existing*

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*Proffer VI.E., consistent with the notation on sheets 4, 5, and 10-13. Also, existing Proffer VI.E. requires the applicant, during the subdivision review process, to engage an acoustical engineer to address compliance with the RGP's highway noise policies with respect to Route 659 Relocated and Tall Cedars Parkway. Staff recommends that the proffer be revised to commit to a noise study to be submitted to the County for review and that the study be based on the most recent, applicable forecasted traffic volumes available from OTS and the ultimate design speed of the specified roadways. Staff further recommends that the timing be changed to construction plan or site plan to allow noise analysis to be based on final topography.*

No changes are proposed to approved Proffer VI.E. As depicted on the revised CDP, the Proposed HOA Recreation Facility has been relocated to the north away from Tall Cedars Parkway. A copy of the proffered noise study previously submitted to the County is enclosed.

**Parks, Recreation and Community Services (comments dated 7/24/09)**

*6. and 7. Previous Comments: PRCS respects the Applicant's desire for the passive park in the TR-1 UBF land bay between Goshen Road and future Relocated Route 659 to remain an HOA amenity, much like the passive area in the existing Land Bay ZZ Open Space. Staff commends the Applicant for retaining and protecting the stream valley for passive parkland and open space. However, Staff requests more information concerning the proposed amenities within the passive HOA park, such as trails, etc. Furthermore, Staff requests that a public access easement be located along the South Fork Broad Run stream valley to facilitate a future, natural-surface trail to connect with other future public trail segments upstream and downstream. Staff will contact the Applicant to set up a meeting to further discuss the matter.*

*Applicant Response:* *The Applicant has no plans to construct amenities within the HOA open space adjacent to the South Fork of Broad Run and intends to maintain it in its natural condition. However, the Applicant will proffer to grant the County a 10-foot wide public access easement within the stream valley within or adjacent to the existing sanitary sewer easement, subject to Loudoun Water approval, for a future County trail system. Please see Proffer III.B.4.*

**Issue Status:** *Staff recommends that the Applicant revise Proffer III.B.4 to state, "The Owner shall grant to the County a 30-foot wide public access easement within the South Fork of Broad Run stream valley for a future County trail coincident with or adjacent to the existing sanitary sewer easement at the time of Record Plat approval of the subject area. The Owner will coordinate with location of the public access easement with the Department of Parks, Recreation and Community Services and Loudoun Water, and will prepare and record the requisite deed and plat at no cost to the County."*

Proffer III.B.4. has been revised provide the requested 30-foot wide public access easement.

*8. Previous Comment: Staff requests the opportunity to discuss with the Applicant potential options for providing a much-needed restroom facility at Byrne's Ridge Park. Applicant Response: Staff may contact the Applicant at any time to discuss this matter. Issue Status: PRCS has been in preliminary discussions with the Applicant concerning a potential restroom/concessions facility at Byrne's Ridge Park after the Applicant's presentation to County*

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*staff on April 2, 2009. PRCS is requesting the Applicant consider the opportunity to proffer this additional amenity or a monetary contribution for the future construction of this facility. PRCS can provide additional information concerning specifics of the facility in a future meeting and Staff will contact the Applicant to set up a meeting to further discuss the matter.*

***Applicant Response:*** *The Applicant will contribute \$75,000 to the PRCS for improvements at Byrne's Ridge Park. Please see Proffer III.B.3.*

***Issue Status:*** *PRCS appreciates the Applicant's generous contribution toward the addition of a concession stand and restrooms at Byrne's Ridge Park. However, Staff notes that the proffers tied to permits in land bays are extremely difficult for PRCS to track and verify. PRCS recommends that the Applicant revise Proffer III.B.3, sentence 2, to state, "The contribution shall be paid within 30 days of zoning application approval."*

The Applicant has revised Proffer III.B.3. to provide this contribution prior to the issuance of the first residential zoning permit in Land Bay 1, 2, 3, 4 or 5R.

