Tab 1

Alliance Resource Industries, ZMAP 19[illegible]-0008
Current Parcel Analysis

Tax Map Number	MCPI Number	Current Owner	Current Zoning	Land Use Approvals
Tax Map 100, Parcel 35B	248-30-5519	Two Greens/Kirkvest, LLC	PDH-4	ZMAP 2002-0003, C.D.Smith Property
Tax Map 100, Parcel 35D	248-29-4046	Two Greens/Kirkvest, LLC	PDH-4	ZMAP 2002-0003, C.D.Smith Property
Tax Map 100, Parcel 36	248-39-4888	Two Greens/Kirkvest, LLC	PDH-4	ZMAP 2002-0003, C.D.Smith Property
Tax Map 100, Parcel 37	205-36-2224	Stone Ridge Community Dev.	PDH-4	ZMAP 1994-0017, Stone Ridge ZMAP 2002-0013, Stone Ridge
Tax Map 100, Parcel 38	N/A	N/A	PDH-4	ZMAP 1994-0017, Stone Ridge
Tax Map 100, Parcel 36A	248-48-6530	Kline, Flyod E & Sandra F	PD-GI	ZMAP 1989-0008, Alliance Resource Industries
Tax Map 100, Parcel 44	205-38-5529	Loudoun County School Board	PDH-4	ZMAP 1994-0017, Stone Ridge Mercer Middle School
Tax Map 100, Parcel 45	205-48-9651	Mahoney Family Partnership	PDH-4	ZMAP 2002-0023, Providence Glen
Tax Map 100, Parcel 46	204-19-1580	Unit Owners Assoc. of Amber Spring	R-16	ZMAP 1994-0017, Stone Ridge ZMAP 2002-0013, Stone Ridge
Tax Map 100, Parcel 47	204-18-0633	Van Metre @ Mercer Park Condo	R-24	ZMAP 1994-0017, Stone Ridge
Tax Map 100, Parcel 49	Many	Stone Ridge	R-8. R-24. PD-OP, PD-CC-SC	ZMAP 1994-0017, Stone Ridge
Tax Map 100, Parcel 50	204-47-0343	Stone Ridge Comm. Dev. LLC	PD-CC-SC	ZMAP 1994-0017, Stone Ridge
Tax Map 100, Parcel 51	N/A	N/A	R-16, R-8, PDH-4, PD-CC-SC	ZMAP 1994-0017, Stone Ridge ZMAP 2002-0013, Stone Ridge
Tax Map 100, Parcel 52	204-15-3843	Stone Ridge Comm. Dev. IV	PDH-4	ZMAP 1994-0017, Stone Ridge ZMAP 2002-0013, Stone Ridge
Tax Map 100, Parcel 53	247-19-1835	LCSA - Dulles South Watertanks	TR1UBF	ZMAP 1994-0017, Stone Ridge ZMAP 2002-0013, Stone Ridge
Tax Map 100, Parcel 54	247-28-4151	Stone Ridge Comm. Dev. IV	TR1UBF PDH-4 (sliver)	ZMAP 1994-0017, Stone Ridge ZCPA 2007-0007, Dulles South Water Tanks ZMAP 2002-0013, Stone Ridge
Tax Map 100, Parcel 55	247-18-9795	Stone Ridge Comm. Dev. IV	PDH-4	ZMAP 2002-0013, Stone Ridge
Tax Map 100, Parcel 56	247-20-1488	Health South Rehab Hospital	PD-IP	ZMAP 2002-0013, Stone Ridge STPL 2008-0005, Health South Rehab Fac.
Tax Map 100, Parcel 61	204-46-2760	Stone Ridge Comm. Dev. IV	PD-IP	ZMAP 1994-0017, Stone Ridge ZMAP 2002-0013, Stone Ridge

LOUDOUN COUNTY, VIRGINIA
OFFICE OF THE COUNTY ADMINISTRATOR
18 NORTH KING STREET
LEESBURG, VIRGINIA 22075-2891
Metro 478-1850 or (703) 777-0200

At a meeting of the Board of Supervisors of Loudoun County, Virginia, held in the County Administration Building, Board of Supervisors' Meeting Room, 18 North King Street, Leesburg, Virginia, on Tuesday, March 19, 1991 at 12:00 noon.

PRESENT: Betty W. Tatum, Chairman
Charles A. Bos, Vice Chairman
Betsey J. S. Brown
James F. Brownell
Thomas S. Dodson
Ann B. Kavanagh
Steve W. Stockman
H. Roger Zurn

IN RE: PUBLIC SERVICES COMMITTEE REPORT/ZONING MAP 89-08/ALLIANCE RESOURCE INDUSTRIES

Mr. Brownell moved approval of the recommendation of the Public Services Committee to approve Zoning Map 89-08, Alliance Resource Industries, amended to rezone approximately 200 acres to I-1, with the remainder to be zoned to PD-GI as more specifically referenced in the March 13, 1991 letter from the owners and including the proffer statement dated January 30, 1991 and the letter of clarification dated March 13, 1991.

Seconded by Mr. Stockman.

Voting on the Motion: Supervisors Tatum, Bos, Brownell, Stockman and Zurn - Yes; Brown, Dodson and Kavanagh - No.

A COPY TESTE:

Philip A. Bolen
COUNTY ADMINISTRATOR FOR THE
LOUDOUN COUNTY BOARD OF SUPERVISORS

PLM: 3/19/91I

John Andrews Companies

March 18, 1991

Mr. George Warmenhoven, Project Planner
County of Loudoun
Dept. of Planning, Zoning & Community
Development
750 Miller Drive, S. E., Suite 300
Leesburg, Va. 22075

Re: ZMAP 89-08 Alliance Resource Industries
Letter of Clarification Applicants Signatures

Dear George:

Enclosed please find the original signatures of all applicants associated with the Alliance rezoning. These signatures were necessary due to the recent submittal of the Letter of Clarification. dated March 13, 1991, requested by the County, and reviewed by staff.

Please attach these documents to the Alliance Proffers pertaining to the subject rezoning case.

Thank you for your continued assistance. Please call if you have any questions.

Sincerely,
John G. Grier, Jr.
Project Manager,
Alliance Resource Industries

45615 Willow Pond Plaza
Suite 200
Sterling, Va. 22170
office (703) 471-7700
fax (703) 471-4415

Mongoose Junction
Box 8331
St. John, U.S. V.I. 00831
office (809) 776-7610
fax (809) 776-7756

March 13, 1991

The Honorable Betty Tatum, Chairperson
and Members of the Board of Supervisors
COUNTY OF LOUDOUN
18 North King Street
Leesburg, VA 22075

RE ZMAP 89-08, ALLIANCE RESOURCE INDUSTRIES

Dear Mrs. Tatum, and Members of the Board,

We are writing to you and the members of the Board for the purpose of clarifying the Alliance Resource Industries Proffer Statement (the "Proffer Statement"), last dated January 30, 1991, with regard to: (1) applicability of the Proffer Statement to the PD-GI Zoning District, (2) language in the Proffer Statement pertaining to Zoning Administrator's interpretations, (3) phasing of the quarry operation, (4) provision for cash escrow in the event Routes 616 and 659 improvements are deferred pending determination of ultimate alignment/design, (5) define interim improvements to Rt. 659 to include pavement thickness to meet depth requirements of the County and VDOT, (6) discourage on-site generated truck traffic from utilizing the off-site Rt. 50 parallel regional collector road to access Rt. 50, and (7) provision for an interim water supply for neighboring properties in the event their well water supply fails.

1. Applicability to the PD-GI District. As you are aware, staff in its staff report of February 11, 1991, recommended that the portion of the Property designated for "lease lots and heavy industrial uses" (i.e. non-quarry activities) be rezoned to the PD-GI District. The basis for staff's recommendation was its determination that the PD-GI District was a more appropriate district in terms of "intent" and the uses proposed by

the Applicant. Pursuant to Section 1204.1 of the Loudoun County Zoning Ordinance (LCZO), the Board of Supervisors may make appropriate changes to a proposed rezoning, provided that no land may be zoned to a more intensive use classification than was contained in the public notice without an additional public hearing. Based on the conclusions and recommendations contained in the staff report, the clear inference is that the PD-GI District is a less, not more, intensive use classification than the I-1 District.

