

KINCORA
(ZMAP 2008-0021)

PROFFER STATEMENT

February 5, 2009
July 23, 2009



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Exhibits

- Exhibit A:** Concept Plan
- Exhibit B:** Zoning Ordinance ("ZO"), Facilities Standards Manual ("FSM") and Land Subdivision & Development Ordinance ("LSDO") Modifications
- Exhibit C:** Amended Deed of Open Space Easement
- Exhibit D:** Design Guidelines
- Exhibit E:** PD-MUB District Incentives

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Pursuant to Section 15.2-2303, Code of Virginia, (1950), as amended, and Section 6-1209 of the Loudoun County Zoning Ordinance (1993), as amended (the "Zoning Ordinance"), NA Dulles Real Estate Investor LLC, a Delaware limited liability company (the "Owner"), who is the owner of Loudoun County Tax Map parcels 042-29-6582, 042-49-0209 and 041-29-8238 (pt.), consisting of a total of approximately 336.64 acres of real property (the "Property"), which Property is the subject of rezoning application ZMAP 2008-0021, hereby voluntarily proffers that development of the Property shall be in substantial conformity with the proffers as set forth below (the "Proffers") and with the exhibits and zoning ordinance modifications attached hereto, all of which are incorporated herein by reference. All Proffers made herein are contingent upon the final approval by the Board of Supervisors of Loudoun County, Virginia (the "Board") of the change in the zoning districts requested in rezoning application ZMAP 2008-0021 from the PD-IP (Planned Development - Industrial Park), FOD (Floodplain Overlay District) and AI (Airport Impact) zoning districts to the PD-MUB (Planned Development - Mixed Use Business), FOD and AI zoning districts. Upon final approval of the requested change in zoning districts, these Proffers shall supersede all proffers previously in effect with respect to the Property, if any. All Proffers herein shall be binding on the Owner and its successors and assigns.

I. LAND USE

A. Concept Plan.

The Property shall be developed in substantial conformity with Sheets 1, 2 and 8-23 of the plan attached hereto as **Exhibit A** dated October 2008, as revised through July 21, 2009, and prepared by Urban Engineering Associates, Inc. (all 35 Sheets of such plan are collectively referred to hereafter as the "Concept Plan"). Sheets 3-7 and 29-35 of the Concept Plan are for information and illustrative purposes only. Sheets 8, 9, 10, 11 and 12 of the Concept Plan illustrate the layout proposed for development of the Property and indicate development limitations on the Property, such as public road rights-of-way, open space and limits of clearing and grading for uses outside of the floodplain, which shall be observed during development of the Property as more particularly described in the Proffers.

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The Owner shall have reasonable flexibility to modify the location of uses and layout shown on the Concept Plan to accommodate final engineering and development ordinance requirements, provided such changes are: (i) in substantial conformity with the approved Concept Plan and the Proffers; (ii) do not increase total permitted square footage; and (iii) do not decrease the minimum amount of open space or peripheral setbacks shown to be provided on the Property.

B. Uses, Maximum Density/Intensity of Use and PD-MUB Minimum Use Percentages.

The Owner may develop the Property with any of the uses permitted in accordance with the applicable zoning district, including any uses permitted by special exception for which approval of the requisite special exception is obtained. The Property may be developed up to the following maximum densities and intensities of use:

- Up to 3,973,025 square feet of non-residential uses.
- Up to 1,400 multi-family residential units, inclusive of any required Affordable Dwelling Units ("ADUs") and workforce housing units proffered herein in Proffer I.D. and I.E. and subject to the limitations set forth in Proffer I.B.4. below.

1. Employment Uses. A minimum of 40% of the total floor area to be constructed on the Property shall be devoted to the employment uses permitted in the PD-MUB District.

2. Commercial Uses. A minimum of 5% of the total floor area to be constructed on the Property shall be devoted to the commercial uses permitted in the PD-MUB District. Not more than 398,825 square feet of the 3,973,025 square feet of non-residential uses shall be non-hotel commercial uses. Of the 398,825 square feet of non-hotel commercial uses, at least 200,000 square feet shall be employment supportive uses, such as, but not limited to, the following examples: delis, coffee shops, restaurants, convenience stores, grocery stores, office supply stores, drug stores/pharmacies, greeting card stores, gas stations, retail sales establishments that are located on the first floor of a multi-story office building or multi-family residential building and similar uses that provide convenient sales and dining services to the employees and residents on-site (collectively, "Employment Supportive Uses"). With the exception of (i) grocery stores, (ii) health and fitness centers, and (iii) specialty retail sales establishments offering merchandise and programs related primarily to outdoor recreational uses and activities (such as, but not limited to, hiking, biking and/or water-related sports), each of which may contain up to 80,000 square feet, no individual retail sales establishment shall exceed 50,000 square feet of gross floor area. No freestanding retail sales establishments shall be located along the Pacific Boulevard frontage of the Property, except for the area in Land Bay N in the northwest quadrant of the Route 28/Gloucester Parkway interchange and in Land Bay Q. Retail sales establishments located within multi-story office buildings that front on Pacific

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Boulevard, except for any retail sales establishments that might be located in multi-story office buildings in Land Bays N and Q shall be oriented to the west.

3. Hotel. The Owner may develop one or more hotel uses as part of the 3,973,025 square feet of non-residential uses. Such hotel uses shall not exceed a total of either 575,000 square feet or 720 rooms. At least one (1) of the hotels shall be a "full service hotel," which shall mean that it will have a range of services and amenities, including a sit-down restaurant, room service, concierge services and meeting rooms.

4. Residential Uses. A minimum of 10% of the total floor area to be constructed on the Property shall be devoted to the residential uses permitted in the PD-MUB District. All residential uses on the Property shall consist of multi-family dwelling units and shall be located in Land Bays A, C, D and E, as such land bays are identified on Sheet 30 of the Concept Plan. For any portion of the Property on which the Owner desires to develop multi-family dwelling units to be sold as separate units (such as condominium ownership), no building permit for, nor any conversion to, such for-sale units shall be permitted unless and until any community development authority debt payment obligations applicable to such portion of the Property, if any, have been fully satisfied. The Owner shall provide the County with sixty (60) days written notice prior to any conversion of rental units to such for-sale units for the purpose of confirming that the community development authority payment obligations for such units have been fully satisfied prior to such conversion. If a zoning permit has not been issued for the community recreation facility/baseball stadium approved with SPEX 2008-0054 prior to commencement of construction of greater than 1,550,000 square feet of non-residential uses, then the maximum number of residential dwelling units on the Property shall be 1,100.

5. Public/Civic/Institutional Uses. A minimum of 5% of the total floor area to be constructed on the Property shall be devoted to public/civic/institutional uses as permitted in the PD-MUB District. Examples of the public/civic/institutional uses that may be provided include village greens, plazas, sculpture and flower gardens, picnic areas, gazebos, government offices, public meeting halls, libraries, museums, community club houses, community centers, post offices, day care facilities, church sites, performing arts centers, amphitheaters (if approved by a subsequent special exception application) and the public use site identified in Land Bay N and described in Proffer VI.A. If public/civic/institutional uses are provided in buildings, the actual floor area of the portion of the building containing such civic/public uses shall be counted toward the minimum 5%.

6. Parks and Open Space. A minimum of 10% of the land area of the Property shall be devoted to parks and/or open space. No more than 25% of the required buffers (such as landscape buffers along Pacific Boulevard) and "leftover spaces" (such as parking lot islands) shall be credited toward the minimum 10% open space required by this Proffer. Such open space areas may include tot lots, pocket parks, stormwater management facilities, seating areas, pathways and similar passive recreational amenities.

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7. Site Plan/Record Plat Tabulations. Prior to the approval of each record plat or site plan for development on the Property, the Owner will submit a tabulation depicting (i) the total minimum amounts of employment, commercial, residential, public/civic/institutional and parks and open space uses to be provided on the Property pursuant to these Proffers, (ii) the amount of employment, commercial, residential, public/civic/institutional and parks and open space provided with previously approved record plats and site plans, (iii) the amount of employment, commercial, residential, public/civic/institutional and parks and open space provided with the subject record plat or site plan, and (iv) the remaining amount of employment, commercial, residential, public/civic/institutional and parks and open space to be provided on the balance of the Property, to insure the minimum percentages of uses will be provided.

C. Route 28 Prepayment of Taxes.

Within sixty (60) days of approval of this rezoning application ZMAP 2008-0021, the Owner shall provide prepayment of taxes that would have been attributable to the portion of the Property to be used for the multi-family residential dwelling units in accordance with the formula and provisions as adopted by the Board of Supervisors for optional residential development within the Route 28 Tax District.

D. Affordable Dwelling Units.

The Owner shall provide six and one quarter percent (6.25%) of the total residential dwelling units constructed on the Property, up to a maximum of 88 dwelling units, as affordable dwelling units (ADUs), as defined and required by the current provisions of Article 7 of the Zoning Ordinance. All of the ADUs shall be provided as multi-family units in mixed-use buildings. The development and administration of the ADUs shall be in accordance with the applicable provisions of the Zoning Ordinance and the Loudoun County Codified Ordinances.

E. Workforce Housing Units.

The Owner shall provide ten percent (10%) of the total residential dwelling units constructed on the Property, up to a maximum of 140 dwelling units, as "Work Force Housing Units" which shall be available for purchasers or renters whose income does not exceed 100% of median income for the Washington Primary Metropolitan Statistical Area. These units shall be administered consistent with the terms provided in the Affordable Dwelling Unit provisions of Article 7 of the Zoning Ordinance and in accordance with Chapter 1450 of the Loudoun County Codified Ordinances, except that (i) the income limit for qualified purchasers or renters shall be 100% of median income for the Washington Primary Metropolitan Statistical Area, and (ii) all or any portion of such units may be located in a single building notwithstanding any provision of Article 7 to the contrary. All workforce housing units will be provided within buildings that provide a vertical mix of units. The affordability requirement for all workforce housing units will be set forth in a covenant approved by the County Attorney and recorded among the land records of Loudoun County.

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In addition, if all or any portion of the residential component is exempt from the ADU requirement in accordance with the provisions of Article 7 of the Zoning Ordinance such that fewer than 88 ADUs are required, the Applicant shall provide one workforce housing unit (as defined in this Proffer) for each such ADU that is not required, such that a total of sixteen and one quarter percent (16.25%) of the total residential dwelling units, up to a maximum of 228 dwelling units, are provided as either workforce housing units or a combination of workforce housing units and ADUs.

F. Linkage of Office and Other Non-Residential Uses to Residential Development.

Development of the residential uses on the Property shall be conditioned upon development of office and other non-residential uses constructed on the Property and/or on the portions of Loudoun County Tax Map parcel 041-29-8238 which are not included in ZMAP 2008-0021 (the "PD-IP Portion"). Development of the residential uses on the Property shall be as follows:

1. Zoning permits for at least 780,000 square feet of non-residential uses shall have been issued for the Property and/or for the PD-IP Portion prior to issuance of the zoning permit for the 701st residential dwelling unit, exclusive of ADUs and workforce housing units, for the Property. Such 780,000 square feet of non-residential uses shall consist of (i) a maximum of 195,000 square feet of retail sales establishments, and (ii) a minimum of 150,000 square feet of office uses located in one or more office buildings, each containing at least 100,000 square feet each with a minimum of four floors. Such 200,000 square feet of retail sales establishments shall consist of a minimum of 100,000 square feet of Employment Supportive Uses.

2. Zoning permits for at least 1,500,000 square feet of non-residential uses shall have been issued for the Property and/or for the PD-IP Portion prior to issuance of the zoning permit for the 926th residential dwelling unit, exclusive of ADUs and workforce housing units, for the Property; provided, however, that if a zoning permit for the community recreation facility/baseball ballpark approved with SPEX 2008-0054 has been issued and construction of such facility is commenced and diligently pursued to completion, then zoning permits may be issued for up to a maximum of 1,075 residential dwelling units, exclusive of ADUs and workforce housing units, for the Property until zoning permits for at least 1,500,000 square feet of non-residential uses, including the floor area of the community recreation facility/baseball ballpark, shall have been issued for the Property and/or for the PD-IP Portion. Such 1,500,000 square feet of non-residential uses shall consist of (i) a maximum of 300,000 square feet of non-hotel commercial uses, and (ii) a minimum of 800,000 square feet of office uses located in one or more office buildings, containing at least 100,000 square feet each with a minimum of four floors. Such 300,000 square feet of non-hotel commercial uses shall consist of a minimum of 180,000 square feet of Employment Supportive Uses.

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3. When zoning permits have been issued for more than 1,500,000 square feet of non-residential uses, consistent with Proffer I.F.2. above, there shall be no further linkage limitation on the timing of residential uses on the Property. The ADUs and workforce housing units described in Proffers I.D. and I.E. may be constructed regardless of the amount of non-residential uses constructed on the Property and/or the PD-IP Portion.

G. Center for Performing Arts and Related Civic Uses.

The Owner shall reserve, for a period of fifteen (15) years from the date of issuance of the first zoning permit for the Property, a minimum of two (2) acres in Land Bay J for donation to the County and/or to a non-profit entity, at the County's discretion, for the purpose of constructing a community center for performing arts and related civic uses. In the event during such fifteen (15) year period a community center for performing arts and related civic uses is approved for construction on the Property and donations have been received and/or agreements have been executed, which will fully fund the design, engineering and construction of such center, then the Owner will donate, for no monetary compensation, such reserved parcel to the County and/or to such non-profit entity, at the County's election, for the purpose of constructing such center. If a zoning permit is issued for such a center containing a performing arts theater of at least 350 seats on property located within five (5) miles of the Property, then the Owner shall no longer be required by this Proffer to reserve a two (2) acre site for such a center. If a final site plan application for such a center on the Property has not been filed within ten (10) years of the approval of ZMAP 2008-0021, then during the remaining five (5) years of this commitment, the Owner may satisfy the requirement to reserve two (2) acres by reserving a two (2) acre site in the northeastern portion of the Property. Prior to the dedication of the site for a community center for performing arts and related civic uses, the Owner shall identify parking areas on the Property, within and/or outside of such two (2) acre site, that will be available to the users of such community center to meet the parking required for such facility under the Zoning Ordinance. The Owner shall (i) construct street access and sidewalks to the community center, (ii) extend sewer, water, telephone, natural gas and electric service to the perimeter of the community center site, and (iii) design and construct off-site from the community center site such stormwater detention facilities as may be necessary to accommodate and detain stormwater runoff from the community center site, including planned paved areas and buildings, all concurrent with the Owner's own development activities on the portion of the Property abutting the community center site.