***New Comment: 9.*** *In conjunction with Zoning Administration's Proffer Review Comments 16 and 38, PRCS recommends that the Applicant revise Sheet 10 of the CDP to graphically delineate the proposed public stream valley trail easement, as well as its connection to the rest of the pedestrian network throughout the Stone Ridge community.*

The CDP has been revised to depict the location of the trail easement.

**Zoning Administration, Department of Building and Development (comments dated 7/24/09)**

***1.*** *The R-24 zoning district must be located in areas abutting arterials and major collector roads. The proposed district is not located adjacent to any road.*

The proposed R-24 district has been relocated to abut Tall Cedars Parkway, a major collector road.

***2.*** *Demonstrate conformance with Section 3-708(C) for Land Bay 6.*

The open space and buffer yard requirements of Section 3-708(C) are not applicable because the R-24 district adjoins a PD-H4 land bay administered as R-8 that is proffered for townhouse uses with required ADUs and that has an allowable lot size of less than 8,000 square feet.

***3.*** *Demonstrate conformance with Section 3-702 for Land Bay 6.*

The CDP depicts the pedestrian system that will link the R-24 district with the nearby employment, shopping and community support services. Stone Ridge is served by public transit and this application will provide an additional commuter parking facility near the R-24 district.

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*4. With regard to Section 3-708(B), staff asks that either detailed drawings be submitted with this application, or provide a note that this requirement will be evaluated at the time of site plan.*

A note has been added to the CDP as requested.

*5. The Applicant is proposing to rezone a portion (2.9 acres) of MCPI #204-26-3927 from R-16 to PD-CC(SC) and depict this as Land Bay EE1A on the CDP (Sheet 5). It should be noted that the minimum size required for a PD-CC(SC) zoning district is 20 acres and that the PD-CC(SC) zoning district requires access to a major collector road.*

As discussed with staff on July 29<sup>th</sup>, the referenced 2.9 acres was part of the original PD-CC(SC) district approved with ZMAP 1994-0017. With this submission we have included a zoning modification to allow a smaller district size and to incorporate this area with the existing PD-CC(SC) district, which does have access to a major collector road.

*6. Demonstrate conformance with Section 3-606 regarding proposed R-16 Land Bay EE2A.*

The R-16 district rezoning represents a relocation of a portion of the existing R-16 district from the west side of Land Bay EE2A to the east side in order to accommodate the location of the County-requested commuter parking facility proximate to the existing commuter parking facility. The entire R-16 district is proximate to major collector roads, is served by public transit, and is linked to nearby employment, shopping and community support services by a pedestrian system depicted on the CDP.

*7. Provide the active recreation space tabulation for Land Bay EE2A on the CDP (Sheet 5).*

The active recreation tabulation has been added to the CDP.

*8. On Sheet 5, in the Zoning Tabulation for Land Bay EE2A, include the maximum units per building as stated in Section 3-607(C).*

The requested information has been added to the Zoning Tabulation.

*9. Demonstrate compliance with Section 3-608(C) regarding Land Bay EE2A.*

The open space and buffer yard requirements of Section 3-608(C) are not applicable because the proposed R-16 district adjoins an existing R-16 district proffered for multi-family uses with required ADUs and that has an allowable lot size of less than 8,000 square feet.

*10. With regard to Section 3-608(B), staff asks that either detailed drawings be submitted with this application, or provide a note that this requirement will be evaluated at the time of site plan.*

A note has been added to the CDP as requested.

*11. On the CDP, clarify and label the "public use" proposed for Public Use Site #3 in Land Bay 7. Clarify the location of the commuter site on the CDP. If Public Use Site #3 is for a fire and*

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*rescue station, and a special exception will be filed at a later date, include a note to that effect on the CDP and label the fire/rescue use on the CDP.*

As discussed with staff on July 29<sup>th</sup>, it is the County's preference that the intended public uses not be labeled on the CDP to avoid doing a ZCPA in case the public use changes.