In the event that the Board of Supervisors elects to change the *"lease lot and heavy industrial"* portion of the Property, as shown on the Concept Plan and as delineated on the metes and bounds description attached hereto as Exhibit 1, to the PD-GI District; then for purposes of clarification the Alliance Resource Industries Proffer Statement, last dated January 30, 1991, as clarified herein, shall apply to the PD-GI District. Further, the permitted/permissible uses of the Property as described in the Proffer Statement and the Proffered Use Summary Chart, incorporated herein, will be as follows:

(a) The following uses permitted by-right in the PD-GI District, but which are not specifically listed in Paragraph 3 *(permitted uses)* or Paragraph 4 (permissible uses) of the Proffer Statement shall be permissible subject to special exception approval by the Board of Supervisors upon recommendation by the Planning Commission:

- research, experimental, testing and development activity
- manufacturing, processing, fabrication, assembly and distribution
- dry cleaning plant
- frozen food locker
- radio and television broadcasting
- commercial office building

(b) The following permissible uses of the PD-GI District which are listed in either Paragraph 3 or 4 of the Proffer Statement, shall be permitted upon the Board's approval of the PD-GI amendment:

- borrow pit for road construction
- asphalt mixing plants
- concrete mixing plants
- outdoor storage
- on-site <u>only</u> sewage disposal and water treatment plants

(c) Uses listed in Paragraph 3 and 4 of the Proffer Statement which, at the time of this rezoning, are neither permitted nor permissible within the PD-GI District, shall likewise be excluded from the portion of the Property zoned PD-GL These uses are:

- sand or gravel recovery
- quarry, mine, rock, crusher, screening
- firing range for government purposes
- buildings and uses for government purposes

(d) Notwithstanding subparagraph c above, in the event that the PD-GI District is amended or a new ordinance adopted subsequent to this rezoning which would add permitted or permissible uses not otherwise specifically excluded by Paragraphs 3 and 4 of the Proffer Statement or this Letter of Clarification, then the development of the portion of the Property zoned PD-GI may include such a use.

(e) the remainder of the Property which will be zoned to the I-1 District, shall be limited to quarry/resource extractive uses consistent with the Proffer Statement and the Loudoun County Zoning Ordinance.

(f) In the event that the Applicant's proffered commitment to process certain by-right uses under the special exception review process is determined by a court of competent jurisdiction to be invalid and unenforceable, then, unless an application(s) has already been approved through the Special Exception process, in which case such application(s) shall be deemed to be permitted, such by-right uses shall be deemed excluded from the

Property until such time as the defect is remedied. Further, if the special exception review proffer should be deemed invalid or unenforceable, it is the Applicant's understanding that the remainder of the Proffers shall not be affected thereby and shall be valid and enforceable to the fullest extent permitted by law.

ZMAP 89-08
ALLIANCE RESOURCE INDUSTRIES
Proffered PD-GI Uses

USES	PERMITTED BY-RIGHT	REQUIRES SPECIAL EXCEPTION
Private or Commercial Airport/Heliport		X
Auto-Truck Repair Garage	X	
Warehouse	Up to 870,000 sq. ft.	> 870,00 sq. ft1
Fruit Processing/storage	X	
Sawmill		X1
Borrow Pit for Road Construction	X1	
Asphalt Mixing Plant	X1	
Concrete Mixing Plant	X1	
Manufacture: Concrete Products	X	

USES	PERMITTED BY-RIGHT	REQUIRES SPECIAL EXCEPTION
Proffered PD-GI Uses Con't:		
Bulk Gasoline, Petroleum Storage		X
Outdoor Storage	X1	
Caretaker Unit	X1	
Communication and public utility services		X
On-Site Only Sewage Disposal, Water Treatment Plants	X1	
Agricultural, Forestry, Fisheries and Commercial Nurseries	X	
Research, Experimental, Testing and Development Activity		X2
Manufacturing, Processing, Fabrication, Assembly and Distribution		X2
Dry Cleaning Plant		X2
Frozen Food Locker		X2
Radio and Television Broadcasting		X2
Commercial Office Building		X2

1 Under the PD-GI District Regulations, this use is permissible *(subject to special exception)* and may be permitted by the Board of Supervisors as a part of the PD-GI amendment or, later, by special exception. The use is to be permitted (by-right) as a part of the PD-GI amendment for Alliance Resource Industries.

2 Under the PD-GI District Regulations, this use is permitted by-right. This use is proffered to require separate *(subsequent to* rezoning) special exception review and approval by the Board of Supervisors, upon recommendation by the Planning Commission, as a part of the Alliance Resource Industries rezoning.

ZMAP 89-08
ALLIANCE RESOURCE INDUSTRIES

Proffered I-1 Uses

USES	PERMITTED BY-RIGHT	REQUIRES SPECIAL EXCEPTION
• Quarry, Mine, Rock Crusher, Screening		X

2. **Language Pertaining to Zoning Administrator Interpretations.**

Paragraphs 3 and 4 of the Proffer Statement contain language which provides for *"uses and structures which are determined by the Zoning Administrator to be permitted/permissible."* It is our understanding that the administration of the LCZO provides for the authority of the Zoning Administrator to make *"definitive determinations"* as to the meaning of *"a word, phrase or sentence"* that is used in the Zoning Ordinance *(see Sections 1002,* LCZO). This authority would, by necessity, include determinations as to the meaning of permitted or permissible *"uses"*. For example, the term *"manufacturing"* used in the LCZO would appear broad enough to encompass a wide spectrum of businesses not otherwise specifically enumerated. As a consequence, the Zoning Administrator could be called upon to interpret whether a specific business falls within the meaning of *"manufacturing"*.

Because the Alliance Resource Industries Proffer Statement specifically lists permitted and permissible uses, this language was merely incorporated for the purpose of maintaining the same interpretation generally afforded to the Zoning Ordinance. In a memorandum dated February 5, 1991, the Zoning Administrator determined that the Zoning Ordinance is "exclusive" and would not permit uses not otherwise specifically enumerated. We acknowledge that Section 501.1 of the LCZO does not provide for uses, other than those specified, and recognize that the language providing for *"uses and structures which are determined by the Zoning Administrator to be permitted/permissible"* is intended to have no effect on the scope of uses not otherwise provided for in the Proffer Statement or the Zoning Ordinance.

3. **Phasing of the Quarry Operation.** The quarry shall be phased over a number of years beginning in the northwest portion of the designated quarry site. More specifically, the initial phase will consist of 50 acres or less located within the northwest quadrant of the quarry area. Quarrying activities will be restricted to the northwest quadrant for a period of four (4) years from the date of permit approval for extraction activity by the Virginia Department of Mines, Minerals and Energy (DMME). The northwest area is the logical and natural initial phase given its proximity to the planned road network. Beginning in this location will allow the efficient and economical development of the quarry site.

It should be recognized that the permitting process is projected to require two years before quarry operations can even begin. In addition to State Mining Permit requirements, County Subdivision, Site Plan, and Construction Plans and Profiles must be reviewed and approved. Upon securing these permits, time will also be required to construct roads and physical improvements for the quarry operation.

4. **Provision for Cash Escrow in the Event Road Improvements are Deferred Pending Determination of Ultimate Alignment Design.**

Paragraphs 35 *(Rt. 616 improvements)* and 36 *(Rt. 659 improvements)* of the Proffer Statement provide for right-of-way dedication and construction of one-half of the ultimate design section for Routes 616 and 659. These improvements are scheduled to occur at the time of record plat or final site plan for the portion of these roadways adjoining any property included within the record plat or final site plan. The Proffers also provide that in the event the ultimate alignment of the roadway has not been determined, the Applicant shall defer construction upon the request of the County. Should the County request deferral of these improvements, the Applicant shall provide a cash escrow in an amount equivalent to such improvement at the time the record plat or final site plat is approved which would have required such improvement.

It is our intent to build the proffered road improvements. Should deferral be requested and a cash escrow established, the cash escrow agreement shall contain a provision, agreed upon by the Applicant and the County, allowing the opportunity for the Applicant to construct the improvements at a later date consistent with the County bonding policy as set forth in the Facilities Standards Manual.

5. **Define Interim Improvements to Rt. 659 to Include Pavement Thickness to Meet Depth Requirements of the County and VDOT.** Paragraph 30.b of the Proffer Statement provides for the upgrading and resurfacing of existing Route 659 from its intersection with Route 50 to the Route 50 parallel regional collector road. It is intended to provide upgrading to existing Rt. 659 to accommodate the heavy truck traffic generated from this site in accordance with VDOT and County standards. The pavement thickness of this resurfacing shall meet depth requirements as approved by the County and VDOT.

6. **Discourage On-Site Generated Truck Traffic from Utilizing the Off-site Route 50 Parallel Regional Collector Road to Access Route 50.** Paragraphs 30 and 31 of the Proffer Statement provide for site access to Route 50. The Applicant shall discourage on-site generated truck traffic from utilizing the off-site eastbound Route 50 parallel collector road to access Route 50.