H. Central Plaza.

Prior to or concurrent with issuance of an occupancy permit for either the 701st residential dwelling unit or the 425,001st square foot of non-residential uses, the Owner shall provide a central plaza consisting of a minimum of 10,000 square feet. The Owner shall provide public amenities in the central plaza that may include, but not be limited to, ponds, fountains, public art, seating areas, landscape areas and other similar features. The central plaza shall be consistent

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with the character and quality of the description of such central plaza shown on the Concept Plan.

I. Building Heights.

Buildings with frontage along the west side of, and within 100 feet of, Pacific Boulevard within Land Bays B, F, J and Q, with no intervening buildings between such buildings and Route 28, shall be constructed to heights of a minimum of four stories. Buildings located in Land Bay C shall not exceed 75 feet in height. No building on the Property shall exceed 150 feet in height.

J. Vertically Mixed Building Design.

A minimum of 50% of the buildings constructed on the Property shall be comprised of a vertical mix of uses consisting of at least two different use categories such as office, residential, commercial, hotel and civic/institutional space. The Owner shall provide a tabulation with each site plan submission depicting the number of buildings located on the Property that contain a vertical mix of at least two (2) different uses. This tabulation shall be updated with each site plan submission to demonstrate those existing buildings, and those proposed buildings that contain a vertical mix of uses, as well as the number of buildings to be constructed under future site plans necessary to achieve the above-stated 50% minimum requirement.

K. Zoning Modifications.

The Owner is requesting approval of certain modifications to the Zoning Ordinance ("ZO"), Land Subdivision and Development Ordinance ("LSDO"), and the Facilities Standards Manual ("FSM") as identified in Exhibit B entitled "Zoning Ordinance ("ZO"), Facilities Standards Manual ("FSM") and Land Subdivision & Development Ordinance ("LSDO") Modifications" dated July 23, 2009. To the extent such modifications are approved, the Owner will only utilize such modifications in accordance with the statements made in justification of, and consistent with the illustrations titled "Zoning Modifications Kincora Village," and dated July 23, 2009, included in the requests for such modifications, as contained in Exhibit B.

L. Floodplain Alterations.

To the extent the floodplain boundaries currently established for the Property are altered either (i) by construction performed by an entity that is exempt from the Zoning Ordinance (like the Virginia Department of Transportation ("VDOT")), or (ii) pursuant to applicable provisions of the Zoning Ordinance, the Owner reserves the right, without requiring a proffer amendment or zoning concept plan amendment, to use those areas within the existing major floodplain pursuant to County mapping, which in the future are no longer within the major floodplain, for any use in the underlying zoning district; provided (i) the total maximum nonresidential floor area and residential units committed in these Proffers are not exceeded, (ii) appropriate zoning determinations, appeals, modifications and/or Zoning Ordinance amendments by the County

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confirm that such areas may be so used, and (iii) the use of such areas complies with applicable federal and state laws and regulations that address the need for floodplain management and protection, including, without limitation, Federal Emergency Management Administration regulations, if applicable.

II. ENVIRONMENTAL

A. Heron Rookery.

Except for the construction, operation and maintenance of the wetlands and stream mitigation bank, on-site wetlands and stream mitigation, or riparian reforestation, no use, including the pedestrian trail system shall be located within the seven hundred (700) foot Rookery Radius shown on Sheet 12 of the Concept Plan, which shall serve as a setback from the documented location of the heron rookery identified on Sheet 12 of the Concept Plan. During the heron nesting season from March 1st to June 30th each year, no construction activity shall be performed within the area defined as the one thousand four hundred (1400) foot Rookery Radius shown on Sheet 12 of the Concept Plan, or the 100-year floodplain boundary, whichever is less. The provisions of this Proffer II.A. shall supersede the provisions of Proffers II.C.1.

B. Central Water and Sanitary Sewer.

The Property shall be developed using central water and sewer facilities, which shall be provided to the Property at no cost to Loudoun County (the "County") or to the Loudoun Water. Water and sewer lines, pumping stations and related utility equipment shall be extended to the Property in accordance with Loudoun Water's adopted Master Plan for provision of water and sewer service.

C. Water Quality.

The Property shall be developed in an effort to minimize point source and non-point source pollution by adhering to the following development standards:

1. Floodplain. With the exception of (i) construction within such areas where disturbance is determined to be permitted under the applicable provisions of the Zoning Ordinance, provided such construction is within the areas that are identified as being impacted on the Overall Floodplain Impact Plan provided on Sheets 26 and 27 of the Concept Plan, and (ii) construction and installation of the following, subject to any applicable approvals of necessary alterations to the floodplain, if any: (a) roads; (b) trails; (c) passive recreational facilities; (d) community gardens; (f) stormwater management and BMP facilities; (g) on-site wetlands and stream mitigation and/or wetlands and stream mitigation banking; (h) riparian reforestation; (i) utilities shown on the Concept Plan and appurtenant facilities; and (j) telecommunications, fiber optic cable and similar facilities, no land development activities shall be located and/or maintained in the major and minor floodplain areas indicated on Sheets

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26 and 27 of the Concept Plan. Disturbances permitted within major and minor floodplain areas of the Property shall be designed to minimize the area of disturbance, retain existing vegetation to the extent possible, and shall be designed and constructed in a manner to protect water quality.

2. Wetlands. If not previously obtained, then concurrently with submission of each construction plans and profiles or site plan application, whichever occurs first, for each section of the Property, the Owner shall submit for County review the U.S. Army Corps of Engineers wetland delineation study and permit application for any wetland areas within the confines of the portion of the Property which is the subject of such construction plans and profiles or site plan application. Concurrently with the submission to the County of such study and permit application, the Owner also shall submit to the Department of Building and Development a digital copy of the wetland data for the Property to assist the County in its efforts to inventory wetlands. Wetlands may be disturbed subject to the Owner obtaining all required permits. The Owner shall endeavor to mitigate wetlands impacts associated with development of the Property on-site to the maximum extent possible. If such wetlands impacts cannot be mitigated on-site, the Owner shall mitigate such wetlands impacts first, elsewhere within the Broad Run watershed in the Suburban Policy Area, if available; then elsewhere within the Broad Run watershed outside of the Suburban Policy Area, if available; and then within Loudoun County, if available.

3. Wetlands Mitigation Banking. The Owner may use those portions of the Property identified on the Concept Plan as "Anticipated Area for Wetland Mitigation Bank" and "Proposed Possible Areas of Wetland Mitigation" for on-site wetlands and stream mitigation and/or wetlands and stream mitigation banking, subject to applicable laws, rules and regulations, and the construction of such wetlands and stream mitigation and/or wetlands and stream mitigation banking features shall be permitted in those areas even though such areas are not depicted within the limits of clearing and grading shown on the Concept Plan. In those areas identified on the Concept Plan as "Anticipated Area for Wetland Mitigation Bank," the Owner shall, subject to such areas being suitable and subject to issuance of all requisite permits and approvals, provide wetlands and stream mitigation and/or wetlands and stream mitigation banking within three (3) years of issuance of the first zoning permit for a use of the Property. If such areas are not suitable and/or are not permitted for wetlands and stream mitigation, such areas shall not be used for any purpose other than those uses permitted in Proffer II.C.1., above. The Owner may provide wetlands and stream mitigation and/or wetlands and stream mitigation banking in those areas identified on the Concept Plan as "Proposed Possible Areas of Wetland Mitigation," but shall not be required to do so.

4. Best Management Practices. The Property shall be developed in accordance with best management practices ("BMPs") which shall be defined as follows:

- a. Structural and non-structural measures used in combination or as stand alone facilities, shall be provided to control runoff from developed areas of the Property in accordance with and as required by the FSM. Non-structural measures shall include site design

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elements that minimize the creation of new impervious area, retain native vegetation to the extent possible, and utilize storm drainage systems that replicate the pre-development hydrology to the extent practicable.

- b. Concurrent with submission of each site plan or set of construction plans and profiles, whichever occurs first, for each section of the Property, documentation in the form of calculations, design narrative and/or other pertinent supporting information shall be provided within the proposed BMP facilities' design to illustrate that there will be a minimum fifty percent (50%) phosphorus removal rate associated with the design for developed areas of the Property, per the following guidelines:
- (i) The storage volume for each BMP impoundment structure shall be designed per the Loudoun County requirements stated within the FSM.
 - (ii) All BMP ponds shall be located outside of major and minor floodplain, unless approved by the applicable regulatory agencies.
 - (iii) Acceptable BMP measures, design and construction methods, and phosphorous removal efficiencies shall be based on the FSM, in place at the time of acceptance for review of the subdivisions plans, site plans and/or construction plans and profiles, supplemented by the standards of the Virginia Stormwater Management Handbook, latest edition.
 - (iv) Low Impact Development ("LID") techniques, such as but not limited to green roofs, rain gardens, cisterns, manufactured facilities, and planted swales shall be incorporated into the subject property's overall stormwater management approach where practicable in order to meet the applicable stormwater management requirements of Loudoun County. The locations and water quality benefits of such LID techniques shall be included in each site plan and construction plans and profiles submitted for the Property.
 - (v) All BMP ponds shall be designed and constructed as wet ponds or enhanced extended detention ponds.

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- c. The Owner shall cooperate with the County to provide for the County assuming maintenance responsibilities for the stormwater management/best management practice facilities, including, without limitation, the granting of appropriate easements, provided that the Owner shall maintain such facilities in accord with County rules and regulations until such facilities are dedicated to the County in fee simple or are accepted by the County for maintenance. To the extent the Applicant installs underground (cartridge and/or filter system) stormwater management facilities, the Applicant shall be responsible to maintain, repair, and replace such facilities at its sole cost and expense. The County, its agents, employees, successors and assigns, shall be entitled to have access to such facilities at any time to inspect, to ensure the fulfillment of the maintenance responsibilities, and, if necessary, at the County's sole discretion, to conduct such maintenance, repair and replacement as may be necessary, at the Applicant's expense. Prior to approval of the first site plan, the Applicant shall furnish a written maintenance agreement in a form approved by the County Attorney and a financial guarantee in the form of a cash escrow or irrevocable letter of credit satisfactory to the Director of General Services to secure its obligation to provide appropriate and necessary maintenance, repair, and replacement of such underground stormwater management facilities. The financial guarantee shall remain in force and effect for a period of twenty-five (25) years, and the amount of the financial guarantee shall be \$1,625.00 per underground filter or cartridge covered by the maintenance agreement unless the Director of the Department of General Services shall approve a lesser amount. The maintenance agreement shall be recorded among the land records and shall remain in force for so long as such underground facilities remain in use.

D. Trails Located Within the Floodplain.

Trails located within the floodplain shall be constructed with pervious surfaces and, where such trails cross jurisdictional waters and/or wetlands, raised boardwalks, with designs consistent with the three sections provided on Sheet 15 of the Concept Plan, provided the Owner reserves the right to construct an impervious trail connection from the developable portion of the Property to the heron rookery observation platform to be constructed pursuant to Proffer IV.B. Public access easements shall be provided on all trails located within the floodplain.

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E. Tree Preservation Areas.

Within the areas identified on Sheets 22 and 23 of the Concept Plan as "Tree Preservation Areas," the Owner shall preserve existing healthy trees provided, however, that trees may be removed to the extent necessary for the construction and installation of the following: (a) trails; (b) passive recreational facilities; (c) stormwater management and BMP facilities; (d) riparian reforestation; (e) on-site wetlands and stream mitigation and/or wetlands and stream mitigation banking; (f) utilities shown on the Concept Plan and appurtenant facilities; and (g) telecommunications, fiber optic cable and similar facilities. A minimum of eighty (80) percent of the canopy within the cumulative Tree Preservation Area depicted on the Concept Plan will be preserved, exclusive of stands of Virginia Pine over 25 years in age. In the event that the eighty (80) percent canopy threshold cannot be achieved within the designated Tree Preservation Areas, such lost canopy will be recaptured elsewhere onsite in locations to be designated at the discretion of the Owner in consultation with the County. Boundaries of all Tree Preservation Areas shall be delineated on the record plat recorded for each section of the development.

If, during construction on the Property, it is determined by the Owner's certified arborist and/or the County that any healthy tree located within the boundaries of any of the Tree Preservation Areas described in this Proffer has been damaged during construction and will not survive, then, prior to occupancy of the first use in any section containing or immediately adjacent to a Tree Preservation Area, the Owner shall remove each such tree and replace each such tree with two (2) 2½ - 3 inch caliper native, non-invasive deciduous trees. The placement of the replacement trees shall be proximate to the area of each such damaged tree so removed, or in another area as requested by the County.

The Owners Association documents described in Proffer VII below shall include a provision that prohibits removal of trees in Tree Preservation Areas as shown on the record plat after construction has been completed by the Owner without specific permission of the County Urban Forester except as necessary to accommodate Forest Management Techniques, performed by or recommended by a professional forester or certified arborist, that are necessary to protect or enhance the viability of the canopy. Such Management Techniques may include, without limitation, pruning and the removal of vines, invasive species, trees uprooted or damaged by extreme weather conditions, and trees or limbs that are diseased, insect-infested, dead, or are considered a hazard to life or property. The Owners Association documents shall clearly state that such provisions prohibiting tree removal shall not be amended by the Owner or the Owners Association without written approval from the County. The record plat for each portion of the Property containing a Tree Preservation Area shall contain a note stating that the removal of trees within a Tree Preservation Area is prohibited except in accordance with the Declaration of Conditions, Covenants and Restrictions recorded for the Property.