*12. Zoning defers to Community Planning to determine if the proposed PD-OP zoning district along Route 50 (Land Bay FF2B) is compatible with the Comprehensive Plan.*

In its comments dated July 31, 2009, Community Planning reported that the proposed PD-OP district is consistent with the Comprehensive Plan.

*13. A minimum yard of 15 feet is required adjacent to the CLI zoning district (and Land Bay FF2B) pursuant to Section 4-305(B)(3). Depict this requirement on the CDP (Sheet 5) adjacent to the CLI zoning district to the east (MCPI #204-39-8271).*

The CDP has been revised to depict the requested yard requirement.

*14. Staff asks that the Applicant provide a detailed illustrative of the proposed design of the PD-OP district and demonstrate how such design conforms to the requirements of Section 4-307.*

Conformance with the Use Limitations of Section 4-307 will be demonstrated at the time of site plan and a note to this effect has been added to the CDP.

*15. Depict the required Type 5 Buffer Yard along Route 50 on the CDP.*

The CDP has been revised to depict the Type 5 Buffer Yard.

*16. Pursuant to Section 4-305(B), a minimum yard of 100 feet adjacent to the R-24 zoning district (and Land Bay FF1A) to the south of the PD-OP district is required. Please depict this required yard on the CDP.*

The 100-foot and 50-foot setbacks from the R-24 district have been labeled on the CDP. It is noted that the centerline of proposed Southpoint Drive represents the PD-OP/R-24 boundary.

*17. The area of land between Land Bay 5R and 6 (Stone Carver Road) is proposed to be vacated. Please clarify if this area is included and counted in the calculation of open space. Staff also asks that the Applicant clarify regarding similar areas between other land bays as well.*

The referenced area is not included or counted as open space. The land bay limits run to the respective zoning district boundaries.

*18. On Sheet 4 (Land Bay 5R), the Applicant notes a 36 foot high noise buffer adjacent to Tall Cedars Parkway. It is not clear if this is what the Applicant intends to provide. Pursuant to approved Proffer VI.E., a 36 foot wide buffer yard measured from the edge of dedicated right-of-*

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*way, a six foot high fence and Type 1 rear buffer yard plantings are required along Tall Cedars Parkway. Please depict this requirement along Tall Cedars.*

The labeling on the CDP was partially obscured, but has been corrected to clarify that this is a 36-foot wide noise buffer.

*19. On the CDP (Sheet 5), clarify that Land Bay 5R is proposed to rezone to PDH-4 administered as R-8 to avoid confusion, since there are other land bays that are proposed as straight residential (R) districts.*

The CDP has been revised as requested.

*20. As depicted on the CDP, there are areas between land bays that are not part of any land bay. Staff questions if all those areas are included towards open space. To avoid confusion, staff recommends that those areas be consolidated into open space Land Bays like Land Bay ZZ (shown on the CDP).*

As noted open, such areas are not included as open space, but are part of the respective land bays, the limits of which run to the zoning district boundaries.

*21. Staff questions if the area between Land Bay 6 and Land Bay 5R is proposed to be open space when the road is vacated. It appears that currently it is proposed to be included in neither of the two land bays.*

As noted open, such areas are not included as open space, but are part of the respective land bays, the limits of which run to the zoning district boundaries.

*22. On Sheet 5 (CDP) Land Bay EE2A is shown as subject to ZCPA. However, on Sheet 3 it is depicted that 2.1 acres of this land bay is proposed to be rezoned from PD-CC(SC) to R-16. The legend needs to be corrected on both sheets to indicate that this land bay is subject to both ZMAP and ZCPA.*

The note on the CDP has been revised to address this comment.

*23. On Sheet 4 of the rezoning plans, in the Zoning Modification section, please correct the reference from PD-SC to PD-CC(SC) zoning district, as this is the correct zoning district.*

The notation on Sheet 4 has been revised as requested.

**Proffers:**

*1. With regard to the Preamble in paragraph 2, Staff asks the Applicant to include the Land Bays associated with the zoning districts for ease of clarification.*

The Land Bay designations have been added to the Preamble as requested.