7. **Provision for an Interim Water Supply for Neighboring Properties In the Event Their Well Water Supply Fails.** Paragraph 8 and Exhibit C of the Proffer Statement provide for monitoring and mitigation of impacts to neighboring properties wells. Copies of all monitoring reports shall be provided by the Applicant to the County and neighboring property owners. In the event the neighboring property(ies) well water supply fails, the Applicant shall provide an interim water supply until such time as resolution is reached under the terms of Exhibit C

We hope these clarifications address your remaining concerns.

ALLIANCE RESOURCE INDUSTRIES JOINT VENTURE, Record Owner

By: XAMA CORPORATION,
General Partner

By: *Signature*_____
John A. Andrews, President

ALLIANCE INDUSTRIES JOINT VENTURE, Record Owner

By: AAM JOINT VENTURE,
General Partner

By: *Signature*_____
John A. Andrews, General Partner

Signature
John A. Andrews, Trustee,
Contract Owner

Jimmy R. Dean, Record Owner

Mary Sue Dean, Record Owner

Duane F. Getty, Trustee,
Record Owner

Clarence D. Smith, Jr., Record Owner

Floyd E. Kline, Record Owner

Sandra F. Kline, Record Owner

Rebekah G. Mahoney, Record Owner

John A. Andrews, Trustee,
Contract Owner

Jimmy R. Dean, Record Owner

Mary Sue Dean, Record Owner

Signature
Duane F. Getty, Trustee,
Record Owner

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Sandra F. Kline, Record Owner

Rebekah G. Mahoney, Record Owner

_*Signature*_____
John A. Andrews, Trustee,
Contract Owner

_____
Jimmy R. Dean, Record Owner

_____
Mary Sue Dean, Record Owner

_____
Duane F. Getty, Trustee,
Record Owner

_____
Clarence D. Smith, Jr., Record Owner

*Signature*_____
Floyd E. Kline, Record Owner

*Signature*_____
Sandra F. Kline, Record Owner

_____
Rebekah G. Mahoney, Record Owner

Signature
John A. Andrews, Trustee,
Contract Owner

Jimmy R. Dean, Record Owner

Mary Sue Dean, Record Owner

Duane F. Getty, Trustee,
Record Owner

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John A. Andrews, Trustee,
Contract Owner

Jimmy R. Dean, Record Owner

Mary Sue Dean, Record Owner

Duane F. Getty, Trustee,
Record Owner

Clarence D. Smith, Jr., Record Owner

Floyd E. Kline, Record Owner

Sandra F. Kline, Record Owner

Signature
Rebekah G. Mahoney, Record Owner

*Signature*_____
Billy L. Burton, Record Owner

*Signature*_____
Gail P. Burton, Record Owner

STATE OF VIRGINIA
COUNTY OF LOUDOUN, to wit:

I, the undersigned Notary Public, in and for the jurisdiction aforesaid, do hereby certify that John A. Andrews as President of XAMA Corporation, General Partner of Alliance Resource Industries Joint Venture, whose name is signed to the foregoing, appeared before me and personally acknowledged the same in my jurisdiction aforesaid.

GIVEN under my hand and seal this ___ day of _____, 1991.

My Commission Expires:

_____

_____
Notary Public

Billy L. Burton, Record Owner

Gail P. Burton, Record Owner

STATE OF VIRGINIA
COUNTY OF LOUDOUN, to wit:

I, the undersigned Notary Public, in and for the jurisdiction aforesaid, do hereby certify that John A. Andrews as President of XAMA Corporation, General Partner of Alliance Resource Industries Joint Venture, whose name is signed to the foregoing, appeared before me and personally acknowledged the same in my jurisdiction aforesaid.

GIVEN under my hand and seal this 14th day of March, 1991.

My Commission Expires:

10/15/91

Signature
Notary Public

STATE OF VIRGINIA
COUNTY OF LOUDOUN, to wit:

I, the undersigned Notary Public, in and for the jurisdiction aforesaid, do hereby certify that John A. Andrews as General Partner of AAM Joint Venture, General Partner of Alliance Industries Joint Venture, whose name is signed to the foregoing, appeared before me and personally acknowledged the same in my jurisdiction aforesaid.

GIVEN under my hand and seal this 14th day of March, 1991.

My Commission Expires:
10/15/91

Signature
Notary Public

STATE OF VIRGINIA
COUNTY OF LOUDOUN, to wit:

I, the undersigned Notary Public, in and for the jurisdiction aforesaid, do hereby certify that John A. Andrews as General Partner of AAM Joint Venture, General Partner of 50 Industrial Partnership, whose name is signed to the foregoing, appeared before me and personally acknowledged the same in my jurisdiction aforesaid.

GIVEN under my hand and seal this 14th day of March, 1991.

My Commission Expires:
10/15/91

Signature
Notary Public

STATE OF _____
COUNTY OF _____, to wit:

I, the undersigned Notary Public, in and for the jurisdiction aforesaid, do hereby certify that John A. Andrews, Trustee, whose name is signed to the foregoing, appeared before me and personally acknowledged the same in my jurisdiction aforesaid.

GIVEN under my hand and seal this _____ day of _____, 1991.

My Commission Expires:
_____

_____
Notary Public

STATE OF TEXAS
COUNTY OF DALLAS , to wit:

I, the undersigned Notary Public, in and for the jurisdiction aforesaid, do hereby certify that Jimmy R. Dean, whose name is signed to the foregoing, appeared before me and personally acknowledged the same in my jurisdiction aforesaid.

GIVEN under my hand and seal this 15 day of March, 1991.

M. Johnson
Notary Public

My Commission Expires:
1/30/94

STATE OF Virginia
COUNTY OF Loudoun, to wit:

I, the undersigned Notary Public, in and for the jurisdiction aforesaid, do hereby certify that John A. Andrews, Trustee, whose name is signed to the foregoing, appeared before me and personally acknowledged the same in my jurisdiction aforesaid.

GIVEN under my hand and seal this 14th day of March, 1991.

My Commission Expires:
10/15/91

Signature
Notary Public

STATE OF _____
COUNTY OF _____, to wit:

I, the undersigned Notary Public, in and for the jurisdiction aforesaid, do hereby certify that Jimmy R. Dean, whose name is signed to the foregoing, appeared before me and personally acknowledged the same in my jurisdiction aforesaid.

GIVEN under my hand and seal this ___ day of ____, 1991.

_____
Notary Public

My Commission Expires:
_____

STATE OF NEW JERSEY
COUNTY OF _____ to wit:

I the undersigned an Attorney At Law of New Jersey, in and for the jurisdiction aforesaid, do hereby certify that Mary Sue Dean, whose name is signed to the foregoing, appeared before me and personally acknowledged the same in my jurisdiction aforesaid.

GIVEN under my hand and seal this 15th day of March, 1991.

My Commission Expires:
_____

Signature
Joseph R. Torre
An Attorney At Law
Of New Jersey

STATE OF _____
COUNTY OF _____ to wit:

I, the undersigned Notary Public, in and for the jurisdiction aforesaid, do hereby certify that Duane F. Getty, Trustee for the Dean Lifetime Trusts, whose name is signed to the foregoing, appeared before me and personally acknowledged the same in my jurisdiction aforesaid.

GIVEN under my hand and seal this ____day of_____, 1991.

My Commission Expires:
_____

_____
Notary Public

STATE OF _____
COUNTY OF _____ to wit:

I the undersigned Notary Public, in and for the jurisdiction aforesaid, do hereby certify that Mary Sue Dean, whose name is signed to the foregoing, appeared before me and personally acknowledged the same in my jurisdiction aforesaid.

GIVEN under my hand and seal this __day of ___,1991.

My Commission Expires:
_____

_____
Notary Public

STATE OF Tennessee _____
COUNTY OF Shelby_____ to wit:

I, the undersigned Notary Public, in and for the jurisdiction aforesaid, do hereby certify that Duane F. Getty, Trustee for the Dean Lifetime Trusts, whose name is signed to the foregoing, appeared before me and personally acknowledged the same in my jurisdiction aforesaid.

GIVEN under my hand and seal this _15th_ day of _March, 1991.

My Commission Expires:
_Aug. 4, 1991_____

*Signature*____
Notary Public

STATE OF VIRGINIA
COUNTY OF LOUDOUN, to wit:

I, the undersigned Notary Public, in and for the jurisdiction aforesaid, do hereby certify that Clarence D. Smith, Jr., whose name is signed to the foregoing, appeared before me and personally acknowledged the same in my jurisdiction aforesaid.