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F. Reforestation for River and Stream Corridor Buffer Disturbances.

With the exception of the encroachments depicted on the Concept Plan, the River and Stream Corridor 50-foot Management Buffer as shown on the Concept Plan shall be preserved and remain in its natural state on the Property. The Owner shall replant open areas within or adjacent to the 100 year floodplain, without the need for a floodplain study, floodplain alteration or floodplain alteration waiver, in an amount equal to the area of the proposed development that encroaches into the River and Stream Corridor 50-foot Management Buffer. Such replanting shall be located, to the extent feasible, in the general vicinity of the areas of the 50-foot Management Buffer that are disturbed. The Owner shall submit a riparian planting plan, prepared by a professional forester, landscape architect or certified arborist, for such replanting areas at the time of each site plan or construction plan and profiles for the development of those areas that encroach into the 50-foot Management Buffer for review and approval by the County Urban Forester. The approved riparian planting plan will be implemented concurrent with the development of the areas subject to such site plans or construction plans and profiles.

G. Harvesting Trees from Cleared Areas.

The Owner shall harvest trees from those areas of the Property that are forested and are to be cleared by the Owner for development of the uses on the Property. The Owner shall retain any proceeds received from the sale of the harvested forest products.

H. Open Space Easement.

It is understood that, as necessary to permit the development on the Property of the uses described in these Proffers and shown on the Concept Plan, the County will cooperate with the Owner to confirm, clarify and amend, consistent with the form Amended Deed of Open Space Easement attached to this Proffer Statement as **Exhibit C**, the existing open space easement that was dedicated to the County pursuant to the Deed of Open Space Easement recorded in Deed Book 2314, at page 1589 among the land records in the Clerk's Office of the Circuit Court of Loudoun County, Virginia. To the extent required by the Open Space Land Act, and if necessary to allow for a release of any portion of the open space easement, the Owner will subject alternative land, acceptable to the Board of Supervisors to replace such portions of the open space easement to be released.

I. Natural Resource Management Plan.

Prior to first site plan approval or record plat approval, whichever is first in time, for the initial section of development of the Property, the Owner shall develop a Natural Resource Management Plan ("NRMP") in cooperation with the County's Department of Parks, Recreation and Community Services ("PRCS"), Environmental Review Team ("ERT") and the County Urban Forester for the purpose of maintaining the major floodplain areas located on the Property. The NRMP shall include, but not be limited to, the following elements: a) an objective; b) an

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assessment of existing resources; c) management recommendations; and d) an activity schedule. Once established, the NRMP shall be incorporated into the Owners Association documents to require the Owners Association to comply with the NRMP, and such provisions shall not be amended without the consent of the County.

J. Forest Management Plan.

Prior to the first site plan approval or record plat approval, whichever is first in time, for the initial section of development of the Property, the Owner shall develop a Forest Management Plan ("FMP") for the purpose of providing maintenance for all Tree Preservation Areas depicted on the Concept Plan and subject to Proffer II.E. The FMP shall be developed in cooperation with representatives from PRCS, ERT and the County Urban Forester. Elements of the FMP shall include, but not be limited to: a) an objective; b) a resource assessment; c) management recommendations; and d) an activity schedule. Once established, the FMP shall be incorporated into the Owners Association documents to require the Owners Association to comply with the FMP, and such provisions shall not be amended without the consent of the County.

K. Green Building Practices.

The Owner shall employ development attributes of the United States Green Building Council's Leadership in Energy and Environmental Design ("LEED") program into the planning of the office and residential buildings that are four (4) stories or more on the Property. Those elements may include, but shall not be limited to, sustainable site design, water efficiency, energy management, materials and resource reuse, and/or interior environmental quality. The following alternative transportation-related elements will be included throughout the Property:

- a. bicycle parking areas for all office and commercial buildings and sheltered bicycle parking areas for multi-family housing;
- b. shower facilities for employees in all buildings containing greater than 100,000 square feet of non-residential uses; and
- c. the locating of a bus or shuttle stop within one-quarter mile of each office and commercial building.

While this Proffer shall not be construed as a commitment to obtain a certain level of LEED certification, the design and construction of all office and residential buildings with four (4) stories or more will incorporate sustainable building elements for LEED version 3, or the current version of LEED effective at the time of site plan submission for New Construction or for Core and Shell, and will be designed to achieve LEED goals, including reduction in potable water use, energy use reductions, construction waste diversion from sanitary landfills or incinerators, and enhanced indoor environmental conditions, to the extent the Owner determines that such LEED elements and goals can be incorporated without impairing the competitiveness of the Owner's buildings in the marketplace.

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The Owner shall employ a LEED accredited professional in the design of each office and residential building with four (4) or more stories.

All residential buildings and individual dwelling units shall be outfitted with energy efficient appliances including, but not limited to, ENERGY STAR or an energy efficient rating equivalent qualified dishwashers, refrigerators and clothes washers. In addition, each residential building shall include conveniently located facilities to enable residents to recycle mixed waste products.

III. TRANSPORTATION

A. Road Network.

Unless otherwise specified in the Proffers, all roads required for access to and within the Property shall be constructed in accordance with the County's Land Subdivision and Development Ordinance and the FSM to provide access to the various portions of the Property as they are developed. All public roads required for access to and within the Property shall be designed and constructed in accordance with applicable VDOT and County standards. Except as provided in Proffer III.C., on-site public roadways shall be constructed as development of each section of the Property that includes such roadways occurs consistent with the timing specified in Proffer III.D.

Dedication of land for public roads and parallel trails shall include all related easements outside the right-of-way, such as slope, maintenance, storm drainage and utility relocation easements, necessary to construct the public roads and parallel trails shown on the Concept Plan within the Property and along the Property's existing public street frontage. Dedication of right-of-way and easements to the County for the public roads and parallel trails shown on the Concept Plan shall occur concurrently with development of each section of the Property unless already dedicated by others. However, if requested by the County to dedicate the right-of-way and related easements in advance of development on the Property, the Owner shall make such dedication if: (1) others have prepared and obtained final approval of construction plans and profiles consistent with the Concept Plan, which require dedication to commence construction; and (2) provided that the Owner shall not be obligated to incur costs or post bonds with the County in connection with such dedication.

B. Pacific Boulevard Alignment.

The final alignment of Pacific Boulevard as it crosses the northeast corner of the site and Broad Run and connects to Russell Branch Parkway shall be determined at the time VDOT right-of-way plans and/or Owner-initiated construction plans and profiles are approved, and such alignment may be shifted from the alignment shown on the Concept Plan without requiring a Zoning Concept Plan Amendment or proffer amendment. If the Board of Supervisors approves

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the creation of a community development authority to finance construction of Pacific Boulevard, and VDOT and/or the County have not approved the final alignment of the off-site portion of Pacific Boulevard in connection with the review and approval of the requisite plans for Pacific Boulevard, the community development authority shall, at the time required by the terms of these Proffers, deposit with the County the necessary funds for the construction of that segment of Pacific Boulevard, in the alignment shown on the Concept Plan, to be held by the County and used only for the future construction of that segment of Pacific Boulevard. Any interest that accrues on such funds shall likewise be held and used only for the construction of that segment of Pacific Boulevard. Any portion of such funds or accrued interest that is not used for the construction of Pacific Boulevard, if any, shall be returned to the community development authority.

C. Construction of Public Roads With a CDA.

In the event the Board of Supervisors creates for the Property a community development authority ("CDA") pursuant to § 15.2-5152 et seq., Code of Virginia (1950), as amended, the Owner shall dedicate right-of-way to the County and/or to VDOT, if and as necessary for the ultimate configuration of the following road improvements and, with the funding to be provided by such CDA, shall construct, bond for construction or cause to be constructed the following transportation improvements, within three (3) years of the date the CDA is created by the Board, with reasonable extensions to be granted should market conditions not permit issuance of CDA bonds at a reasonable rate of interest:

1. Gloucester Parkway. The extension of Gloucester Parkway as shown on the Concept Plan from the planned terminus of the Route 28/Gloucester Parkway interchange project, across the Property and Broad Run, and, subject to the provision of off-site right-of-way by others, to Loudoun County Parkway. Such extension of Gloucester Parkway shall be a full section of a four (4) lane divided highway and shall include the bridge and appurtenances required to cross Broad Run with such 4-lane section and a ten (10) foot wide bicycle trail on the north side of such extension of Gloucester Parkway. The Owner shall dedicate right-of-way on the Property for Gloucester Parkway 120 feet in width to accommodate an ultimate 6-lane divided section. The Owner shall construct the 4 lanes required by this Proffer as the outer lanes of the ultimate planned 6-lane divided road section for Gloucester Parkway.

2. Pacific Boulevard. The Owner shall construct the extension of Pacific Boulevard as shown on the Concept Plan from the southern Property boundary across the Property and Broad Run, and subject to provision of off-site right-of-way by others, to the current terminus of Russell Branch Parkway. Such extension to Russell Branch Parkway shall be a full section of a four (4) lane divided highway and shall include the bridge and appurtenances required to cross Broad Run with such 4-lane section and a ten (10) foot wide bicycle trail on the east side of such extension of Pacific Boulevard; provided the Owner/CDA shall not be responsible for any portions of the four lane section which have been or are committed to be constructed by others.

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On or before the date that is sixty (60) days from the date of final approval of this rezoning application (ZMAP 2008-0021), the Owner shall petition the Board of Supervisors to create a CDA for the purpose of financing construction of at least the road improvements identified in this Proffer. The Owner shall include all of the Property in the petition to create such CDA. The Owner shall be permitted to coordinate the timing and implementation of construction of these public roads pursuant to this Proffer with other construction projects by others, provided such public roads are constructed or bonded for construction within three (3) years of the date the CDA is created by the Board, with reasonable extensions to be granted should market conditions not permit issuance of CDA bonds at a reasonable rate of interest. Nothing provided in this Proffer shall prevent the Owner from obtaining any land use approvals (including, without limitation, site plan, subdivision, construction plans and profiles and grading permit) for the Property, nor from commencing construction on the Property, during the design and construction of these public roads. In the event the CDA is created to finance construction of the roads identified in this Proffer, the Owner shall be allowed to develop any uses permitted on the Property without regard to the provisions of Proffer III.D. below, as long as (i) such uses are consistent with the linkage limitations outlined in Proffer I.F., and (ii) the Owner provides the necessary intersection improvements to connect the private streets to Pacific Boulevard as shown on the Concept Plan. In the event the necessary right-of-way for the off-site portions of Gloucester Parkway and/or Pacific Boulevard have not been dedicated to VDOT and/or the County and have not otherwise been acquired by VDOT and/or the County, within twelve (12) months of the date the CDA is created, the Owner's and/or the CDA's obligation to construct the off-site portions of the respective road for which the right-of-way is needed shall be deferred until such time as the right-of-way is acquired, and the Owner shall be permitted to pursue development of the Property notwithstanding that such portion of the road is not constructed. The CDA shall be responsible for maintenance of the segments of road constructed by the CDA until such time as such segments of road are accepted into the VDOT system for maintenance.

D. Construction of Public Roads Without a CDA.

If the Board of Supervisors has not created a CDA for the Property to fund the transportation improvements described in Proffer III.C. above, within twelve (12) months of the final approval of this rezoning application ZMAP 2008-0021, and the Owner desires to proceed with development of the Property without CDA financing, the Owner shall construct or bond for construction the following transportation improvements in accordance with the transportation construction schedule set forth below, which includes in the non-residential use numbers all non-residential uses constructed on Property and on the PD-IP Portion:

1. Uses In Land Bay Q. Unless already constructed by Owner or others, prior to the first site plan approval for construction of any use in Land Bay Q, the Owner shall construct or bond for construction the following transportation improvements:

a. Pacific Boulevard: Dedicate right-of-way for the ultimate configuration of this roadway as a four-lane divided road, and construct

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two lanes of Pacific Boulevard from the southern Property boundary to Gloucester Parkway as shown on the Concept Plan and in accordance with VDOT standards, together with deceleration, acceleration and turn lanes and transitions to an undivided section to the south as required by VDOT.

b. Bicycle Trail – Pacific Boulevard: To the extent not located within the public right-of-way, dedicate a fourteen (14) foot wide on-site public access easement in the setback area along the west side of Pacific Boulevard, and construct a ten (10) foot wide bicycle trail on the Property within the public right-of-way and/or within such public access easement along the portion of Pacific Boulevard constructed pursuant to the preceding paragraph. This trail shall be located generally as shown on Sheets 15 and 16 of the Concept Plan.

2. Transportation Improvements for Transportation Phase 1A (initial uses of the Property and PD-IP Portion up to and including 300,000 square feet of non-residential uses (which may include up to 270 hotel rooms) and 300 residential dwelling units). Prior to the first record plat or site plan approval, whichever is first in time, for construction of any use on the Property, and unless already constructed or installed by others, the Owner shall construct or bond for construction the following transportation improvements:

a. Pacific Boulevard: Dedicate right-of-way for the ultimate configuration of this roadway as a four-lane divided road, and construct Pacific Boulevard, except any portion already constructed or committed to be constructed by others, from its intersection with Gloucester Parkway as shown on the Concept Plan to a point sufficient to provide access to the portion of the Property proposed for such uses. Such portion of Pacific Boulevard shall consist of two lanes of the ultimate four-lane divided road, as such four-lane divided road is depicted on the Concept Plan and in accordance with VDOT standards, together with deceleration, acceleration and turn lanes.

b. Bicycle Trail – Pacific Boulevard: To the extent not located within the public right-of-way, dedicate a fourteen (14) foot wide on-site public access easement in the setback area along the west side of Pacific Boulevard, and construct a ten (10) foot wide bicycle trail on the Property within the public right-of-way and/or within such public access easement along the portion of Pacific Boulevard constructed pursuant to the preceding paragraph to serve the portion of the Property proposed for such use. This trail shall be located generally as shown on Sheets 15 and 16 of the Concept Plan.