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*2. The proffers for the library site are being amended, but the rezoning plan sheets do not indicate this. Clarify on the Certified Plat (Sheet 3) that the library site is included in the ZCPA application.*

The library parcel, Land Bay FF2A, has been identified on Sheet 3 as being part of the ZCPA Application for purposes of the proffer amendments only.

*3. The proffers pertaining to the middle school site are also being amended. Please depict this on the Certified Plat and include the school site in the description of the property.*

As discussed with staff on July 29<sup>th</sup>, the middle school proffer will not be amended.

*4. In the Proffer Statement (redlined version), staff recommends that for any proffer that is proposed to be amended, the whole proffer is included, and not just the paragraph that is proposed to change. This enables staff to review the proffer in its entirety.*

In order to avoid confusion on the redlined version as to what sections of the approved proffers are being removed rather than just not being amended, we have provided a separate consolidated version of the approved proffers for staff's use.

*5. With regard to Proffer III.G.4, the Applicant is proposing conveyance of a commuter parking lot in land zoned PD-IP (Public Use Site #4). However, in the CDP (Sheet 5), the Public Use Site is shown on Land Bay EE1A which is proposed to be rezoned to PD-CC(SC). Correct/clarify this inconsistency.*

Proffer III.G.4. has been revised to note the correct zoning district, PD-CC(SC).

*6. In the Preamble, paragraph 2, line 10 (redlined version), the Applicant should clarify the proposed rezoning to PD-H4 will be administered as R-8, as it is confusing and appears that the PD-H4 proposed zoning will be administered as R-24, when the intent is to propose rezoning to PD-H4 and R-24 zoning districts.*

The Preamble has been revised as requested.

*7. In the Preamble, paragraph 2, the Applicant should include that it is requesting zoning ordinance modification for the PD-CC(SC) zoning district.*

The Preamble has been revised as requested.

*8. Correct Proffer I.A. to indicate that the LCSA site pin number is shown on Sheet 2, not Sheet 4 of the CDP.*

Proffer I.A. has been revised to address this comment.

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*9. With regard to Proffer I.A., it is not clear if the intent is to proffer 94 residential units or, in the event that other non-residential use is located on the site, then there will be no residential units in Land Bay 1. As currently written, the proffer is confusing. Clarify.*

Proffer I.A. has been revised to clarify that the development of Land Bay 1 will include a minimum of 50 residential units and may include other TR1-UBF uses.

*10. With regard to Proffer I.C.1.a., the Applicant implies that there will be 6 ADU proposed in Land Bay EE2A, while Note #1 on Sheet 4 does not reference this Land Bay for ADU. Correct/clarify this inconsistency.*

Proffer I.C.1.a. has been revised to clarify the Applicant's intent.

*11. With regard to Proffer I.E.1., it appears that a paragraph is missing that explains the proposed use, square footage, etc., of Land Bay 7. Clarify.*

The use of Land Bay 7 has been added as Proffer I.E.1.a.

*12. With regard to Proffer II.B.7., the Applicant notes that no more than 300 residential zoning permits within combined Land Bays 1, 2, 3, 4 and 5R may be issued prior to the construction of the improvements listed in Phase III.B of Exhibit B. However, Land Bays 2, 3, 4 and 5R are capped at 289 units. Considering the statement in Proffer I.A., Land Bay 1 may never be developed with residential units, in which case the 300 unit trigger will never be reached. Please revise this Proffer to ensure that the improvements in Phase III.B are met through the phasing plan.*

As noted above, Proffer I.A. has been revised to provide a minimum of 50 units in Land Bay 1 so that the 300 unit trigger will be realized.

*13. With regard to Proffer III.B.3., the Applicant is subjecting this new proffer and tying it to developments in Land Bays 2, 3 and 4, which are not included in this application. Please include these land bays with this ZCPA application.*

Land Bays 2, 3 and 4 have been added to the ZCPA Application for purposes of the proffer amendments only.