GIVEN under my hand and seal this 18th day of March, 1991.

My Commission Expires:
10/15/91

Signature
Notary Public

STATE OF _____
COUNTY OF _____, to wit:

I, the undersigned Notary Public, in and for the jurisdiction aforesaid, do hereby certify that Floyd E. Kline, whose name is signed to the foregoing, appeared before me and personally acknowledged the same in my jurisdiction aforesaid.

GIVEN under my hand and seal this ___day of _____,1991.

My Commission Expires:
_____

_____
Notary Public

STATE OF _____
COUNTY OF _____ to wit:

I, the undersigned Notary Public, in and for the jurisdiction aforesaid, do hereby certify that Sandra F. Kline, whose name is signed to the foregoing, appeared before me and personally acknowledged the same in my jurisdiction aforesaid.

GIVEN under my hand and seal this ___day of _____, 1991.

My Commission Expires:
_____

_____
Notary Public

STATE OF VIRGINIA
COUNTY OF LOUDOUN, to wit:

I, the undersigned Notary Public, in and for the jurisdiction aforesaid, do hereby certify that Rebekah G. Mahoney, whose name is signed to the foregoing, appeared before me and personally acknowledged the same in my jurisdiction aforesaid.

GIVEN under my hand and seal this 14th day of March, 1991.

My Commission Expires:
10/15/91

Signature
Notary Public

Alliance Resource Industries
Rezoning Application No. 89-08

PROFFER STATEMENT

August 9, 1990
September 21, 1990
December 10, 1990
December 20, 1990
December 28, 1990
January 9, 1991
January 30, 1991

Alliance Resource Industries Joint Venture, the "Applicant", Record Owner (Parcels 37, 38, 44, 46 and 47), Alliance Industries Joint Venture, Record Owner (Parcel 49), 50 Industrial Partnership, Record Owner (Parcels 50-54 and 61), John Andrews, Trustees, Contract Owner (Parcels 35B, 35D, 36, 36A, 45, 55 and 56), Jimmy R. and Mary Sue Dean, Duane F. Getty, Trustee, record owners (Parcel 56), Clarence D. Smith, Jr., Record Owner (Parcels 35B, 35D and 36), Floyd E. and Sandra F. Kline, Record Owners (Parcel 36A), Rebekah G. Mahoney, Record Owner (Parcel 45) and Billy L. and Gail P. Burton, Record Owners (Parcel 55) of approximately 1027+ acres, more particularly described on Loudoun County Tax Map 100, Parcels 35B, 35D, 36-38, 36A, 44-47, 49-56 and 61 (the "Property") and identified on the Certified Plat of Rezoning, which is incorporated herein by reference as Exhibit "A", on behalf of themselves and their successors in interest hereby voluntarily proffer pursuant to Section 540.5 of the Loudoun County Zoning Ordinance, that in the event the Property is rezoned by the Board of Supervisors of Loudoun

County (hereinafter referred to as **"the County")** to the I-1, Industrial District in accordance with the uses and density set forth in the rezoning application and the Development Plan filed with the application, the development of the Property shall be in substantial conformity with the following conditions pursuant to Section 15.1-491(a) of the Code of Virginia (1950), as amended, and Section 540 and 540.1 through 540.15, inclusive, of the County Zoning Ordinance.

I. LAND USE:

A. Land Use Concept Plan.

1. The development of the Property shall be in substantial conformity with the Concept Development Plan (the "Concept Plan") dated January 9, 1991, prepared by LBA Limited, which is incorporated herein by reference as Exhibit "B". The Concept Plan shall control the general development, general layout, and configuration of the Property with reasonable allowances consistent with the Zoning Ordinance to accommodate engineering constraints and to provide site design flexibility at time of subdivision and/or site plan approval.

B. Density.

2. The Applicant shall limit development on the Property to a maximum floor area ratio of .4.

C. Permitted Uses.

- 3. Uses permitted by right on the Property shall be restricted to the following:
  - Auto-truck repair garage
  - Warehouse (up to 870,000 square feet: *Reference Proffer 40)*
  - Commercial greenhouse, nursery
  - Fruit processing, storage
  - Sand or gravel recovery, screening plant
  - Quarry, mine, rock crusher, screening plant
  - Borrow pit for construction
  - Asphalt mixing plant
  - Concrete mixing plant
  - Manufacture of concrete block, cinderblock
  - Manufacture of pre-form concrete products
  - Yard for storage of coal, lumber, building materials, contractors' equipment, subject to the additional proffer restrictions under Proffer I.F.11
  - Dwelling unit, provided that such unit shall be permitted in conjunction with a permitted use listed above, that only one dwelling unit per principal use may be permitted, and provided that said dwelling unit

may be occupied only by the manager, resident manager or caretaker

- Sewage disposal, water treatment plants for on-site use only
- Agriculture, forestry, fisheries, and commercial nurseries
- Uses and structures which are customarily accessory and clearly incidental and subordinate to permitted uses and structures
- Uses and structures which are determined by the Zoning Administrator to be permitted

D. <u>Permissible Uses Subject to Special Exception.</u>

- 4. Uses permissible on the Property subject to special exception approval by the Board of Supervisors upon recommendation by the Planning Commission shall be as follows:

  - Warehouse (in excess of 870,000 square feet: *Reference Proffer 40)*
  - Private or commercial airport, heliport
  - Sawmill
  - Bulk gasoline, petroleum storage
  - Communication and public utility service, major transmission and transportation facilities

- Firing range for federal, state and local governmental purposes
- Buildings and uses for federal, state, County or local governmental purposes
- Uses and structures which are determined by the Zoning Administrator to be permissible

E. Quarry: Supplemental Performance Standards.

• 5. The Applicant shall provide County staff with copies of all permits issued and plans approved by the Virginia Department of Mines, Minerals & Energy (DMME), Virginia Department of Transportation (VDOT), State Air Pollution Control Board, State Water Control Board, and any other regulatory agencies with jurisdiction over the quarry activities on the Property.

• 6. The hours of operation for quarry excavation (exclusive of maintenance activities) are limited to those hours falling between dawn and dusk. Blasting operations will be restricted to Mondays through Fridays between 8 a.m. and 5 p.m.

• 7. The aggregate processing facilities for the quarry shall be located no closer than 1,000 feet to adjacent residential dwelling

units existing at the time of rezoning as identified on the exhibit Showing Exclusion Areas on Conceptual Plan dated January, 1991, and incorporated herein as Exhibit E. For the purposes of this proffer, aggregate processing facilities are defined as those facilities used for treating, crushing, screening and washing the rock aggregate. In the event the adjacent properties/residences to which this provision applies are rezoned to an industrial or commercial district, this restriction will become void.

• 8. The Applicant will install permanent piezometers to monitor groundwater levels and quality. Reports of all sampling will be provided to the County. The program will be developed in detail in conjunction with the application to the State for a permit to establish the quarry. The following measures will be taken as a part of the groundwater monitoring program:

a. The piezometer plan will be submitted to the County for review and approval. The plan will depict the design, number, location and spacing of the monitoring wells.

b. The Applicant will provide one year of piezometric well sampling data to the County prior to any land

disturbing for quarry extraction activities. The data shall include water level measurements and plots of the proposed quarry and domestic wells located on adjacent properties. The data shall note local and baseline groundwater fluctuation patterns. Samples will be conducted on a bi-monthly basis and include bi-monthly water level measurements in monitoring and local domestic wells.

c. Sampling for the first year of quarry operation will be conducted on a bi-monthly basis. Subsequent sampling frequency will be set by the County hydrologist based on sampling results and accepted standards of the industry.

d. The Applicant will be responsible for investigating and responding to complaints regarding adverse impacts on wells located on neighboring properties defined as properties located within one thousand (1000) feet of the exterior property line of the permit area of the quarry (the "quarry limits") as approved by the Virginia Department of Mines, Minerals and Energy (DMME) and as depicted on Exhibit F. The

Applicant will administer the third party dispute resolution plan and procedure, which is generally described in Exhibit "C' and which is incorporated herein by reference.

e. Notwithstanding subparagraph d above, the Applicant shall, upon mutual agreement by the Applicant and the County, expand its groundwater monitoring program and third party dispute resolution plan to include non-neighboring properties, defined as properties located beyond one thousand (1,000) feet of the exterior property line of the permit area of the quarry (the "quarry limits") as approved by DMME, as may be warranted by the results of the groundwater sampling data, as determined by the County's hydrologist and the Applicant's hydrologist.