3. Transportation Improvements for Transportation Phase 1B (up to and including 1,125,000 square feet of non-residential, non-hotel uses, 270 hotel rooms and 700 residential

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dwelling units). Prior to issuance of the zoning permit for the 300,001st square foot of non-residential uses (inclusive of any hotel rooms constructed in Phase 1A) or the 301st residential dwelling unit, whichever is first in time, and unless already constructed or installed by others, the Owner shall construct or bond for construction the following transportation improvements:

a. Pacific Boulevard: Dedicate right-of-way for the ultimate configuration of this roadway as a four-lane divided road and construct Pacific Boulevard, except any portion already constructed or committed to be constructed by others, from its current terminus at the southern Property boundary across the Property, as a four-lane divided road, to the proposed intersection of Pacific Boulevard and Road 2 between Land Bays M4 and K, or to a point further north of this intersection if such extension is necessary to provide access to the portion of the Property proposed for such uses, as such four-lane divided section is depicted on the Concept Plan and in accordance with VDOT standards, together with deceleration, acceleration and turn lanes at the intersections with the roads that provide access to the land bays along Pacific Boulevard, as required by VDOT. In addition, traffic signals shall be provided at all of the intersections with roads that provide access to land bays along Pacific Boulevard, if warranted by VDOT. Warrant studies shall be submitted to VDOT and the County with the submission of the construction plans and profiles for such roads that provide access to the land bays along Pacific Boulevard. If the traffic signals are not warranted at the time of the initial construction of Pacific Boulevard in Transportation Phase 1B, then the obligation to provide such signals shall be deferred to the beginning of Transportation Phase 2A, if warranted by VDOT at that time.

b. Bicycle Trail – Pacific Boulevard: To the extent not located within the public right-of-way, dedicate a fourteen (14) foot wide on-site public access easement in the setback area along the west side of Pacific Boulevard, and construct a ten (10) foot wide bicycle trail on the Property within the public right-of-way and/or within such public access easement along the portion of Pacific Boulevard constructed pursuant to the preceding paragraph. This trail shall be located generally as shown on Sheets 15 and 16 of the Concept Plan.

c. Gloucester/Pacific Intersection: In the event signalization is not provided by others, the Owner shall install a traffic signal at the Gloucester/Pacific intersection, subject to review and approval of a traffic signal warrant study submitted to VDOT. The traffic signal and intersection layout shall be designed to VDOT standards and to accommodate the ultimate four-way intersection at such time as Gloucester Parkway is extended to the west. If the traffic signal is not

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warranted at the time of the construction of the portion of Pacific Boulevard identified in Transportation Phase 1B, then the obligation to provide such signal shall be deferred to the beginning of Transportation Phase 2A, if warranted by VDOT at that time.

4. Transportation Improvements for Transportation Phase 2A (up to and including 1,700,000 square feet of non-residential, non-hotel uses, 500 hotel rooms and 1,068 residential dwelling units). Prior to issuance of the zoning permit for the 1,100,001st square foot of non-residential, non-hotel uses, the 271st hotel room, or the 701st residential dwelling unit, whichever is first in time, and unless already constructed or installed by others, the Owner shall construct or bond for construction the following transportation improvements:

a. Pacific Boulevard: Dedicate right-of-way for the ultimate configuration of this roadway as a four-lane divided road and construct Pacific Boulevard, except any portion already constructed or committed to be constructed by others, from its current terminus at the southern Property boundary across the Property, as a four-lane divided road, to the proposed intersection of Pacific Boulevard and Road 1 between Land Bays F and B, as illustrated on the Concept Plan and in accordance with VDOT standards, together with deceleration, acceleration and turn lanes at the intersections with the roads that provide access to the land bays along Pacific Boulevard, as required by VDOT. In addition, traffic signals shall be provided at all of the intersections with roads that provide access to land bays along Pacific Boulevard, if warranted by VDOT. Warrant studies shall be submitted to VDOT and the County with the submission of the construction plans and profiles for such roads that provide access to the land bays along Pacific Boulevard. If the traffic signals proffered in Proffer III.D.3.a are still not warranted at the beginning of Transportation Phase 2A, then the obligation to provide such signals shall be deferred to the beginning of Transportation Phase 2B if warranted by VDOT at that time.

b. Bicycle Trail – Pacific Boulevard: To the extent not located within the public right-of-way, dedicate a fourteen (14) foot wide on-site public access easement in the setback area along the west side of Pacific Boulevard, and construct a ten (10) foot wide multi-purpose trail on the Property within the public right-of-way and/or within such public access easement along the portion of Pacific Boulevard constructed pursuant to the preceding paragraph. This trail shall be located generally as shown on Sheets 15 and 16 of the Concept Plan.

c. Gloucester/Pacific Intersection: In the event signalization is not provided by others or in prior phases of development, a traffic signal

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will be installed at the Gloucester/Pacific intersection, subject to review and approval of a traffic signal warrant study submitted to VDOT. The traffic signal and intersection layout will be designed to VDOT standards and to accommodate the ultimate four-way intersection at such time as Gloucester Parkway is extended to the west. If the traffic signal is not warranted at the beginning of Transportation Phase 2A, then the obligation to provide such signal shall be deferred to the beginning of Transportation Phase 2B if warranted by VDOT at that time.

5. Transportation Improvements for Transportation Phase 2B (up to and including 2,400,000 square feet of non-residential, non-hotel uses, 720 hotel rooms and 1,400 residential dwelling units). Prior to issuance of the zoning permit for the 1,700,001st square foot of non-residential, non-hotel uses, the 501st hotel room, or the 1,069th residential dwelling unit, whichever is first in time, and unless already constructed or installed by others, the Owner shall construct or bond for construction the following transportation improvements:

a. Pacific Boulevard: Dedicate right-of-way for the ultimate configuration of this roadway as a four-lane divided road and construct Pacific Boulevard, except any portion already constructed or committed to be constructed by others, from its then current northerly terminus across the Property as shown on the Concept Plan, with a bridge across Broad Run, and, subject to right-of-way being provided by others, connecting to the eastern terminus of Russell Branch Parkway. Such road extension shall be four-lane divided roadway and shall be constructed, as illustrated on the Concept Plan and in accordance with VDOT standards, together with deceleration, acceleration and turn lanes at the intersections with the roads that provide access to the land bays along Pacific Boulevard, as required by VDOT. In addition, traffic signals shall be provided at all of the intersections with roads that provide access to land bays along Pacific Boulevard, if warranted by VDOT. Warrant studies shall be submitted to VDOT and the County with the submission of the construction plans and profiles for such roads that provide access to the land bays along Pacific Boulevard. If the traffic signals are not warranted at the beginning of Transportation Phase 2B, then the obligation to provide such signals shall be deferred to the beginning of Transportation Phase 3, if warranted by VDOT at that time.

b. Bicycle Trail – Pacific Boulevard: To the extent not located within the public right-of-way, dedicate a fourteen (14) foot wide on-site public access easement in the setback area along the west side of Pacific Boulevard, and construct a ten (10) foot wide multi-purpose trail on the Property within the public right-of-way and/or within such public access easement along the portion of Pacific Boulevard constructed

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pursuant to the preceding paragraph. This trail shall be located generally as shown on Sheets 15 and 16 of the Concept Plan.

c. Gloucester/Pacific Intersection: In the event signalization is not provided by others or in prior phases of development, a traffic signal shall be installed at the Gloucester/Pacific intersection, subject to review and approval of a traffic signal warrant study submitted to VDOT. The traffic signal and intersection layout shall be designed to VDOT standards and to accommodate the ultimate four-way intersection at such time as Gloucester Parkway is extended to the west. If the traffic signal is not warranted at the beginning of Transportation Phase 2B, then the obligation to provide such signal shall be deferred to the beginning of Transportation Phase 3 if warranted by VDOT at that time.

6. Transportation Improvements for Transportation Phase 3 (full buildout). Prior to issuance of the zoning permit for the 2,400,001st square foot of non-residential uses, non-hotel uses and unless already constructed or installed by others, the Owner shall construct or bond for construction the following transportation improvements:

a. Gloucester Parkway: Dedicate right-of-way, if and as necessary, and construct an extension of Gloucester Parkway, except any portion already constructed or committed to be constructed by others, from Pacific Boulevard across the Property, with a bridge across Broad Run, as shown on the Concept Plan, and, subject to right-of-way being provided by others, connecting to Loudoun County Parkway. Such road extensions shall be four-lane divided roadways and shall be constructed, as illustrated on the Concept Plan and in accordance with VDOT standards, together with deceleration, acceleration and turn lanes as required by VDOT.

b. Bicycle Trail – Gloucester Parkway: To the extent not located within the public right-of-way, dedicate a fourteen (14) foot wide on-site public access easement in the setback area along the north side of Gloucester Parkway, and construct a ten (10) foot wide multi-purpose trail within the public right-of-way and/or within such public access easement and along the portion of Gloucester Parkway constructed pursuant to the preceding paragraph, which shall connect to the bicycle trail located on the west side of Pacific Boulevard.

c. Gloucester/Pacific Intersection: In the event signalization is not provided by others or in prior phases of development, a traffic signal shall be installed at this intersection, subject to review and approval of a traffic signal warrant study submitted to VDOT. The warrant study shall

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be submitted to VDOT and the County with the first final site plan submitted to the County for development in Transportation Phase 3.

E. Acquisition of Off-Site Right-of-Way/Easements.

1. In addition to dedicating right-of-way and easements on the Property, the Owner shall make a good faith effort to acquire off-site right-of-way or easements necessary for the construction of the off-site portions of Pacific Boulevard and Gloucester Parkway proffered herein. Where, despite such good faith efforts, right-of-way and/or easements necessary for construction of such off-site portion of Pacific Boulevard cannot be obtained either (i) voluntarily through donation or proffer to the County, or (ii) through purchase by the Owner at a fair market value price, the Owner shall request VDOT and/or the County to acquire such right-of-way and/or easements by appropriate eminent domain proceedings by VDOT and/or the County, with all costs associated with the eminent domain proceedings to be borne by the Owner, including but not limited to, land acquisition costs. The initiation of such eminent domain proceedings is solely within the discretion of VDOT and/or the County. It is understood that the County will attempt to obtain the off-site right-of-way for both the extension of Pacific Boulevard and the extension of Gloucester Parkway, as a condition of County approvals of land use applications for the properties across which such extensions will be constructed. The Owner shall not be required to pay any amounts for such right-of-way to the extent the County obtains such right-of-way as a condition of County approvals of land use applications.

2. If the necessary right-of-way and/or easements cannot be acquired voluntarily and the County and/or VDOT choose not to exercise the right of eminent domain within six (6) months of a written request by the Owner, the Owner shall be released from the obligation to acquire such right-of-way. If the County and/or VDOT elect to defer its exercise of eminent domain, then the Owner's Proffer requiring such acquisition or construction shall likewise be deferred.

3. Notwithstanding the commitments in Proffer III.D. above, the Owner shall not be prevented from obtaining any land use approvals (including, without limitation, site plan, subdivision, construction plans and profiles, grading permit, zoning permit, building permit, and occupancy permit) for the Property, nor from commencing construction on the Property, during the pendency of any eminent domain proceedings initiated pursuant to this Proffer, nor any deferral of the County's and/or VDOT's exercise of eminent domain pursuant to Proffer III.E.2. above.

F. Traffic Signalization.

When required by the phasing provisions set forth in the paragraphs above, the Owner shall prepare a signal warrant analysis for the installation of the traffic signals identified in each respective Transportation Phase. Pursuant to said signal warrant analysis, and if warranted by VDOT, the Owner shall design and install traffic signalization at the respective intersections

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when required by the schedule above. In the event a signal has not been warranted by VDOT when the Owner desires to proceed with the respective phase of development on the Property, the obligation to design and install such signal shall be deferred to the beginning of the next phase of development on the Property. In the event a signal proffered above has not been warranted at the beginning of Transportation Phase 3 of development on the Property, the Owner shall make a cash contribution to the County for the cost of the design and installation of such traffic signal. Such cash contribution shall be made prior to issuance of the first zoning permit for a use in Transportation Phase 3 of the development. The amount of the cash contribution shall be based on an estimate provided to the County by a certified engineer; however, in no case shall the contribution exceed One Hundred Sixty Thousand and 00/100 Dollars (\$160,000.00) for each traffic signal. This maximum limit on said contribution shall escalate in accordance with the Consumer Price Index ("CPI") from a base year of 2008.

G. Cash Equivalent Contribution.

Unless otherwise provided in these Proffers or unless such improvements are provided in cooperation with others by private agreement or subject to the commitments of other zoning applications, the Owner agrees that, in the event any of the transportation improvements described above in Proffer III.D., except (i) the bridge crossings and off-site extensions of Gloucester Parkway and Pacific Boulevard, and (ii) the portions of Pacific Boulevard and Gloucester Parkway constructed by VDOT with the construction of the Route 28/Nokes Boulevard/Gloucester Parkway interchange, are constructed or bonded for construction by others prior to bonding for construction by the Owner, the Owner shall contribute to the County or its designee, for each such improvement provided by others, an amount equal to the cost of constructing such transportation improvements described above in Proffer III.D. in lieu of actual construction of each such improvement provided by others. For the purposes of determining the in-lieu-of contribution, (i) the actual cost of the respective improvements will be used if available; if not, the value of the bond estimate will be used, and (ii) construction costs shall be deemed to include all engineering, surveying, bonding, permit fees, utility relocation, and other hard costs of construction based on paid invoices. Such contribution in lieu of actual construction shall occur at the time the Owner would otherwise have been required by these Proffers to bond or construct such improvements. As determined by the County, such contribution shall either be used to reimburse the party who constructed such improvements, or for regional roadway or transit improvements in the vicinity of and for the benefit of the Property.