*14. With regard to the library site Proffer III.C., there are two timing triggers – one prior to the 1601<sup>st</sup> residential zoning permit and the other, a date certain of June 30, 2011. Staff questions if there is a potential conflict with the two timings.*

The referenced triggers pertain to two distinct events, permit approval and project completion, so there is no conflict. In regard to timing, all approvals for building the library have already been obtained and the building permit issuance is pending. The proffered completion date of June 30, 2011 includes ample time to complete the library shell construction.

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*15. With regard to Proffer III.B.4., Staff questions if the land referenced here should be included in the ZCPA application, since this is a new proffer added with this application.*

The land areas impacted by the proposed trail easement have been added to the ZCPA application.

*16. With regard to Proffer VI.G., "Tree Conservation Area", staff recommends that the Applicant include paragraphs 2 and 3 to the proffer for ease of review and reference.*

As noted above, we have provided a separate consolidated version of the approved proffers for staff's use.

#### Zoning Modifications

*(i) Section 3-509(C), R-8 District. The Zoning Ordinance requires that a minimum permanent open space of 50 feet with a Type 2 Buffer Yard is required between Land Bay 6 and Land Bay 5R. It is not clear how the proposed modification to reduce the permanent open space to 10 feet with a Type 1 buffer will achieve an innovative design, improve upon the existing regulations, or otherwise exceed the public purpose of the existing regulations. Staff asks the Applicant to address this and to include materials demonstrating how the modification will be used in the design of the project. Further, Staff asks that the Applicant provide an exhibit to depict the location and extent of the modification request. Staff cannot support the modification request at this time.*

This modification has been removed from the Application as it is not applicable when the adjoining residential land bay allows a minimum lot size of less than 6,000 square feet, which is the case for the adjoining R-24 (ADU) district.

*(ii) Section 4-110(I), PD-H District. The Zoning Ordinance requires that a minimum permanent open space of 50 feet with a Type 2 Buffer Yard is required between Land Bay 6 and Land Bay 5R. It is not clear how the proposed modification to reduce the permanent open space to 10 feet with a Type 1 buffer will achieve an innovative design, improve upon the existing regulations, or otherwise exceed the public purpose of the existing regulations. Staff asks the Applicant to address this and to include materials demonstrating how the modification will be used in the design of the project. Further, Staff asks that the Applicant provide an exhibit to depict the location and extent of the modification request. Staff cannot support the modification request at this time.*

We have provided an exhibit of the requested setbacks between the PD-H4 and R-24 districts on Sheet 15 of the Plans to demonstrate the application of this modification. We have also clarified that a Type 1 front yard buffer will be added on the R-24 side of the street.

*(iii) Section 4-205(C)(1)(c), PD-CC(SC) District. Zoning Ordinance Section 4-205(C)(1)(c) states "...No building, parking, outdoor storage areas for collection of refuse or loading areas shall be permitted closer than (35) feet to any road right-of-way, except as provided in Section 4-206(E). No parking, outdoor storage, areas for collection of refuse or loading space shall be*

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*permitted in areas between buildings and streets where such uses are visible from any road.” The Applicant is proposing to reduce this setback to 25 feet. It is not clear how the proposed modification to reduce the setback to 25 feet will achieve an innovative design, improve upon existing regulations, or otherwise exceed the public purpose of the existing regulations. Staff further noted that adjacent Land Bay DD maintains a setback of 35 feet. Staff asks the Applicant to address this and cannot support the modification at this time.*

This modification has been removed from the Application.