• 9. The Applicant will conduct tests to identify the limits of the diabase resource and will restrict blasting and extraction in such a manner so as to avoid disturbance to adjacent fractured rock or hornfells in the southwest comer of the Property. Test results shall be submitted to the Department of Natural Resources for review and approval prior to any blasting. The Applicant shall

be responsible for investigating and responding to complaints regarding adverse impacts on structural elements of habitable dwelling units on neighboring properties, defined as properties located within one thousand (1,000) feet of the exterior property line of the quarry limits approved by DMME and as depicted on Exhibit F. The Applicant shall administer the third party dispute resolution plan and procedure which is generally described in Exhibit "C" and which is incorporated herein by reference. Upon mutual agreement of the Applicant and the County, the Applicant shall expand its third party dispute resolution plan regarding adverse impacts on structural elements of habitable dwelling units to include non-neighboring properties, defined as properties located beyond one thousand (1,000) feet of the exterior property line of the permit area of the quarry (the "quarry limits") as approved by DMME, as may be warranted by tests results, as determined by the County's engineer and the Applicant's structural engineer.

10. At the conclusion of excavation activities on the Property, the Applicant shall reclaim the area of the quarry in accordance with accepted reclamation principles and practices and applicable regulations and ordinances. Prior to the conclusion of excavation activities the reclamation plan shall be submitted to

appropriate State agencies and the local governing body for review and approval.

F. Outdoor Storage: Supplemental Performance Standards.

• 11. Outdoor storage uses developed on the Property shall adhere to the following use limitations and development standards:

a. Outdoor storage shall be limited to the following:

- Building materials
- Motor vehicle storage *(Excluding motor vehicles not in running condition stored in excess of 90 days)*
- Construction vehicles
- Construction machinery
- Brick/block
- Steel
- Concrete materials
- Non hazardous transformers
- Liquid storage containers
- Similar uses deemed appropriate by the Zoning Administrator

b. The storage of hazardous materials as a principal use on the Property is prohibited. Determination as to what constitutes *"hazardous"* shall be made by the Loudoun County Fire Marshal and Health Department.

c. Surface bases shall be as established and approved by the Department of Engineering at time of site plan review and at minimum shall be 21A oiled surface type.

d. Each storage use will be enclosed within an 8 foot in height chain link fence.

e. Types of storage, locations and other conditions relating to proposed storage shall be specified in detail at time of site plan submission and must receive the approval of the Fire Marshal and Health Department. If types of storage are changed after approval of a site plan for outdoor storage, the Applicant shall obtain approval for any new or different type of storage from the County.

II. <u>LANDSCAPE BUFFER:</u>

• 12. A 250 foot buffer will be provided along the Route 50 frontage and along the exterior Property boundary of the quarry site. The remainder of the Property boundary and both sides of the Rt. 50 parallel regional collector road *(Reference Proffer 34)* and the North-South

Regional Spine Road *(Reference Proffer 31)* will be provided with a minimum 50 foot buffer area. These buffer areas will be exclusive of right-of-way dedications and will utilize existing mature vegetation supplemented by additional plantings and/or earthen berms to create a visual screen from the exterior of the Property and will be constructed in accordance with the typical landscaping sections shown on Sheets 1 and 2 of the Berm Analysis Plans prepared by Michael I. Oxman and Associates Ltd. dated 12/3/90 and incorporated herein by reference as Exhibit D. The berms where utilized will be constructed from the top layers of soil, clay, and loose rock that must be removed from the quarry pit area and from supplemental off-site materials as needed. The buffers will be implemented as development occurs. More specifically, prior to commencing operation of the quarry for aggregate extraction and implementation of each individual industrial use the perimeter buffer will be provided in phases so as to screen said use from the exterior of the Property. Notwithstanding the above, in the event the cloverleaf interchange and collector/distributor right-of-way for the on-site Rt. 50 access is dedicated, said right-of-way will be inclusive of the buffer area along the corresponding section of Rt. 50. Buffer plans will be submitted to the County for review and approval at the time of site plan application.

III. DUST CONTROL:

• 13. Coinciding with the commencement of land disturbing activities on the Property, the Applicant will initiate and maintain a program designed to control dust emissions from the Property. This program shall ensure compliance with applicable local, state and federal regulations and shall be submitted to the County for review and approval at the time of the first final site plan application or grading permit application, whichever occurs first in time. Measures to be incorporated in this dust control program include:

a. A water truck will spray the quarry pit area, stockpile area, and along roads as needed to minimize dust.

b. All roads into the individual developed site and parking areas will be paved at occupancy permit.

c. A truck washing station will be installed to spray trucks leaving the site with water as needed.

d. Truck loads entering and exiting the Property will be covered.

e. The Applicant shall comply with all County requirements for controlling particulate emissions. Best Available Control Technologies (BACT) will be used to comply with all State and Federal requirements relating to particulate emission controls from motorized equipment and vehicles.

IV. STORMWATER MANAGEMENT:

14. The Applicant shall provide a *"Preliminary Overall Stormwater Management Plan"* for the entire Project to be approved by the County concurrent with the first preliminary subdivision or preliminary site plan for the Project whichever occurs first in time. Construction plans for stormwater management facilities in each watershed shall be submitted concurrent with the first final site plan within the affected watershed. The required stormwater management facilities shall ensure that post-development runoff does not exceed pre-development conditions and shall be constructed so as to be in service prior to the issuance of the first occupancy permit within an affected drainage shed.

V. BEST MANAGEMENT PRACTICES:

15. The Applicant shall incorporate water quality measures into the project's stormwater management facilities. Best Management

Practice (BMP) techniques shall be employed that are designed to improve stormwater quality. BMP facilities may include extended detention ponds, first flush chambers, retention ponds, swales, filter strips, implementation of wetland development in pond margins, embankments and backwater areas, basin landscaping, urban forestry, shallow marsh creation, an established maintenance program and schedule as well as other techniques.

16. For development within the Occoquan Watershed the Applicant will submit to the County for review and approval a BMP facility design worksheet, a checklist of general considerations and a maintenance agreement as contained in the BMP Handbook For The Occoquan Watershed, Northern Virginia Planning District Commission at the time of submission of construction plans and profiles.

VI. NPDES PERMIT:

17. The Applicant will obtain a National Pollution Discharge Elimination System (NPDES) permit. This permit, which is approved by the State of Virginia and regulates water surface discharges, will be obtained concurrent with quarry permitting. A copy will be provided to the County.

VII. FLOODPLAIN STUDY AND MANAGEMENT:

18. The Applicant shall prepare a 100 year floodplain study for the entire site which details flood elevations. The study will be prepared in accordance with the Loudoun County Facilities Standards Manual, for all drainageways with watersheds greater than or equal to 100 acres. All calculations for the 100 year floodplain are to be based on the ultimate development in accordance with the Comprehensive Plan for the watershed capacity on a particular drainageway. Such studies may be prepared in collaboration with neighboring property owners.

Floodplain Studies are to be submitted to the County. No final subdivision or final site plan for a portion of the site which contains a drainageway of 100 acres or more shall be accepted by the County prior to the submission of a study for the subject drainageway.

19. No stormwater management ponds will be located within the major floodplain of Broad Run.

20. The Applicant will initiate and maintain a program designed to protect major and minor floodplain areas on the Property. This program through the utilization of easements and covenant restrictions will establish the legal floodplain limits, provide protection to floodplain areas and ensure compliance with applicable local, state and federal

regulations. The detailed program shall be submitted to the County for review and approval at the time of the first final site plan application.

Measures to be incorporated include:

- siltation erosion control;
- Best Management Practices (BMPs)
- establish wetlands for water quality improvement;
- establish buffer easements; and
- establish covenants with provisions against encroachments.

Nothing contained herein is intended to prevent floodplain encroachments and alterations including roadway crossings and stormwater management facilities approved and implemented in accordance with the County's floodplain regulations.

VIII. WETLANDS STUDY:

21.

Prior to any land disturbing activities on the Property, the Applicant shall conduct a preliminary wetlands investigation for the entire Property. The Applicant shall comply with the requirements of the Army Corps of Engineers (COE) for the investigation and treatment of wetlands. Prior to field review by the Army Corps of Engineers (COE), the Applicant shall notify the County so that the County may

participate. Copies of any permits pertaining to wetlands shall be submitted to the County.

IX. WATER AND SEWER SUPPLY:

22. The Property shall be served by private water and sewer systems which meet Health Department and LCSA requirements. In the event the County allows central sewer and/or water service or centralized pump and haul operations that would be available to the Property, the Property shall discontinue private systems and will utilize these facilities in accordance with Health Department and LCSA requirements.