H. Highway Noise Mitigation.

Concurrently with the filing of the first site plan or construction plans and profiles for the Property, whichever is first in time, the Owner shall submit an acoustical analysis for the Property to determine which areas of the Property may be adversely impacted by highway noise generated along (i) the Route 28 (Sully Road)/Pacific Boulevard frontage, and (ii) the Gloucester Parkway frontage. With each subsequent site plan for a residential, hotel, or office use on the

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Property, the Owner shall demonstrate compliance with the aforementioned acoustical analysis with the goal of mitigating material adverse highway noise impacts in the noise sensitive areas of the Property, such that (a) interior noise levels do not exceed 50 dbA for residential and hotel units, (b) exterior noise levels at the façade of office buildings do not exceed 70 dbA, and (c) outdoor passive and active recreation areas do not exceed 65 dbA. Compliance with the acoustical analysis shall demonstrate the methods that shall be incorporated into the site and building design in order to reduce noise levels for residential, hotel and office uses in accordance with the noise abatement criteria specified above.

I. Temporary Community Parking Lot/Transit Contribution.

If bus transit service is provided along Pacific Boulevard to serve the Property, then at the time of issuance of the zoning permit for the 701st residential dwelling unit constructed on the Property, the Owner shall make available to the County for a period of five (5) years (from the date of issuance of the permit) a parking lot to be used by the County as a commuter parking lot to support the County's transit service during the five (5) year period. The Owner shall provide appropriate parking lot lighting for security purposes for such temporary parking lot. In addition, if bus transit service is provided along Pacific Boulevard to serve the Property, then at the time of issuance of the zoning permit for the 425,001st square foot of office use on the Property, the Owner shall make a one-time cash contribution to the County in the amount of Four Hundred Seventy-Five Thousand and 00/100 Dollars (\$475,000.00) to be used by the County to support such transit service to serve the Property and the surrounding area. If, at the time the Owner reaches either or both of the referenced thresholds (701 residential dwelling units/425,001st square feet of office use), bus transit service is not then being provided along Pacific Boulevard to serve the Property, the Owner shall not be required to provide the respective contribution(s) unless and until such bus transit service is so provided, at which time, the Owner shall make the respective contribution(s) within thirty (30) days of the commencement of such bus transit service. Such contributions shall be escalated in accordance with the changes in the Consumer Price Index ("CPI") from a base year of 2009 (see Proffer VIII.C.).

J. Bus Shelters.

Within six (6) months of the date of commencement of public bus service to the Property, the Owner shall construct two (2) bus shelters along Pacific Boulevard. The Owner shall coordinate the location of these bus shelters with the Office of Transportation Services or other appropriate County agency. The commitment in this Proffer to construct bus shelters shall terminate twenty (20) years after issuance of the zoning permit for the Property, if no public bus service to the Property has been established during such twenty (20) years; provided upon such termination, the Owner shall contribute to the County a cash contribution in the amount of the estimated cost of two (2) bus shelters to be used by the County to construct such bus shelters in the future. The bus shelters shall be maintained by the Owners Association established pursuant to Proffer VII. The Owner shall coordinate the design and location of such bus shelters with the Office of Transportation Services at the time of site plan review.

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K. Transportation Demand Management Program.

Prior to issuance of the first zoning permit for an office or residential use on the Property, the Owner shall implement a Transportation Demand Management ("TDM") program whose objective is to reduce peak hour vehicle trips to and from the site. The means to achieve this objective over the build-out period for this site may vary from time to time as knowledge is gained about specific factors and as the area and region develop. Elements of this program shall include, but shall not necessarily be limited to, the following:

1. Identify an Employer Transportation Coordinator (ETC) for each office or residential building to serve as the TDM contact with the Loudoun County Office of Transportation Services ("OTS"). ETCs shall promote and encourage commuting alternatives in cooperation with other private and public TDM efforts or Transportation Management Associations. ETCs shall meet with OTS Staff to clarify commuting options to the site and develop promotions and programs in support of established TDM goals.
2. Conduct initial and biennial employee commute surveys to benchmark and measure progress toward the reduction of vehicle trips and vehicle emissions.
3. Provide a minimum of five percent (5%) of total parking spaces for each office or residential building as preferred parking spaces for (a) carpool/vanpool vehicles, (b) fuel efficient vehicles, or (c) car sharing vehicles.
4. Promote flexible, compressed, or telework schedules for on-site employees.
5. Support transit service by encouraging all employers to provide qualified transportation fringe benefits, as allowed under Section 132(f) of the Internal Revenue Code.
6. Construct and maintain permanent public information displays in all office or residential buildings for distribution of alternate commute information, including transit schedules, park-and-ride lot maps, rideshare programs and telework. In addition, encourage a presence on each tenant/employer's intranet site detailing alternate modes of transportation and other travel reduction measures.
7. Install secure weather-protected bicycle storage facilities or bicycle racks for a minimum of twenty (20) bicycles for each office or residential building. Such bicycle storage facilities and/or bicycle racks shall be located in a convenient location for use by employees and/or residents and shall be installed prior to issuance of the occupancy permit for each respective building.
8. Provide accessible shower facilities in all office buildings.

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9. Provide information on office employers' intranet or internet sites detailing alternative modes of transportation and other travel reduction opportunities.

10. Submit to OTS biennial travel reduction plans outlining strategies for reducing vehicles trips to and from the Property during peak hours.

L. Employee Shuttle.

Upon issuance of zoning permits for greater than 1,500,000 square foot of non-residential, non-hotel uses, the Owner shall provide a private shuttle service during regular business hours utilizing vehicles with a minimum capacity of twenty (20) persons for the transport of employees between the uses on the Property with the intent of connecting those non-residential uses located in Land Bays L, N and Q with the remaining uses on the Property and connecting the office buildings on the Property with the nearest transit facility, provided there are uses located in Land Bays L, N and Q that generate ridership demand deemed sufficient for such shuttle service.

IV. RECREATION AND HISTORIC

A. Recreation.

1. The Owner shall construct a bicycle and pedestrian circulation system consisting of sidewalks and trails on the Property in substantially the same location as illustrated on Sheets 15 and 16 of the Concept Plan. Sidewalks need not be constructed in locations where asphalt trails are constructed to provide the pedestrian circulation linkage depicted on Sheets 15 and 16 of the Concept Plan. Sidewalks shall be constructed on both sides of Roads 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11 and 12 as depicted on Sheet 16 of the Concept Plan. Sidewalks and trails shall be constructed in phases concurrently with the development of land in areas adjacent to such sidewalks and trails. Unless constructed in the public right-of-way, sidewalks shall be subject to a public access easement of a minimum of six (6) feet in width, asphalt trails shall be subject to a public access easement of a minimum of twelve (12) feet in width, and all other trails shall be subject to a public access easement of a minimum of eight (8) feet in width. Trails constructed within the major floodplain west of Pacific Boulevard or in the River and Stream Corridor 50-foot Management Buffer shall be constructed of pervious surfaces and with raised boardwalk crossings where such trails cross jurisdictional waters and/or wetlands as depicted in the section exhibits provided on Sheet 15 of the Concept Plan. Trails constructed outside of such major floodplain and River and Stream Corridor 50-foot Management Buffer shall be constructed of asphalt and/or such pervious surfaces, boardwalks and raised walkways as may be permitted, in accordance with the applicable provisions of the FSM. Unless a different minimum width is established for a specific trail elsewhere in these Proffers, asphalt trails shall be a minimum width of ten (10) feet. All other trails shall be a minimum width of six (6) feet. Sidewalks shall be constructed of concrete, brick, concrete or brick pavers, marble or other material typically used for sidewalks in office parks and mixed-use centers, in accordance with the Design

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Guidelines and applicable provisions of the FSM, and shall be a minimum width of four (4) feet for private sidewalks, and, subject to VDOT approval, a minimum width of five (5) feet for public sidewalks.

2. As each portion of the Property receives record plat approval or site plan approval, whichever is first in time, the Owner shall develop and dedicate to the Owners Association provided in Proffer VII., the SWM/BMP Ponds, the trails, civic spaces and open space areas identified in such portion, all as illustrated on the Concept Plan. The declaration of covenants, conditions and restrictions recorded against the Property (the "OA Covenants") shall require the establishment of maintenance procedures and sufficient funding so that the Owners Association will have the financial ability to maintain such facilities and open space areas in a decent, clean, safe and healthy condition for use by residents of the Property.

B. Heron Rookery Observation Platform.

Concurrently with construction of the trails within the floodplain area within the 1,400 foot Rookery Radius as depicted on the Concept Plan, the Owner shall construct an observation platform of not less than 400 square feet from which users of the trail can view the heron rookery. Such observation platform shall be a component of the trail system referenced in Proffer IV.A. and shall be maintained by the Owners Association, unless and until such time as the floodplain and/or the trail and observation platform are dedicated to the County. Such observation platform shall be located outside of the 700 foot Rookery Radius as depicted on the Concept Plan. The Owner reserves the right to install an impervious trail connection from Land Bay C to the observation platform, notwithstanding the limitations on types of trails set forth in Proffer II.D.

C. Dedication of Floodplain Area and Trails.

Within six (6) months of the completion of all work associated with the construction, maintenance and certification by the Army Corps of Engineers and/or the Virginia Department of Environmental Quality, of any wetlands mitigation and/or wetlands mitigation banking areas the Owner develops in the Broad Run floodplain, the Owner shall dedicate to the County the approximately 160-acre area west of Pacific Boulevard within the major floodplain for Broad Run as such major floodplain area is depicted on the Concept Plan, at no charge, for use as a natural public park. Prior to such dedication, all trails located west of Pacific Boulevard and within the major floodplain for Broad Run as depicted on the Concept Plan shall be subject to public access easements to permit use by the public and shall be maintained by the Owners Association. In the event the County desires dedication of the wetlands mitigation and/or wetlands mitigation banking areas prior to the certification by the Army Corps of Engineers and/or the Virginia Department of Environmental Quality, the Owner shall dedicate to the County such areas within six (6) months of a request by the County; provided the Owner retains (i) ownership of all wetlands mitigation banking credits and the County assumes responsibility for maintenance of such wetlands mitigation areas until such areas are certified as completed by

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the Army Corps of Engineers and/or the Virginia Department of Environmental Quality, and (ii) the right to use and maintain, as may be required by these Proffers, all trails in such dedication area.

D. Broad Run Toll House.

At such time as the Applicant is obligated under this Proffer Statement to construct the extension of Pacific Boulevard across Broad Run and connecting to Russell Branch Parkway, if (i) such extension of Pacific Boulevard will not permit the preservation of the Broad Run Toll House in its current location on Loudoun County GPIN Parcel 040-39-8734, and (ii) the Applicant determines, in consultation with the Office of Historic Preservation and the Department of Parks and Recreation, that it is feasible to relocate the Broad Run Toll House from its current location to a suitable location on the Property, the Applicant shall pursue the relocation of the Broad Run Toll House to such alternative location, at the Applicant's sole expense. Such relocation shall be subject to applicable provisions of Section 6-1902 of the Zoning Ordinance and in conformance with applicable state and federal requirements regarding the relocation of such resource.

V. DESIGN

A. Design Guidelines and Architectural Review.

The Property shall be developed as a unified community consistent with the Design Guidelines attached to this Proffer Statement as **Exhibit D**. The Owner shall require the Owners Association created pursuant to Proffer VII to establish a Design Review Committee consisting of owners of all or portions of the Property. The Design Review Committee shall develop appropriate review procedures to ensure the Property is developed consistent with the Design Guidelines. The Owners Association shall establish the Design Review Committee within three (3) months of the creation of the Owners Association, and all subsequent site and building plans shall be reviewed by the Design Review Committee for consistency with the Design Guidelines.

B. Boulevard Entrances.

Road 1 and Road 2 and Road 6, as identified on the Concept Plan, shall be designed and constructed, with landscaped medians eight (8) feet in width, to provide attractive boulevard entrances consistent with the cross-section provided on Sheet 18 of the Concept Plan. A project identification feature comparable in size and quality to the design shown on Sheet 21 of the Concept Plan shall be provided at the entrance from Pacific Boulevard to Road 2.

C. Alleys.

Site plans shall depict the location of alleys that provide access to the interior of each land bay.

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D. Demonstration of Square Footage Compliance.

With the filing of each site plan, the Owner shall provide a running tabulation which presents proposed and approved square footage as follows: (i) total overall site development within Kincora; (ii) total non-residential use by category proposed and residual amount available; (iii) total number of hotel rooms proposed and constructed; (iv) total non-residential use versus residential use; and (v) total amount of civic space. Such tabulation shall demonstrate compliance with the square footage limitations set forth in these Proffers and with the tabulation provided on Sheet 13 of the Concept Plan.

E. Screening of Surface Parking Areas.

Surface parking areas on the Property shall be screened from Pacific Boulevard with landscaping and a berm on the west side of Pacific Boulevard, a minimum of 2.5 feet in height and comparable in size and quality to the Typical Pacific Boulevard Section identified on Sheet 18 of the Concept Plan. Surface parking areas shall be screened from the internal private streets with landscaping and walls and/or other streetscape elements comparable in size and quality to the examples provided on Sheet 19 of the Concept Plan for the purpose of buffering headlight glare and other visual impacts of surface parking.

F. Structured Parking.

At full build-out, at least fifty percent (50%) of the required parking spaces will be located within parking structures. Parking structures that may be visible from public view shall be treated with individual design elements that may include, but not to be limited to, storefront appearance, false fenestration, glass, colored or stamped concrete panels, or any combination thereof, or other architectural treatment for the purpose of blending the parking structure architecture with that of surrounding buildings.

G. Loading Docks/Dumpster Pads.

All refuse collection and loading areas on the Property shall be oriented so as to have minimum visibility from public roads and residential uses. If such refuse collection and loading areas are not substantially blocked from view from public roads and residential uses, they shall be treated with architectural elements or decorative fencing and landscaping so as to be screened from public roads and residential uses.