*(iv) Section 4-205(C)(2), PD-CC(SC) District. Zoning Ordinance Section 4-205(C)(2) states “...No building, parking, outdoor storage areas for collection of refuse or loading areas shall be permitted closer than (100) to any agricultural districts, any existing or planned residential district, or land bays allowing residential uses. No parking, outdoor storage, areas for collection of refuse or loading space shall be permitted in areas between buildings and such agricultural districts, existing or planned residential districts, or land bays allowing residential uses where such uses or areas are visible from said agricultural and residential areas.” The Applicant is proposing to reduce this setback to 20 feet. The Applicant states that the modification will facilitate the design and implementation of the commuter parking facility. Staff questions the extent and location of the proposed modification and asks that the Applicant provide further clarification. Again, it is not clear how the proposed modification to reduce the setback from 100 to 20 feet will achieve an innovative design, improve upon existing regulations, or otherwise exceed the public purpose of the existing regulations. Staff further noted that adjacent Land Bay DD maintains a setback of 35 feet. Staff asks the Applicant to address this and cannot support the modification at this time.*

This same modification was approved with ZMAP 2002-0013/ZCPA 2002-0004 when the use of the PD-CC(SC) land bay was contemplated to be a restaurant use which, arguably, has the potential for more impacts on an adjacent residential area than a commuter parking lot. Nevertheless, the modification has been revised to increase the proposed setback to 25 feet and the buffer yard to a Type 4.

*(v) Section 4-505(B)(2), PD-IP District. Zoning Ordinance Section 4-505(B)(2) states “... No building, outdoor storage, areas for collection of refuse or loading area shall be permitted closer than (75) feet to any agricultural district, any existing or zoned residential district, or land bay allowing residential uses. No parking shall be permitted closer than 60 feet to any such districts and uses...” With this application, the Applicant is proposing a rezoning of a portion of approved Land Bay DD (PD-IP) to PD-H4 and R-24 zoning districts to allow for a transfer or relocation of residential units from the western side of the power line easement to the eastern side to consolidate residential units to create a cohesive residential community along this portion of the development. The Applicant is also proposing a Type 3 Buffer Yard of twenty-five feet in width supplemented to include 8 evergreen trees per linear foot to be maintained within Land Bay DD adjacent to Land Bays 5R and 6. Staff can support this modification request.*

Comment acknowledged.

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**Community Planning, Department of Planning (comments dated 7/31/09)**

*A. Land Use*

*Suburban Policy Area. The land use mix between the previously approved ZMAP 2002-0013 and the proposed ZMAP 2006-0003 are consistent with each other and no employment related area has been lost. Further, the application is proposing to rezone additional CLI zoned property along Route 50 to PD-OP. This issue is resolved.*

Comment acknowledged.

*Transition Policy Area. Staff requests that the applicant clarify if it is the intent of the proffer amendment to allow for a mix of uses (residential and special exception uses) or if it will be limited to one or the other.*

As noted above in the response to Larr Kelly's proffer comment # 25, Proffer I.A. has been revised to clarify that a minimum of 50 residential units will be constructed in Land Bay 1, which may also include other permitted and special exception uses.

*B. Fire and Rescue Public Use Site*

*The revised application proposes a site that is more appropriate in size and location for a fire and rescue station and that is more in keeping with the County's Capital Facility Standard for Fire and Rescue stations. This issue is resolved.*

Comment acknowledged.

*C. Existing Conditions*

*1. Forests, Trees, and Vegetation. Staff continues to recommend that the tributary in Land Bay 1 be included as open space and identified as a tree conservation area as previously approved to ensure its protection.*

As noted above in the response to ERT comment # 1, the CDP for Land Bay 1 has been revised to reflect the approximate tree conservation areas depicted on the CDP approved with ZCPA 2002-0004/ZMAP 2002-0013. There are no new impacts to the existing stream area.

*Staff recommends that the tree conservation area be re-established between Land Bays 5R and 6 as shown on prior application materials.*

The CDP has been revised to include a tree conservation area on the east side of Land Bay 5R. In addition, the revised CDP also depicts the previously approved tree conservation area to the west of Land Bays 7 and 8 that is outside the limits of this Application.

*Staff recommends that the application be revised in accordance with ERT's recommendations dated 7/22/09 related to tree conservation areas.*

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As noted in the response to ERT, the General Tree Protection and Long-Term Tree Care provisions of Proffer VI.G. are not being amended and will remain in force with respect to the Property.