X. FIRE AND RESCUE:

23. The Applicant will provide an on-site emergency water supply system adequately sized for the needs of the development which would be served in the event of a fire emergency. This water supply system shall meet the requirements of the Fire Marshal and National Fire Protection Association (NFPA) and will be constructed and in service prior to issuance of the first occupancy permit.

24.A. Initial Fire and Rescue Contribution

Concurrently with issuance of zoning permits for development of each portion of the Property, the Applicant shall contribute to the County:

1. **For the Quarry Area and Outdoor Storage Uses:** Twenty-five dollars ($25.00) per developable acre on the Property, which is the subject of the zoning permit, to be divided equally between the primary servicing fire and primary servicing rescue companies.

At such time as the portions of the Property used for Quarry and Outdoor Storage Uses are developed with buildings in excess of 1,000 square feet, then the fire and rescue contribution shall be provided either on the basis of $25.00 per developable acre or per FAR square foot as outlined under 24.A.2 below, whichever is greater. For purposes of this proffer, a developable acre is defined as the gross land area minus public right-of-way dedications and minus major floodplain areas.

2. **For all Other Uses:** Five cents ($.05) per FAR square foot of approved development on the Property which is the subject of the zoning permit to be divided equally between the primary servicing fire and primary servicing rescue companies.

3. The initial contribution listed under items 24.A.1 and 24.A.2 above shall escalate on a yearly basis from the time the rezoning is

approved, and changing effective each January 1 thereafter based on Consumer Price Index (CPI).

24.B. **Annual Fire and Rescue Contribution**

Applicant or their successors will contribute annually:

1. **For the Quarry Area and Outdoor Storage Uses:** Following issuance of occupancy permits for the subject area, twenty-five dollars ($25.00) per developable acre approved under final site plan for extraction and/or outdoor storage to be divided equally between the primary servicing fire and primary servicing rescue companies.

At such time as the portions of the Property used for Quarry and Outdoor Storage Uses are developed with buildings in excess of 1,000 square feet, then the fire and rescue contribution shall be provided either on the basis of $25.00 per developable acre or per FAR square foot as outlined under 24.B.2 below, whichever is greater. For purposes of this proffer, a developable acre is defined as the gross land area minus public right-of-way dedications and minus major floodplain, areas.

2. **For all Other Uses:** Five cents ($.05) per FAR square foot of building area following issuance of occupancy permits for each building to be divided equally between the primary servicing fire and primary servicing rescue companies.

3. The annual contribution listed under items 24.B.1 and 24.B.2 shall be effective at the time of the first occupancy and remain in effect thereafter. The contribution shall be collected by the Property Owners' Association established prior to approval of the first record plat or first final site plan, whichever occurs first in time. Annual contributions shall be paid directly in equal shares to the primary servicing fire department and primary servicing rescue department on a quarterly basis (quarterly payment shall be one-fourth of the annual fee of $0.05 per FAR square foot of approved development). The contributions listed under item 24.B. herein shall commence at the time of first occupancy (remaining in effect thereafter) and escalate annually (beginning on the date the Board of Supervisors approves the rezoning and changing effective each January 1 thereafter) in accordance with the Consumer Price Index (CPI) and be paid directly to the primary servicing fire department and primary servicing rescue department.

24.C. **Cessation of Fire and Rescue Contribution**

In the event that an incorporated volunteer agency is not the primary provider of fire and/or rescue service, all contributions listed within paragraphs 24.A and 24.B above, shall be discontinued to that agency.

25. The Applicant shall provide all-weather gravel compacted access for emergency vehicles to all portions of the site under construction. The type of access shall be subject to approval of the Fire Marshal's office.

XI. TREE CONSERVATION AND VEGETATION SCREENING:

26. Prior to or in conjunction with the submission of the first preliminary subdivision or preliminary site plan, whichever occurs first in time, the Applicant will submit for review and approval a tree conservation plan for the entire Property. The Tree Conservation Plan shall identify areas/stands of viable trees to be preserved as well as standards and procedures to be utilized to (1) protect said areas/stands identified to be preserved from damage by construction and/or development activities, (2) coordinate to assist in the continued survival of the areas/stands to be preserved, (3) identify areas/stands for transplanting and/or selective harvesting, and (4) identify areas for supplemental planting. In determining viability of existing trees the Tree Conservation Plan shall consider at a minimum the health, composition, and maturity of the tree stand as well as the ability of the trees to thrive under the proposed development conditions. The Tree Conservation Plan will be reviewed and coordinated with the Department of Planning, Zoning and Community Development or a designated arborist.

XII. TRANSPORTATION:

27. Applicant shall provide public roads in accordance with Virginia Department of Transportation ("VDOT") and County standards and as outlined in the paragraphs which follow. Where the following road improvements are proposed within the Property, the Applicant shall dedicate land to construct these improvements at the time of record plat or final site plan for the particular road section, or earlier upon the request of the County. Internal roadways will be constructed in conjunction with the development of the Property and will provide adequate access in accordance with County and State requirements. Monetary contributions shall be adjusted annually in accordance with the Consumer Price Index (CPI) beginning January 1, 1992, unless otherwise specified herein. Where the following road improvements are proposed to be located off-site, the County shall be requested to cooperate in obtaining the right-of-way and/or easements for road construction in accordance with these proffers either through direct contributions from property owners and/or by proffer or other lawful conditions through the zoning or development approval process. In instances where roadway improvements are proposed through or in conjunction with the property of others, and the necessary off-site right-of-way is not otherwise

available, then the Applicant, after making a good faith attempt to purchase necessary right-of-way and/or easements at a reasonable cost, shall request the County's assistance in acquisition and shall cooperate with the County in acquisition as described in **Eminent Domain Proceedings** (Proffer 28), below.

28. **Eminent Domain Proceedings.**

a. The Applicant shall request the County to cooperate in obtaining right-of-way and/or easements for road construction in accordance with these proffers either through direct contributions from property owners and/or by proffer or other lawful conditions through the zoning or development approval process. The obtaining of right-of-way or easements for road construction by the County through the rezoning or development approval process is solely within the discretion of the County.

b. Where right-of-way and/or easements necessary for construction cannot be obtained voluntarily, or by good faith effort by the Applicant, the Applicant will work with the County to acquire such right-of-way and/or easements by appropriate eminent domain proceedings by the County, with all costs associated with the eminent domain proceedings to be borne by the Applicant, including, but not limited to, land acquisition costs provided:

1. Land acquisition for improvements to the existing Rt. 659 shall be limited to the minimum right-of-way needed to construct the Rt. 50/Rt. 659 intersection and signal improvements described in Proffer 30b., and

2. Land acquisition costs for right-of-way other than that required to upgrade existing Rt. 659 as described in Proffer 30b. shall not exceed Seven Hundred Fifty Thousand and 00/100 Dollars ($750,000.00) in 1991 dollars, adjusted annually in accordance with the Consumer Price Index (CPI) beginning January 1, 1992.

c. The initiation of such eminent domain proceedings is solely within the discretion of the County.

d. In the event the necessary right-of-way cannot be acquired voluntarily and the County chooses not to exercise its right of eminent domain within one (1) year after requested in writing by the Applicant, the Applicant may exercise alternate access options outlined in Proffer 29, below. It is understood that the County will seek said right-of-way and off-site improvements, or contributions in lieu thereof, from other landowners as development occurs.

29. **Construction by Others.**

a. In the event that any one or more of the individual road improvements proffered by Applicant herein is substantially performed by others prior to bonding for such construction by the Applicant, the actual paid construction costs of such individual improvements by others shall be contributed by the Applicant to the County in lieu of Applicant's construction obligation at the time the record plat is approved which would have required such improvement as outlined herein. In the event that actual cost information cannot be obtained, the Applicant shall submit the cost estimates for such improvements for review and approval of the Director of Technical Services. In the event of any disagreement between the Applicant and the Director of Technical Services regarding the cost estimates of such improvements, the Board of Supervisors shall make a final decision.

b. As an alternative to a cash equivalent contribution the County and the Applicant may agree that, in lieu of making such contribution, the Applicant shall construct an alternative, equivalent-cost road improvement(s) which is not otherwise required to be constructed by the Applicant under the terms of these proffers, but which would directly or indirectly serve the Alliance Resource Industries development.