H. Rooftop Mechanical Units.

Any mechanical units placed on the rooftops of buildings on the Property shall be screened by architectural features compatible with building facade architecture.

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I. Building Entrances.

Unless deemed unfeasible in order to comply with federal security guidelines, all buildings constructed on the Property shall be constructed with its principal entrance oriented towards the street, pedestrian pathways, plazas, parks, or other public areas.

J. Streets, Streetscaping and Landscaping.

1. Street Design. Streets will generally be designed and constructed in a rectilinear pattern of collector roads, local access roads, streets, and alleys, with streets generally terminating in other roads and streets. All private streets, sidewalks and trails shall be consistent with the typical road sections provided on Sheets 17 and 18 of the Concept Plan; provided the Owner reserves the right to apply for and obtain approval of any waivers permitted by the Zoning Ordinance or the FSM.

2. Street Trees. Street trees on the Property will be planted in accordance with County criteria or as modified by these Proffers, and the Owner shall utilize, to the maximum extent feasible, trees that develop an overhead leaf canopy along the streets.

3. Private Streets. As modified by these Proffers, all private streets developed on the Property shall be owned and maintained by the Owners Association with appropriate covenants, restrictions and assessments. Private streets shall be subject to County review and approval at the time of applicable subdivision and site plan approvals, and shall be designed and constructed in accordance with the standards of the FSM applicable at the time such private streets are submitted to the County for approval. Private streets shall be designed to be comparable in scale to buildings to which they relate so that they contribute to the sense of a well designed village or neighborhood.

4. Streetscape Plan. The Owner shall submit a streetscape plan for each land bay with the initial site plan submission in each respective land bay. The streetscape plans will conform with County requirements, but shall include (i) all landscape buffer plans for all buffer areas and (ii) deciduous tree plantings (2 1/2" - 3.0" caliper) at an average of forty-four (44) feet on center where on-street parking is provided and thirty-five (35) feet on center where on-street parking is not provided. These trees may be clustered where appropriate. Landscaping along the public streets shall be provided at the time each lot along the street is developed and may be supplemented with landscaping in addition to what is required by the Zoning Ordinance, at the Owner's option.

5. Landscaping. Individual building and parking areas on the Property shall be landscaped in a manner that is coordinated, as to plant material, with the streetscape plan along the public streets. The landscaping within the parking areas will consist, primarily, of trees which provide shade or are capable of providing shade at maturity.

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6. On-Street Parking. The Owner may provide some of the off-street parking spaces required by the Zoning Ordinance as on-street parking spaces within 400 feet of the subject principal use as permitted by the Zoning Ordinance. All on-street parking spaces shall be provided in accordance with the Zoning Ordinance and applicable VDOT and County standards.

K. Lighting.

Lighting on the Property shall be designed and constructed to minimize light trespass, specifically:

1. Spillover light onto adjacent properties shall not exceed one quarter foot-candle.
2. All exterior light fixtures shall be "full cut-off outdoor lighting fixtures" as defined by the Illuminating Engineering Society of North America (IESNA). Light shall be directed inward and downward toward the interior of the Property, away from public streets (except street lights) and the nearby residential properties.
3. Except for street and parking lot lights installed in accordance with applicable provisions of the FSM, the maximum height of any freestanding exterior lighting fixtures shall be 18 feet. Height shall be measured from the ground surface to the bottom of the lighting fixture.

VI. EMERGENCY SERVICES

A. Fire and Rescue Site.

Within sixty (60) days of the date of final approval of this rezoning application (ZMAP 2008-0021), the Owner shall dedicate and convey to the Board of Supervisors a minimum of five (5) buildable (i.e., non-floodplain, wetlands, very steep slopes) acres located in Land Bay N, as identified on Sheet 29 of the Concept Plan as "Public Use Site," to be used for County fire and rescue, sheriff substation and/or other governmental purposes, except the following: animal shelters (as distinguished from and not to include pet adoption centers), detention facilities, solid waste facilities (as distinguished from and not to include collection bins for drop off of pre-sorted recyclable materials), day labor centers, equipment and material storage yards and publicly owned or group living residential uses. Any governmental use that requires a special exception shall be permitted with the applicable special exception approval, but without requiring a proffer or zoning concept plan amendment. The Owner shall permit construction by the County of a temporary access road across Land Bay N to such five-acre public use site until such time as access is available from Pacific Boulevard. The Owner shall (i) construct street access and sidewalks to the public use site, and (ii) extend sewer, water, telephone, natural gas and electric service to the perimeter of the public use site, all concurrent with the Owner's own development activities on the portion of the Property abutting the public

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use site. The Owner shall not use the public use site for staging, dumping or similar activities prior to dedication of the public use site to the County pursuant to this Proffer.

B. Owner's Contribution.

At the time of the issuance of each zoning permit, the Owner shall make a one-time contribution of Ten Cents (\$0.10) per gross square foot of non-residential floor area and Two Hundred Fifty Dollars (\$250.00) per market rate residential dwelling unit, which shall be payable to the County for distribution by the County to the primary volunteer fire and rescue companies providing service to the Property. Such contribution shall be adjusted annually in accordance with changes to the CPI, beginning from a base year of 1988 (see Proffer VIII.C.). Contributions pursuant to this paragraph shall be divided equally between the primary servicing fire and rescue companies providing fire and rescue services to the Property. Notwithstanding the foregoing, at such time as the primary fire and rescue services to the Property are no longer provided by incorporated volunteer companies, the obligation to make the contributions listed within this paragraph shall cease, or be reduced by half if only one service is no longer provided by an incorporated volunteer company. The intent of these provisions is to support a volunteer fire and rescue system so long as it is the primary provider of fire and rescue services to the Property.

C. Sprinkler Systems.

The Owner shall require all builders to provide sprinkler systems as required by applicable building codes for each use of the Property. The Owner shall install adequate infrastructure to ensure adequate water flow and pressure for such sprinkler systems.

VII. OWNERS ASSOCIATION

The Owner shall establish an Owners Association for the entire Kincora community, prior to approval of the first record subdivision plat or site plan on the Property, whichever is first in time. Membership in the Owners Association shall be required of owners of all commercial lots and residential units on the Property. The Owners Association shall have among its duties trash collection and maintenance of each of the common area amenities specified herein, including, without limitation, private streets/alleys, private parking areas, stormwater management facilities, common areas and open space, trash removal, recycling services, snow removal, private sidewalks and trails and private roads, and all responsibilities and duties specifically assigned to the Owners Association in this Proffer Statement. Nothing herein shall preclude the Owner from incorporating the PD-IP Portion into the Owners Association and/or establishing separate, sub-associations for any individual sections or land bays within the Property, with such sub-associations assuming responsibility for maintenance and other responsibilities within those individual sections or land bays; provided such separate, sub-associations shall not relieve the owners of units in the applicable sections of the Property from membership in the Owners Association for the entire Kincora community. Owners Association documents for the Property shall be submitted for review and approval by the

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County prior to the approval of the first application for record subdivision plat or site plan, whichever is first in time.

VIII. MISCELLANEOUS

A. Existing Wells and Drainfields.

The Owner shall abandon all existing wells and septic systems located on the Property in accordance with applicable law.

B. Preliminary Soils Review.

The Owner shall prepare and submit a Preliminary Soils Review of the entire Property prior to submission to the County of the first construction plans and profiles or site plan, whichever is first in time, for any section of the Property.

C. Annual Escalation.

Whenever these Proffers refer to the escalation of a proffered contribution or value in accordance with the Consumer Price Index (CPI-U) All Urban Consumers, Washington-DC-MD-VA-WV ("CPI"), unless otherwise expressly stated herein, such reference shall mean that the contribution or value shall escalate annually, beginning on January 1, 2010, and continuing each January 1 thereafter, by an amount equal to the percentage increase in the CPI over the prior year. If the U.S. Department of Labor shall ever cease publishing the CPI, the CPI, for purposes of these Proffers, shall be that index published by the Department of Labor or other U.S. government agency intended to reflect general increases in the cost of living for residents in the Washington, D.C. Standard Metropolitan Statistical Area.

D. Severability.

The Owner reserves the right to file and have accepted for review a proffered condition amendment, zoning concept plan amendment, rezoning, commission permit, zoning modification, special exception, variance or other zoning application for any portion of the Property, without having to obtain the joinder and/or consent of the owners of the other portions of the Property for which the zoning and land use approvals are not impacted by such application, provided that such application complies with the applicable submission requirements and Zoning Ordinance provisions.

E. Binding Effects.

The Owner warrants that the Owner owns all interests in the Property; that the Owner has full authority to bind the Property to these conditions; that the officer and/or manager of the Owner signing these Proffers is authorized to act on behalf of the Owner; and that these Proffers

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are entered into voluntarily; and that no signature from any third party is necessary for these Proffers to be binding and enforceable in accordance with their terms.

[SIGNATURES ON FOLLOWING PAGE]

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NA DULLES REAL ESTATE INVESTOR LLC,
a Delaware limited liability company

By: _____
Name: _____
Title: _____

COMMONWEALTH OF VIRGINIA
CITY/COUNTY OF _____, to-wit:

Before the undersigned, a Notary Public in and for the aforementioned jurisdiction, personally appeared _____, as _____ of NA Dulles Real Estate Investor LLC, who acknowledged that he executed the foregoing Proffers with the full power and authority to do so, as the act of such company.

IN WITNESS WHEREOF, I have affixed my hand and seal this ___ day of _____, 2009.

Notary Public

My Commission Expires: _____

EXHIBIT A
CONCEPT PLAN

October 2008
July 21, 2009

EXHIBIT B
**ZONING ORDINANCE ("ZO"), FACILITIES
STANDARDS MANUAL ("FSM") AND LAND
SUBDIVISION & DEVELOPMENT ORDINANCE
("LSDO")**
MODIFICATIONS

July 23, 2009

ZONING ORDINANCE MODIFICATIONS

- A. Section 4-1356(B)(1)--Front Yard.** The Revised 1993 Loudoun County Zoning Ordinance requires that the maximum front yard in the PD-MUB District not exceed 30 feet, though a maximum front yard of 50 feet may be permitted when a courtyard, plaza, terrace, or other common area a minimum of 300 square feet is provided adjacent to the front property line.

This maximum area will be provided for uses within all Land Bays with the exception of Land Bay N. Because of the constrained physical layout of this Land Bay, a maximum front yard of 150 feet may be necessary. Considering the isolated application of this modification request, the Applicant does not believe that it will detract from the intent of the PD-MUB District.

- B. Section 4-1356(B)(3)--Rear Yard.** The Revised 1993 Loudoun County Zoning Ordinance requires that the minimum rear yard in the PD-MUB District be at least 5 feet.

The Applicant requests that rear yards of 0 feet be permitted, which is necessitated by the grid network design of streets and blocks that places buildings closer together. Regardless of this requested modification, the Applicant will ensure that necessary fire provisions are incorporated into all designs of buildings which will be verified during site plan review.

- C. Section 4-1356(C)--Building Height.** The Revised 1993 Loudoun County Zoning Ordinance permits maximum building heights of 75 feet in the PD-MUB District.

In order to fulfill the recommendations of the Revised General Plan to provide prominent buildings adjacent to Route 28, the Applicant requests that a maximum building height of 150 feet be permitted for the portion of the Property along Pacific Boulevard and Route 28.

- D. Section 4-1358(B)(2), Section 5-1413(C)(1)(a) & Section 5-1413(C)(2)(a)--Parking Lot Landscaping.** The Revised 1993 Loudoun County Zoning Ordinance requires that a 10-foot wide landscape strip be provided between parking lots and property boundaries.

The Applicant requests that this be modified to permit landscaping strips that will be a minimum of 6 feet, which is adequate to support vegetation growth and afford proper buffering of parking areas.

- E. Section 4-1358(C)--Tree Spacing.** The Revised 1993 Loudoun County Zoning Ordinance requires that street trees be provided adjacent to all areas dedicated for vehicle usage at a density of one tree per 25 linear feet.

The Applicant proposes that this requirement be modified to permit street trees to be planted 44 feet on-center where on-street parking is provided and 35 feet on-center where on-street parking is not provided. It is the past experience of the Applicant and its consultants that trees planted according to the requested spacing is sufficient to support healthy vegetative growth.

- F. Section 4-1359(D)(2)--Private Streets.** The Revised 1993 Loudoun County Zoning Ordinance permits the provision of private streets if residential uses are located within 1,200 feet of principal business uses and that 75% of the structures are multi-story mixed use structures.

Each of the residential uses will be located within 1,200 feet of a principal business use structure. The majority of buildings will be multi-story mixed-use structures, though not the 75% required by this Section. The Applicant believes that the proposed development meets the intent of the PD-MUB District and that this development will be best served by private rather than public streets within the core of the development.

FACILITIES STANDARDS MANUAL ("FSM") MODIFICATIONS

- A. Section 4.310(C)--General Design Requirements.** The FSM requires that road jogs with center line offsets of less than 225 feet shall not be allowed in public and Category A private roadways.

The Applicant proposes that private streets within village portion of Kincora will be constructed with centerline offsets of a minimum of 90 feet, which is necessary to permit the type of street grid network including streetscapes that will promote pedestrian safety along these internal roads.

- B. Section 4.310(G)--General Design Requirements.** The FSM requires that roadways intersecting with a public or Category A private roadway shall have a minimum length of 50 feet between curb returns and/or curb cuts.

The Applicant proposes that the village portion of Kincora will be constructed with private streets that will have a minimum of 0' between curb returns and/or curb cuts, which is necessary to permit the type of street network that will promote, and provide protection, for pedestrian activity along these internal private streets.

- C. Section 4.330(B)(2)--Private Roadway Standards.** The FSM requires that Category A roadways shall be constructed with cross section easements that are a minimum of 6' behind the face of curb.