*2. Steep Slopes. Staff concurs with ERT's recommendations dated 7/22/09 and continues to recommend that Millstream Drive be designed to minimize impacts to moderately steep slopes and that commitments be made to protect the steep slope areas and adjacent floodplain and stream during construction activities.*

Millstream Drive has previously been shifted further away from the steep slope area in response to Staff comments. Any disturbance within the 50-foot management buffer will be limited to allowed utility and storm drainage extensions.

*3. Wetlands. Staff concurs with ERT's recommendations dated 7/22/09 regarding wetland permits and mitigation prioritization.*

As noted above in the response to ERT comment # 2, this Application proposes no increase in wetlands impacts beyond what has already been permitted by the COE and DEQ.

#### *D. Site Design*

*Staff continues to request more detail for the PD-OP area as to the proposed building design, loading areas, lighting, signage and usable outdoor spaces for this application along with commitments to ensure compliance with the Plan policies for the Route 50 Corridor.*

To ensure compliance with the Plan policies for the Route 50 Corridor, Proffer I.E.2. has been revised to clarify that the PD-OP land bay will be developed in compliance with the Route 50 Design Guidelines and with specific design standards comparable to those previously approved in Proffer VII.B. of ZMAP 1994-0017 for the PD-CC(SC) area of Stone Ridge. A "green building" design standard has also been added to this proffer. An illustrative layout for the PD-OP land bay has been added to the Application plan set.

#### *E. Capital Facilities*

*An appraisal of the proposed public use sites is necessary to complete the review of the Capital Facilities proffer amendments for this application.*

Appraisals for the public uses sites will be provided prior to the Board of Supervisors public hearing, in accordance with County policy.

#### *G. Open Space Preservation Program*

*The application has been revised and is proposing no changes in residential acreage, unit number, unit type or density with this application, therefore the previously proffered open space contribution for 133 easements shall be retained. This issue is resolved.*

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Comment acknowledged.

**Community Information and Outreach, Department of Planning (comments dated 8/11/09)**

*Staff notes that the type of protective fencing used around archaeological sites is usually plastic, orange silt/snow fencing, which has been found not to be effective in protecting archaeological resources. Staff currently requests that proffer language stipulate the use of demountable metal (chain link type) fencing to demarcate the known boundaries of the site plus an additional 100 foot buffer to ensure that there is an adequate barrier between the site and earth moving activities. Staff recommends that the previously approved proffer related to site 44LD1187 be amended to include this specific protective fence type.*

Proffer VI. H. has been revised to require a chain link fence to be placed 50 feet from the known boundaries of site 44LD1187 prior to the commencement of construction activities for adjacent Northstar Boulevard and Tall Cedars Parkway. Any land disturbance required within the fenced area will be coordinated with the County to ensure the protection of the archeological site.

*Further, staff recommends that there is some assurance that site 44LD1187 will be maintained and conserved in perpetuity under the stewardship of the HOA. Staff recommends that the applicant proffer specific language in the HOA documents stipulating that the passive park containing site 44LD1187 be left forested and that no removal of trees, clearing or grading for recreational paths, playground equipment and the like commence without prior consultation with the County Archaeologist.*

Site 44LD1187 is within a proffered tree conservation area. Revised Proffer VI. H. provides for the requested consultation with the County prior to any disturbance within the fenced area around the archeological site.



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We believe this response letter, the draft proffers, the revised Statement of Justification and the amended Application plans address all remaining staff comments. We look forward to the Planning Commission public hearing in October.

Thank you for your attention to this matter. Please do not hesitate to contact me if you have any questions.

Very truly yours,

Cooley Godward Kronish LLP

A handwritten signature in black ink, appearing to read "Jeffrey A. Nein".

Jeffrey A. Nein, AICP  
Senior Land Use Planner

Enclosures

cc: Roy R. Barnett, Van Metre Companies  
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