30. **Initial Access.** The primary initial access to the Property will be provided via an upgraded existing Route 659. At the time of the first record subdivision or first final site plan approval, whichever occurs first, the Applicant shall:

a. bond for construction to upgrade the existing Route 659 and Route 50 intersection. This improvement will consist of extending the westbound Route 50 into south Route 659 left turn lane to a total lane length of approximately 400 feet, or as approved by VDOT and the County, and providing an eastbound Route 50 acceleration lane within the existing right-of-way and providing signalization. The construction of this improvement shall be completed prior to issuance of the first occupancy permit for any use on the Property.

b. bond for construction to upgrade the existing Route 659 from its intersection with Route 50 to the Rt. 50 parallel regional collector road which is the entrance into the Property *(Reference Proffer 34)*. This upgrade shall consist of the resurfacing of the existing Route 659 pavement within the 30 foot prescriptive easement. The construction of this improvement shall be completed prior to the issuance of the first occupancy permit for any use on the Property. Subject to the availability of right-of-way as outlined herein the Applicant shall further upgrade the Rts. 50/659 intersections to provide an exclusive left turn lane and a

shared through/right turn lane for both northbound and southbound Rt. 659 or as approved by VDOT and the County provided any alternate improvement can be accommodated in the same amount of right-of-way as the exclusive left and shared through/right turn lanes would require. This improvement shall be implemented in conjunction with the improvements outlined under Proffers 30a., prior to issuance of the first occupancy permit, if right-of-way is available at that time, or if said right-of-way is not available at such time as it becomes available.

31. **Additional Access to Route 50.** When the capacity of the existing Routes 659/50 intersection is reached as determined by VDOT and the County, the Applicant shall provide additional access to the Property under one of the following options as approved by the County. If the option approved by the County requires off-site right-of-way which cannot be obtained voluntarily, or by the good faith efforts of the Applicant, or through eminent domain, then the Applicant shall provide alternate access at his discretion as outlined below.

a. In the event, the realigned Route 659 from Brambleton (reference County approved ZMAP 88-32) is constructed or bonded for construction, and off-site right-of-way is obtained (reference Proffer 28), the Applicant shall construct access connecting the Rt. 50 parallel regional collector road to Route 50 to align with said realigned Route

659 generally as shown on the Concept Plan. This urban four lane divided (U4R) road shall ultimately be constructed through the site to provide a north-south regional spine road to be located at the direction of the County immediately to the east or west of the existing on-site power transmission line easement and shall be implemented in phases as the Property is developed. Notwithstanding the above, the Applicant shall construct the north-south regional spine road to the southern Property boundary earlier, upon the request of the County, and at such time as the off-site road section connecting said north-south regional spine road to Rt. 620 is bonded for construction.

b. In the event the existing Route 659 to the east of the Property is realigned as depicted in the VDOT Draft Route 50 Corridor Study as is generally shown on the Concept Plan and is constructed or bonded for construction, the Applicant shall construct access from the Property to tie into said realigned Route 659, or

c. In the event neither the Route 659 realigned from Brambleton or the Route 659 realigned to the east of the Property is constructed or bonded for construction and off-site right-of-way is not obtained, the Applicant shall construct access connecting the Route 50 parallel regional collector road to Route 50 at a location approximately 1900 feet to the west of existing Route 659 as generally shown on the

Concept Plan. This urban four lane divided (U4R) road shall ultimately be constructed through the site to provide a north-south regional spine road to be located at the direction of the County immediately to the east or west of the existing on-site power transmission line easement and shall be implemented in phases as the Property is developed. Notwithstanding the above, the Applicant shall construct the north-south regional spine road to the southern Property boundary earlier, upon the request of the County, and at such time as the off-site road section connecting said north-south regional spine road to Rt. 620 is bonded for construction.

32. **Route 50 Frontage Improvement.** The Applicant shall dedicate the right-of-way and construct a third eastbound lane for Route 50 across the frontage of the Property at such time as the additional access to Route 50 is constructed as outlined herein. The design of this construction is contingent on the access to Route 50 outlined under proffer 31 above. If Option 31 a. or b. is implemented, the additional lane shall be constructed on the existing horizontal alignment. If Option 31c. is implemented, the additional lane shall be constructed with an improved vertical alignment.

33. **Closing of At-Grade Rt. 50 Access.** If Option 31c. is implemented, and the limited access status of Rt. 50 becomes functional by the construction and operation of an interchange within one mile of

the Property's at-grade access, the Applicant shall close the at-grade access with Route 50 without compensation, if the County and VDOT so desires.

34. **Rt. 50 Parallel Regional Collector Road.** The Applicant shall dedicate right-of-way and construct a regional collector road across the Property connecting Routes 659 and 616 as generally shown on the Concept Plan. This roadway shall be designed and constructed as an urban four lane divided section (U4R) and shall be implemented in phases starting from Route 659 as the Property is developed. The Applicant shall construct and/or bond for construction the portion of such roadway adjoining any property included within a record plat or final site plan application. The Applicant shall work with the County, VDOT and adjoining property owners to determine the ultimate alignment of this road.

35. **Rt. 616 Improvements.** The Applicant shall reserve and, upon request of the County, dedicate right-of-way for Route 616 at such time as the ultimate alignment has been determined by the County. The Applicant shall construct full frontage improvements on Rt. 616 in phases as the Property is developed. The Applicant shall construct and/or bond for construction the portion of such roadway adjoining any property included within a record plat or final site plan application. In the event,

the ultimate alignment has not been determined at the time of record plat or final site plan approval, the Applicant shall defer construction upon the request of the County. For the purposes of this proffer, full frontage improvement is defined as one-half of the ultimate design section for that portion of the roadway which physically abuts the Property.

36. **Rt. 659 Improvements.** The Applicant shall reserve and, upon request of the County, dedicate right-of-way for Route 659 at such time as the ultimate alignment has been determined by the County. The Applicant shall construct full frontage improvements on Rt. 659 in phases as the Property is developed. The Applicant shall construct and/or bond for construction the portion of such roadway adjoining any property included within a record plat or final site plan application. In the event, the ultimate alignment has not been determined at the time of record plat or final site plan approval, the Applicant shall defer construction upon the request of the County. For the purposes of this proffer, full frontage improvement is defined as one-half of the ultimate design section for that portion of the roadway which physically abuts the Property.

37. **Right-of-Way for Long Term Transportation Alternatives.**

a. The Applicant shall reserve, and dedicate upon request of the County, right-of-way located north of the Broad Run floodplain in the northwest portion of the Property adjacent to Route 50 for the possible future interchange identified on the Draft Route 50 Corridor Study. This reservation shall be maintained for a period of ten (10) years from the date of rezoning at which time it shall terminate if the County has not requested dedication or unless the time period has been extended upon mutual agreement of the County and the Applicant.

b. The Applicant shall reserve, and dedicate upon request of the County, right-of-way underlying the existing on-site electrical power transmission line easement (250') and an additional 120' right-of-way adjacent to and west of the power line easement for the possible future interjurisdictional north/south collector road. This reservation shall be maintained for a period of ten (10) years from the date of rezoning at which time it shall terminate if the County has not requested dedication or unless the time period for reservation has been extended upon mutual agreement of the County and the Applicant.

c. The Applicant shall reserve, and dedicate upon request of the County, right-of-way for one-half of a standard cloverleaf interchange and collector/distributor lanes for the on-site Rt. 50 access

option to be located approximately 1900 feet to the west of existing Route 659 *(Reference Proffer 31c.)* This reservation shall be maintained for a period of ten (10) years from the date of rezoning, unless voided as outlined herein, at which time it shall terminate if 1) the County has not requested dedication, 2) the decision has been made not to implement the on-site Rt. 50 access option or 3) unless the time period has been extended upon mutual agreement of the County and the Applicant. This reservation shall be come void earlier upon the mutual agreement of the County and the Applicant.

38. **Regional Road Improvement Cash Contributions.** The Applicant shall provide a contribution of two cents ($0.02) per square foot of developable land area or thirty cents ($0.30) per building square foot, whichever is greater, to the County for the design, improvement or maintenance of regional roadways in the general vicinity of the Property. This contribution shall be made at the time of zoning permit issuance for the land area or buildings, whichever is applicable, approved under the site plan for which the zoning permit is sought. In the event a contribution has previously been made per square foot of developable land area and the Property is further developed with buildings, the Applicant shall provide a contribution of thirty cents ($0.30) per building square foot minus the two cents ($0.02) per square foot of developable land area for the land area contained in the approved site plan for which the zoning

permit is sought. For the purposes of this proffer, developable land area is defined as the gross land area minus public right-of-way dedications, and major floodplain areas. Monetary contributions shall be adjusted annually in accordance with the Consumer Price Index (CPI) beginning January 1, 1992.