The Applicant proposes that the cross section easements for Category A roadways within the village portion of Kincora be permitted to be constructed with cross sections that will be a minimum of 0.5' feet behind the face of curb, which is necessary to permit the type of street network and design necessary to promote pedestrian usability while still ensuring vehicular and pedestrian safety.

- D. Section 4.330(B)(3)--Private Roadway Standards.** The FSM requires that i) Category A1, A2, A3, A4 and A5 roadways be designed with a minimum curve radius of 110, 165, 338 and 478 feet, respectively; ii) Category A2, A3, A4 and A5 roadways be designed with speeds of 25, 30 and 35 miles per hour, respectively; and iii) Category A1, A2, A3, A4 and A5 roadways be designed with sight distances of 150, 200 and 275, feet respectively.

The FSM requires that i) Category A1, A2, A3, A4 and A5 roadways be designed with a minimum curve radius of 110, 165, 338 and 478 feet, respectively – the Applicant requests that these curve radii be reduced to 50 feet; that ii) Category A2, A3, A4 and A5 roadways be designed with speeds of 25, 30 and 35 miles per hour, respectively – the Applicant requests that these design speeds be reduced to 20 miles per hour; and that iii) Category A1, A2, A3, A4 and A5 roadways be designed with sight distances of 150, 200 and 275, feet respectively – the Applicant requests that these sight distance requirements be reduced to 100 feet. The private roads within the village portion of Kincora will provide adequate vehicular circulation and promote a safe and attractive pedestrian friendly environment.

LAND SUBDIVISION AND DEVELOPMENT ORDINANCE ("LSDO")

- A. Section 1245.01(2)--Lots and Building Area.** The LSDO requires that all lots shall front on an existing or recorded public street dedicated by the subdivision plat and maintained or designed and built to be maintained by the Virginia Department of Transportation.

In accordance with Section 4-1359(D)2 of the Revised 1993 Loudoun County Zoning Ordinance, which permits the construction of private streets within the PD-MUB District, the village portion of Kincora will be developed with lots that will front on private streets constructed in accordance with applicable requirements of the FSM unless modified according to the conditions stated in the Proffers for this rezoning. All of the private streets will be maintained by the Owner's Association that will be created prior to occupancy of any of the buildings within the development.

JUSTIFICATION

The 336.64 acre subject property (the "Property") is located in the southwest quadrant of the intersection of Route 7 and Route 28, with Broad Run forming the western boundary. The Property is strategically sited at the crossroads of major transportation thoroughfares, both existing and proposed. The location, size and environmental features of the Property provide a unique setting for an attractive mixed-use business community that will contribute significantly toward the County's economic development and tax base expansion goals.

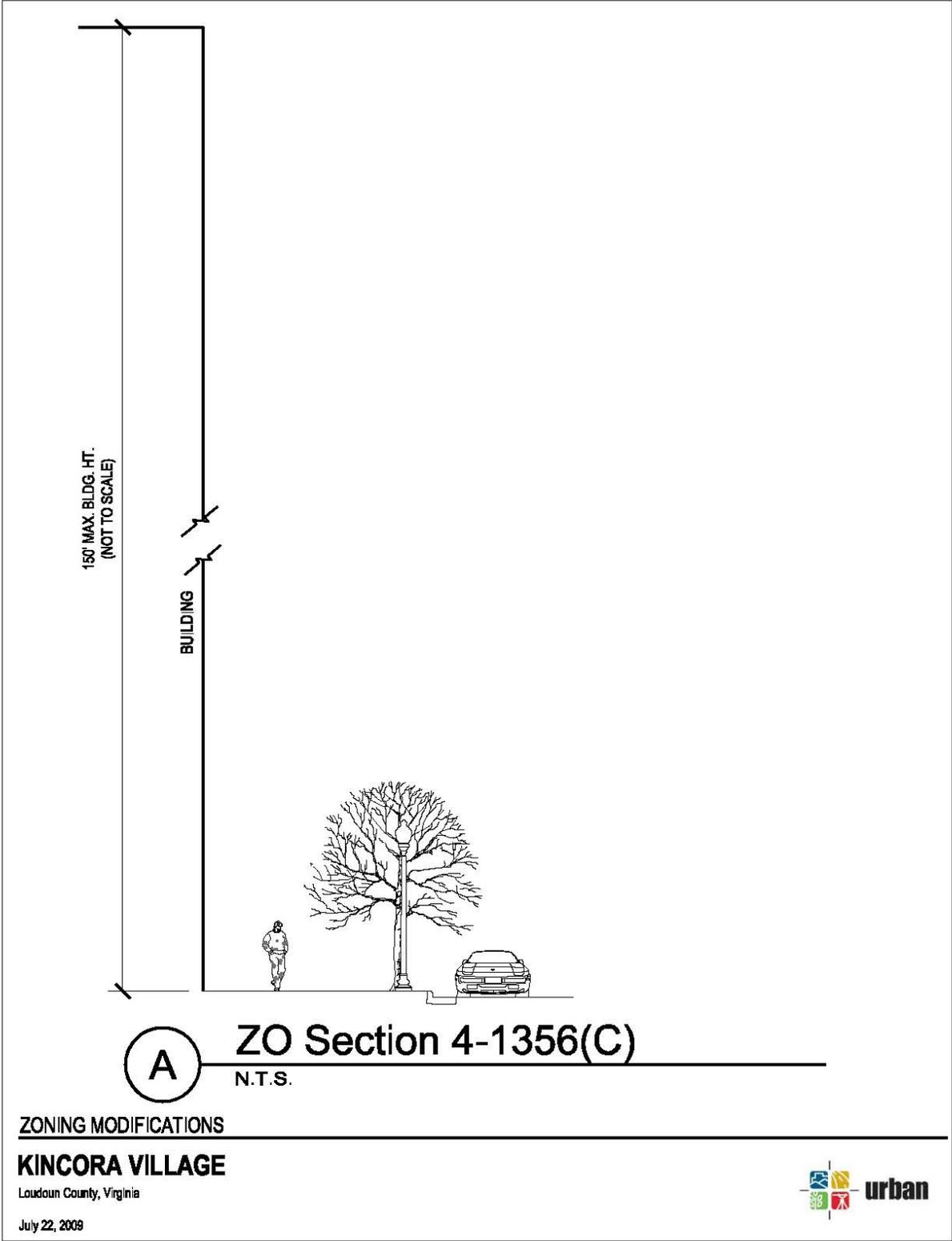
Approximately 175 acres of the Property are within the 100-year floodplain associated with Broad Run. This natural feature provides exciting recreational opportunities as well as challenging design constraints. The County's keynote employment objectives, the Property's environmental resources and the two key regional road links that cross the Property - Gloucester Parkway and Pacific Boulevard - all guided the vision for Kincora. Kincora has been designed with taller keynote office buildings along the Route 28 corridor, with a suburban-scale village center nestled between the office buildings and the expansive Broad Run floodplain. The village center will be attractive and walkable, with a variety of uses and amenities that create a distinct sense of place to support the keynote office buildings along Route 28.

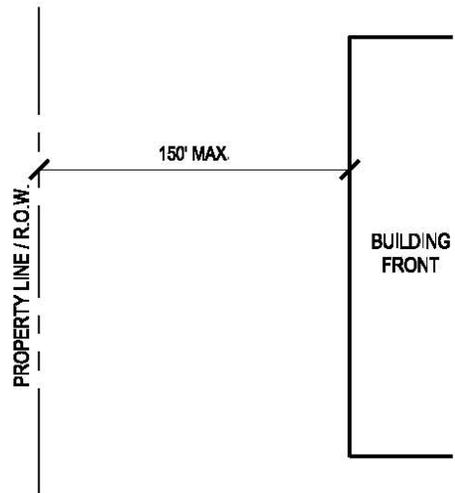
To achieve this vision for Kincora, certain modifications of the requirements of the Revised 1993 Loudoun County Zoning Ordinance (the "Zoning Ordinance"), Facilities Standards Manual ("FSM") and Loudoun County Subdivision and Development Ordinance ("LSDO") are necessary. These modifications will permit development of Kincora as a vertically-integrated and pedestrian-friendly, mixed-use business community that would not be possible if the site were developed in strict conformance with these provisions of the Zoning Ordinance, FSM and LSDO.

The requested Zoning Ordinance modifications pertain to an increase in front yard and a decrease in rear yard setbacks, an increase in building height, provision of private parking lot landscaping and tree spacing requirements. The designation of the Property for "keynote employment" in the Revised General Plan seeks to locate prominent office buildings of significant height adjacent to Route 28. To achieve this vision, it is necessary to modify the maximum and minimum front and rear yard setbacks, respectively, and increase the maximum building height of the PD-MUB District to permit such an increase in building height in the portion of the Property along Route 28. Neither modifying the front or rear yard setbacks or increasing the building height will adversely affect neighboring properties. These modifications will permit a development program that will enhance this segment of the Route 28 Corridor in furtherance of the goals of the Revised General Plan. Modifications of the parking lot landscaping and tree spacing requirements are necessary to permit the streetscape scheme described in the Proffers and depicted on the Concept Plan. These modifications will provide sufficient separation between parking areas and the space necessary to promote healthy growth of street trees and plantings.

Certain modifications of private street requirements of the FSM and the LSDO are necessary to permit the private road network in the village center portion of Kincora. These FSM and LSDO modifications will allow the street grid network necessary to support the type of compact, mixed-use business community development shown on the Concept Plan. The design of the private

street network for Kincora is create a pedestrian-friendly atmosphere with street trees, multiple curb cuts, shorter curve radii and slower speeds on the private streets. In addition, the Owner's Association will be responsible for maintenance of all private streets at Kincora.

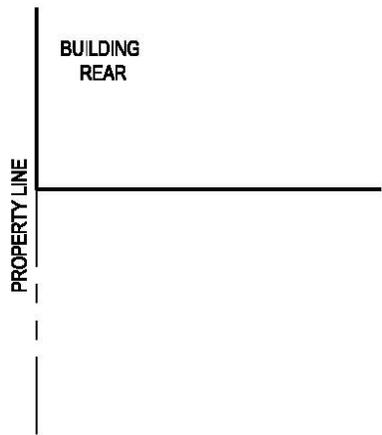




B

ZO Section 4-1356(B)1

N.T.S.



C

ZO Section 4-1356(B)3

N.T.S.

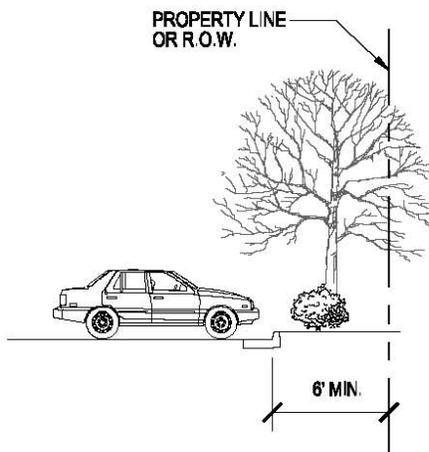
ZONING MODIFICATIONS

KINCORA VILLAGE

Loudoun County, Virginia

July 22, 2009

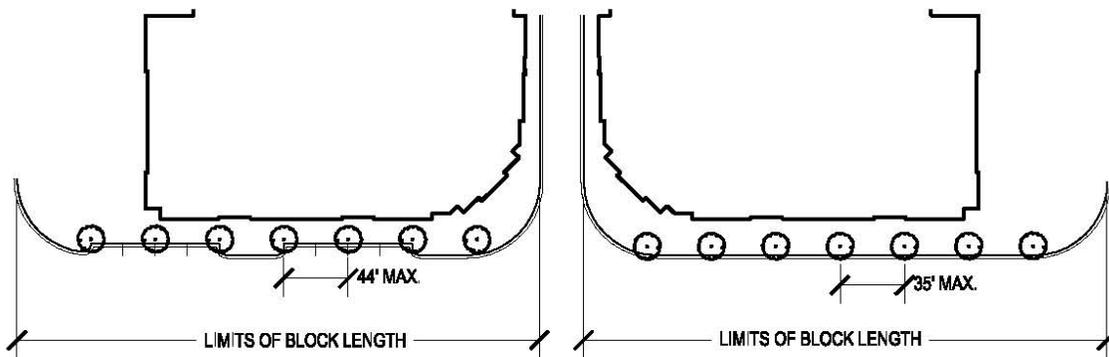




D

ZO Section 4-1358(B)2

N.T.S.



E

ZO Section 4-1358(C)

N.T.S.

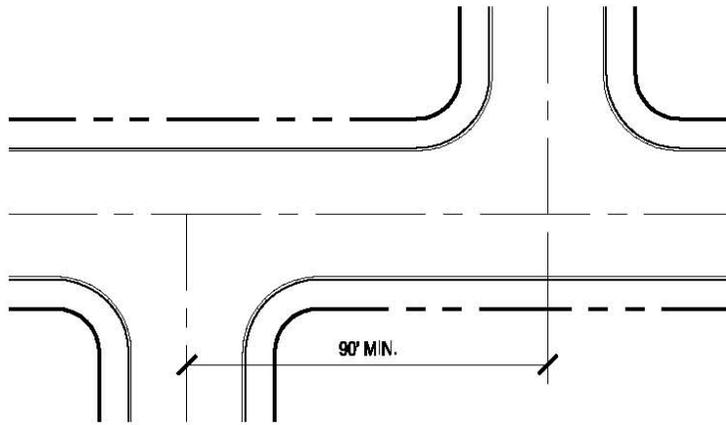
ZONING MODIFICATIONS

KINCORA VILLAGE

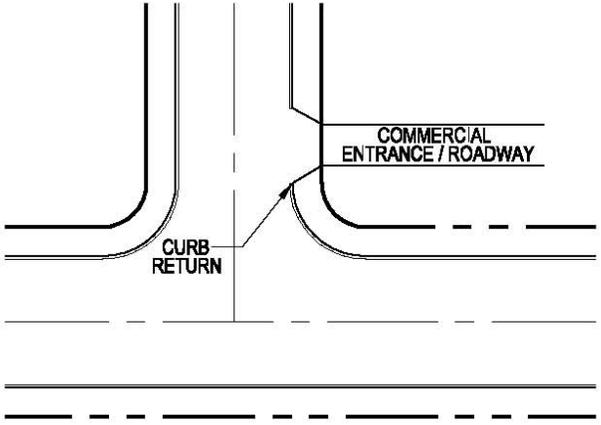
Loudoun County, Virginia

July 22, 2009





F **FSM Section 4.310(C)**
N.T.S.