39. **Direct Access by Individual Lots Prohibited.** No individual lot shall have direct access to Route 659, Route 616, or Route 50. Individual lot access shall be provided by the internal road network which shall be constructed to provide continuous and adequate road sections connecting to major regional road(s).

40. **Limit on Permitted (by right) Warehouse Development.** No warehouse development shall be permitted until additional access to Route 50 is provided in accordance with Proffer 31. Once said additional access to Route 50 is provided, warehouse development of up to and including 870,000 square feet is permitted. Warehouse development in excess of 870,000 square feet is permissible subject to special exception approval by the Board of Supervisors upon recommendation by the Planning Commission in accordance with Proffer 4.

The storage/warehousing of hazardous materials as a principal use on the Property is prohibited.

XIII. OTHER:

41. These proffers contemplate that the Applicant shall dedicate real property of substantial value, include substantial cash payment or construct substantial value, the need for which is not generated solely by this rezoning. In the event Applicant fails within five (5) years from the date of this rezoning to substantially implement these dedications, payments or improvements, then the rights stated in Section 15.1-491(al) of the Code of Virginia (1950) as amended, shall not apply to this Property, provided however, that any rights acquired independently of Section 15.1-491(al) of the Code of Virginia (1950), as amended, shall not be waived by this proffer.

Each of the undersigned hereby warrants that all of the owners of a legal interest in the subject Property have signed this Proffer Statement, that he/she has full authority to bind the Property to these conditions, either individually or jointly, with the other owners affixing their signatures hereto and that the proffers are entered into voluntarily. These proffers shall be binding upon the assigns and successors in interest of the undersigned.

ALLLIANCE RESOURCE INDUSTRIES
JOINT VENTURE, Record Owner

By: XAMA CORPORATION, General Partner

By: *Signature*_____
John A. Andrews, President

ALLIANCE INDUSTRIES JOINT VENTURE, Record Owner

By: AAM JOINT VENTURE, General Partner

By: *Signature*
John A. Andrews, General Partner

50 INDUSTRIAL PARTNERSHIP, Record Owner

By: AAM Joint Venture, General Partner

By: *Signature*
John A. Andrews, General Partner

By: *Signature*
John A. Andrews, Trustee
Contract Owner

Jimmy R. Dean, Record Owner

Mary Sue Dean, Record Owner

STATE OF VIRGINIA
COUNTY OF LOUDOUN, to wit:

I, the undersigned Notary Public, in and for the jurisdiction aforesaid, do hereby certify that John A. Andrews as President of XAMA Corporation, General Partner of Alliance Resource Industries Joint Venture, whose name is signed to the foregoing, appeared before me and personally acknowledged the same in my jurisdiction aforesaid.

GIVEN under my hand and seal this 7th day of February, 1991.

My Commission Expires:
10/15/91

*Signature*____
Notary Public

STATE OF Virginia
COUNTY OF Loudoun, to wit:

I the undersigned Notary Public, in and for the jurisdiction aforesaid, do hereby certify that John A. Andrews as General Partner of AAM Joint Venture, General Partner of Alliance Industries Joint Venture, whose name is signed to the foregoing, appeared before me and personally acknowledged the same in my jurisdiction aforesaid.

GIVEN under my hand and seal this 7th day of February, 1991.

My Commission Expires:
10/15/91

*Signature*____
Notary Public

STATE OF Virginia
COUNTY OF Loudoun, to wit:

I, the undersigned Notary Public, in and for the jurisdiction aforesaid, do hereby certify that John A. Andrews as General Partner of AAM Joint Venture, General Partner of 50 Industrial Partnership, whose name is signed to the foregoing, appeared before me and personally acknowledged the same in my jurisdiction aforesaid.

GIVEN under my hand and seal this 7th day of February, 1991.

My Commission Expires:
10/15/91

*Signature*____
Notary Public

STATE OF Virginia
COUNTY OF Loudoun, to wit:

I, the undersigned Notary Public, in and for the jurisdiction aforesaid, do hereby certify that John A. Andrews, Trustee, whose name is signed to the foregoing, appeared before me and personally acknowledged the same in my jurisdiction aforesaid.

GIVEN under my hand and seal this 7th day of February, 1991.

My Commission Expires:
10/15/91

*Signature*____
Notary Public

Alliance Resource Industries

ZMAP 89-08

LIST OF EXHIBITS

A. Certified Plat of Rezoning

B. Concept Plan

C. Groundwater Dispute Resolution Plan and Procedures

D. Landscaping Typicals/Berming Analysis Plans

E. Showing Exclusion Areas on Conceptual Plan

F. Properties Within 1000 Feet of the Quarry Limits, Identified For Implementation of Proffer 8.

SH0#4/ALLI/EXH.LST

EXHIBIT C

Alliance Resource Industries
Rezoning Application No. 89-08

DISPUTE RESOLUTION PLAN AND PROCEDURES

August 9, 1990
September 21, 1990
December 10, 1990
December 20, 1990
December 28, 1990
January 9, 1991
January 30, 1991

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1. The following procedures will be employed in the event a complaint or dispute arises between the Applicant and neighboring property owners, defined as those properties located within one thousand (1,000) feet of the exterior property line of the permit area of the quarry (the "quarry limits") as approved by the Virginia Department of Mines, Minerals and Energy (DMME) and as depicted on Exhibit F, regarding the effect of the Applicant's mining activities on (i) the quantity or quality of groundwater obtained from private wells and (ii) the structural elements of habitable dwelling units (i.e., foundation, floor, wall, ceiling and roof).

2. The purpose of these procedures is to provide for a timely and expeditious resolution of all disputes relating to the impact of mining activities on private wells and habitable dwelling units.

3. Prior to any land disturbing activity within the quarry limits, the Applicant shall, upon request by any neighboring property owner, test and/or inspect each private well and habitable dwelling unit. As a part of such testing and inspection, the current output of each well will be recorded and a sample from each well will be analyzed to determine the presence of pollutants or impurities. Additionally, each habitable dwelling unit will be inspected to ascertain the integrity of the structural elements including a survey of soil conditions to determine the suitability or limitations of a particular tract of land as it relates to the structural element of each habitable dwelling unit. The information obtained from these tests and inspections shall serve as baseline data for determining potential impacts to neighboring property owners from the Applicants activities. The results of these tests and inspections shall be made available to each individual neighboring property owner and to the County. The Applicant shall be responsible for the cost of the tests and inspections outlined herein.

4. Subsequent to the initiation of mining activities within the quarry limits and upon request in writing to the Applicant or the County by a neighboring property owner that a reasonable belief exists that the neighboring property owner's well or habitable structure may be affected by the Applicant's mining activities and that the Applicant should address

this concern, the Applicant shall test and/or inspect each private well and habitable dwelling unit as provided herein. Said testing shall take place within ten (10) working days of receipt of said written notice by the Applicant.

5. A request for inspection shall be submitted to an independent professional hydrologist or engineer selected by mutual agreement of the Applicant and the requesting neighboring property owner. In the event the parties are unable to agree on an acceptable hydrologist or engineer within ten (10) working days of the Applicant's receipt of the request, the County may designate an appropriate hydrologist or engineer to arbitrate the dispute.

6. The same inspections and testing as set forth above in Paragraph 3 will be performed in order to determine the impacts of the Applicants mining activities on the quantity or quality of water from private wells and the integrity of the structural elements of habitable dwelling units.

7. The hydrologist or engineer shall review all available records and evidence including the testimony or statements of the parties. The parties shall each present their arguments to the arbitrator in an informal proceeding, without the use of attorneys. If the neighboring property

owner presents any evidence tending to show that the quantity or quality of his or her well water or structural elements of the habitable dwelling unit was adversely impacted by mining operations, the Applicant shall have the burden of proving that its mining operations were not the likely cause of the decline in quality or quantity of water from the well or damage to the structural elements of the habitable dwelling unit. Unless the Applicant meets its burden of proof, the arbitrator shall be free to grant the neighboring property owners such relief as is appropriate, including directing the Applicant to drill the property owner a new well of comparable quality and quantity at the Applicant's cost. In all cases where the Applicant is found at fault it shall pay all costs of the arbitration proceeding. In all other cases, the arbitrator shall be free to decide how the costs should be assessed.

8. The Applicant shall not be required to test the same well or inspect the same habitable dwelling unit more than once annually, except for good cause shown.

9. The Applicant shall notify, in writing, each neighboring property owner of the availability of the foregoing testing and inspecting program within ninety (90) days of the date of the approval of the Alliance Resource Industries Rezoning Request, ZMAP 89-08.

SHO#5/EXH-C.FNL