G **FSM Section 4.310(G)**
N.T.S.

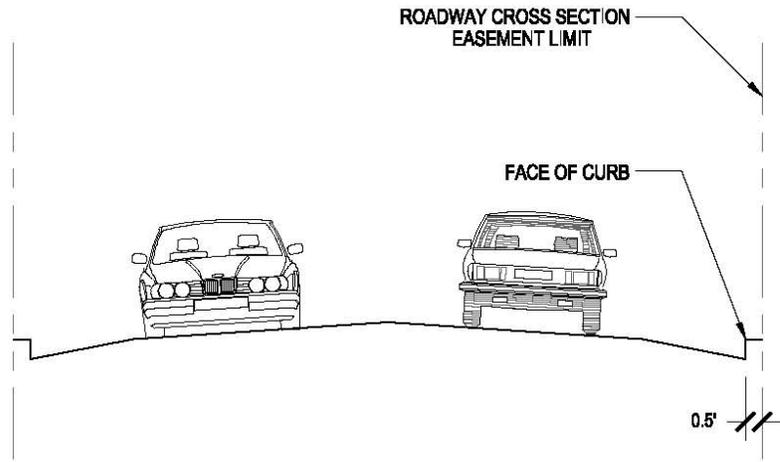
ZONING MODIFICATIONS

KINCORA VILLAGE

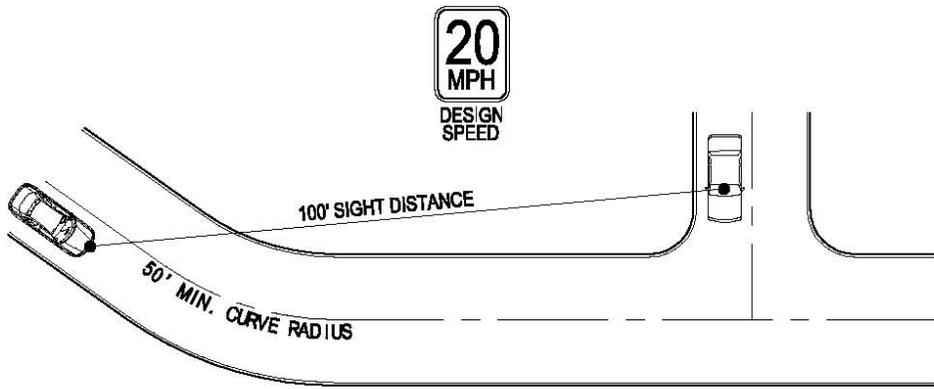
Loudoun County, Virginia

July 22, 2009





H **FSM Section 4.330(B)(2)**
N.T.S.



I **FSM Section 4.330(B)(3)**
N.T.S.

ZONING MODIFICATIONS

KINCORA VILLAGE

Loudoun County, Virginia

July 22, 2009



EXHIBIT C
AMENDED DEED OF OPEN SPACE EASEMENT

July 23, 2009

Document prepared by
and after recording return to:

DRAFT: July 23, 2009

Hunton & Williams LLP
1751 Pinnacle Drive, Suite 1700
McLean, Virginia 22102
Attn: John C. McGranahan, Jr., Esquire

Tax Map Parcel: 042-49-0209

AMENDED DEED OF OPEN SPACE EASEMENT

THIS AMENDED DEED OF OPEN SPACE EASEMENT (this "Amendment"), dated as of _____, 2007, by and between **NA DULLES REAL ESTATE INVESTOR LLC**, a Delaware limited liability company (the "Owner"), as grantor and grantee for indexing purposes, and **BOARD OF SUPERVISORS OF LOUDOUN COUNTY, VIRGINIA**, a body corporate and politic (the "Board"), as grantor and grantee for indexing purposes, recites and provides:

RECITALS

The Owner is the owner of that certain property in the Broad Run Election District of Loudoun County, Virginia described as Lot 2 of the Beco-Ray property (the "Property"), as such land is described in the deed recorded as Instrument #200509160104823 among the land records in the Clerk's Office of the Circuit Court of Loudoun County, Virginia (the "Land Records").

A portion of the Property currently is encumbered by an open space easement running to the benefit of the Board (the "Existing Easement"), which easement is recorded in Deed Book 2314, at page 1589 among the Land Records.

The Owner and the Board desire and intend to amend the Existing Easement for the purpose of clarifying and confirming certain uses that are expressly permitted on the portion of the Property encumbered by the Existing Easement.

AMENDMENT:

NOW, THEREFORE, in consideration of the premises and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. **Amendment of Existing Easement.** Numbered paragraphs 10 and 11 of the Existing Easement are expressly amended and restated in their entirety as follows:

10. The property **portion of the Property which is** subject to this easement (the "Open Space Property") shall not be further subdivided, **except in connection with and to the extent necessary for, the dedication of public street right-of-way for Gloucester Parkway and Pacific Boulevard along alignments consistent with the Countywide Transportation Plan.**

11. Notwithstanding any of the foregoing provisions, the Grantor expressly reserves to itself, its successors and assigns the right to:

- (a) Continue the agricultural, forestry and naturalistic uses of the Open Space Property.
- (b) Continue to hunt, fish or trap on the Open Space Property subject to relevant laws.
- (c) Improve, repair, restore, alter, remodel or replace the existing and the permitted structures with structures of similar size and purpose provided that the changes are compatible with the conservation purposes of the Open Space Property and all other provisions of this Easement.
- (d) Continue the use of the Open Space Property for all purposes not inconsistent with this Easement which use shall expressly include, **but not be limited to (i) the location, construction, maintenance and repair of existing and future utility lines and appurtenant facilities constructed pursuant to all necessary County approvals and related utility easements and shall include, (ii) use of the Open Space Property for wetlands mitigation, wetlands restoration and creation, stream restoration, wetlands and stream mitigation banking, and riparian reforestation purposes; (iii) construction of Gloucester Parkway and Pacific Boulevard along alignments consistent with the Countywide Transportation Plan; (iii) ballfields subject to prior approval by the Board or its designated agent; and (iv) the location, construction, maintenance and repair of stormwater management and/or best management practices facilities; (iv) location, construction, maintenance and use of trails.**

Except as specifically and expressly modified by this Amendment, the terms and conditions of the Existing Easements shall remain in full force and effect.

2. **Covenants Run with the Land.** This Amendment and the Existing Easement establish obligations which constitute real covenants which shall run with the land and be binding on the Owner and its administrators, executors, assigns, heirs and any other successors in title or interest.

3. **Counterparts.** This Amendment may be executed in several counterparts, each of which shall be deemed to be an original copy and all of which together shall constitute one and the same instrument binding on all parties hereto, notwithstanding that all parties shall not have signed the same counterpart.

[SIGNATURES APPEAR ON THE FOLLOWING PAGES]

WITNESS the following signature and seal:

OWNER:

NA DULLES REAL ESTATE INVESTOR LLC, a
Delaware limited liability company

By: _____
Its: _____

STATE OF _____
COUNTY OF _____

The foregoing instrument was acknowledged before me in the above jurisdiction this
____ day of _____, 200__, by _____ as
_____ of NA Dulles Real Estate Investor LLC, a Delaware limited liability
company, on behalf of the company.

Notary Public

My Commission Expires: _____

[Signatures continue.]

WITNESS the following signature and seal:

BOARD:

**BOARD OF SUPERVISORS OF LOUDOUN
COUNTY, VIRGINIA**, a public body corporate
and politic

By: _____(SEAL)

Name: _____

Title: _____

COMMONWEALTH OF VIRGINIA
COUNTY OF LOUDOUN, to wit:

The foregoing instrument was acknowledged before me in the above jurisdiction this
____ day of _____, 200__ by _____,
of the Board of Supervisors of Loudoun County, Virginia, a public body corporate and politic, on
behalf of the Board.

Notary Public

My commission expires: _____

EXHIBIT D
DESIGN GUIDELINES

June 2009

EXHIBIT E

PD-MUB DISTRICT INCENTIVES

July 23, 2009

The PD-MUB District permits a maximum FAR of 0.5, but also includes various incentives that allow increases in the maximum permitted FAR up to 1.0. As depicted on the Concept Plan and committed to in the Proffers, this rezoning satisfies the requirements for most of the incentives. In accordance with Section 4-1359(C) of the Revised 1993 Zoning Ordinance, an increase in FAR for the Property above 0.5 is justified according to the following:

- 1) **The Board of Supervisors may grant an increase of 0.1 FAR above the maximum permitted floor area ratio if the district size is a minimum of 100 acres.**

The proposed PD-MUB District contains 336 acres, well in excess of the 100 acre minimum; therefore an increase in FAR of 0.1 is justified.

- 2) **The Board of Supervisors may grant an increase of 0.1 FAR above the maximum permitted floor area ratio if structured parking is provided to satisfy at least 50% of the required parking for the district. An increase of 0.2 FAR above the maximum permitted floor area ratio may be granted if 100% of the off-street parking is provided within structured parking. Such structured parking shall be designed in a manner that is integrated with nearby building architecture to minimize visual impact.**

Parking for Kincora will be phased with the development of the Property. At full build-out, at least 50% of the required parking necessary to support the uses will be provided through a combination of below and above grade parking structures. Above grade parking structures will be designed in a manner that is harmonious with the overall architectural scheme at Kincora. (See Proffer V.F.) Therefore, an increase in FAR of 0.1 is justified.

- 3) **The board of Supervisors may grant an increase of 0.1 FAR above the maximum permitted floor area ratio if at least 10% of the dwelling units provided are affordable to households earning up to 100% of the Washington Area Median Income (AMI), are located in vertically mixed buildings, and that covenants are recorded in favor of the County to maintain such affordability for a minimum period of 15 years.**

The Owner is committed to providing 16.25% of the total number of dwelling units constructed within Kincora as affordable to persons earning up to 100% of the AMI. This will be accomplished through the provision of a combination of affordable dwelling units (available to persons earning up to 70% of the AMI) and workforce dwelling units (available to persons earning up to 100% of the AMI). Affordable dwelling units will be provided in accordance with the requirements of the Revised 1993 Loudoun County Zoning Ordinance. The balance of this commitment will be composed of workforce dwelling units. (See Proffers I.D. and I.E.). Therefore, an increase in FAR of 0.1 is justified.

- 4) The Board of Supervisors may grant an increase of 0.1 FAR above the maximum permitted floor area ratio if at least one of the following uses is provided. In addition, the floor area of such use will be excluded from the FAR calculations:**
- (a) Hotel, full-service to include a sit-down restaurant, meeting space, and at least two of the following in house services: exercise room, room service, or concierge service.**
 - (b) Adult day care facility.**
 - (c) Theater, indoor, limited to live performances.**

Kincora proposes to include at least one full-service hotel, as well as an indoor theater for the performing arts. (See Proffers I.B.3. and I.G.). Therefore, an increase in FAR of 0.1 is justified, and the floor area for such uses will be excluded from the FAR calculations for the Property.

- 5) The Board of Supervisors may grant an increase of 0.1 FAR above the maximum permitted floor area ratio if a local shuttle system or other public transportation improvement is provided by the applicant/landowner.**

The Owner proposes to provide a local shuttle service that will provide transportation services for employers within Kincora to destinations in the vicinity, including Dulles Town Center. (See Proffer III.L.). In addition, the Owner has proffered contributions for a temporary community parking lot and transit service and bus shelters to be provided along Pacific Boulevard, which will accommodate public bus service for the region once routes are established in the Route 28 corridor. (See Proffers III.I. and III.J.). Therefore, an increase in FAR of 0.1 is justified.

- 6) The Board of Supervisors may grant an increase of 0.1 FAR above the maximum permitted floor area ratio when at least 2 contiguous lots that existed at the time of adoption of this Ordinance with each having frontage on an arterial road, submit a single zoning map amendment application to a PD-MUB district with the CDP showing no direct access onto an arterial road from any such lot.**

The Property has frontage along an arterial road (Route 28). The rezoning application proposes to remove all existing access points onto Route 28, and will provide access to

Route 28 via the Route 28/Nokes Boulevard interchange that is currently being constructed on the Property. Therefore, an increase in FAR of 0.1 is justified.

Section 4-1359(D) of the Revised 1993 Loudoun County Zoning Ordinance permits additional incentives, which include:

- 1) Areas within the FOD can be included when calculating the permissible FAR and residential density if a 25 foot natural buffer is maintained from the edge of the FOD.**

Floodplain associated with Broad Run is located on the Property. The Owner proposes to preserve and protect this area. The Applicant proposes natural surface trails and a potential wetlands mitigation bank in the floodplain, which are permitted uses in the FOD. The 50 foot management buffer adjacent to the FOD will be maintained in its natural state, with the exception of necessary utility crossings. Therefore, inclusion of the FOD in the FAR and residential density calculations is justified.

Kincora satisfies all the incentives described above. Therefore, the maximum FAR potential for the PD-MUB District at Kincora should be established at 1.0, inclusive of the FOD portion of the Property. Notwithstanding the maximum 1.0 FAR potential of the Kincora PD-MUB District, the Proffers and Concept Plan limit the development allowed on the Property to a maximum FAR of 0.37 (5,392,025 square feet). The Owner shall not be permitted to exceed the maximum density and intensity of use allowed in the Proffers and on the Concept Plan unless a future application for a Zoning Concept Plan Amendment ("ZCPA") to increase those proffered limitations is approved.