

**PROFFER STATEMENT
MINTBROOK**

PROJECT No.: Proposed: ~~REZN14~~REZN16-005320 and SPEX-16-005322-LE-004,
Previously Approved: REZN14-LE-004,
REZN11-LE-002, CCRV11-LE-001, and CPAM11-LE-001

Rezoning Amendment ~~offer~~ the Property currently zoned to Mixed Use – Bealeton (MU-B), Planned Residential Development (PRD), to propose and Revised Proffer Statement for existing ~~PRD-MU-B~~ to Create a Unified Development.

PROPERTY: The “Property” comprises 332.41 acres more or less consisting, of the following parcels as of March 14, 2014:

1. Mintbrook Developers LLC G.P.I.N. 6889-89-6214
2. Hodgson, G.P.I.N. 6899-18-3742

All parcels are located in the Lee Magisterial District.

There have been several recorded subdivisions and land sales from original area. Whereas this amendment, REZN-16-005320, only effects areas controlled by Mintbrook Developer LLC this proffer statement shall be applied to all of the “Property” contained in REZN14-LE-004, REZN11-LE-002, CCRV11-LE-001, and CPAM11-LE-001.

RECORD OWNERS: Mintbrook Developers LLC, ~~Terry Hodgson and David Hodgson.~~

PROJECT NAME: **MINTBROOK**

APPROVAL DATE OF PROFFERS: April 12, 2012 and March 13, 2014

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REVISION DATE: ~~March 11, 2014~~November 3, 2016

The undersigned hereby proffers that the use and development of the Property described above, shall be in conformance with the following proffered conditions, which shall supersede all other proffers that may have been made prior hereto with respect to the Property or any portion thereof. In the event the above referenced rezoning is not granted as applied for by the applicant ("Applicant"), these amended proffers shall be deemed withdrawn and shall be null and void. In the event an appeal is considered by a court of competent jurisdiction and the application is thereafter remanded to the Board of Supervisors (the "Board") for reconsideration or the rezoning is invalidated by that court, then these amended proffers shall be deemed withdrawn unless the Applicant affirmatively readopts all or any portion in writing specifically for that purpose. The headings of the amended proffers set forth below have been prepared for convenience or reference only and shall not control or affect the meaning or be taken as an interpretation of any provision of the proffers.

1. GENERAL PROVISIONS:

- 1.1. All improvements proffered herein to be constructed or otherwise provided by the Applicant shall be provided at the time of development of that portion of the Property immediately adjacent thereto or including the improvement or other proffered requirement, unless otherwise specified herein, or in the Code of Development as that term is defined below.
- 1.2. The term "Applicant" as referenced herein shall include the current owner of the Property and all future owners, heirs, assigns and successors in interest.
- 1.3. When used in these Proffers, the "C/GDP" shall refer to the plans entitled "Concept/General Development Plan "C/GDP", MINTBROOK VILLAGE CENTER" prepared by Bowman Consulting Group, dated September 16, 2016 and the "Concept/General Development Plan, MINTBROOK SENIOR RESIDENCES" prepared by Bowman Consulting Group, ~~dated January 10, 2014~~approved on March 13, 2014, and the "Concept/General Development Plan, MINTBROOK" prepared by Bowman Consulting Group, approved on April 12, 2012. The "COD" shall refer to the MINTBROOK Code of Development dated September 16, 2016 that was based on MINTBROOK Code of Development Addendum for Block 5 prepared by Bowman Consulting, ~~dated February 20, 2014~~approved on March 13, 2014 and "~~COD~~" shall also refer to also the MINTBROOK Code of Development prepared by Bowman Consulting, approved on April 12, 2012.

2. THE PROPERTY:

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- 2.1. The Property comprises a total of 332.41 acres. Pursuant to ~~this~~ Rezoning REZN11-LE-002, approved on April 12, 2012, the following shall apply:
 - 2.1.1. A portion of the Property heretofore rezoned PRD consisting of 50.09 acres, and as shown on the Rezoning Plat submitted with the application in this case incorporated into these Proffers by reference, shall remain zoned PRD, provided, however, that this property shall be considered rezoned under the ordinance in effect on the date of approval of this Rezoning.
 - 2.1.2. An additional portion of the Property comprising 148.27 acres more or less as shown on the Rezoning Plat, shall be rezoned PRD (Planned Residential - District) in effect on the date of approval of this Rezoning.
 - 2.1.3. That portion of the Property comprising 43.19 acres more or less as shown on the Rezoning Plat, shall be rezoned MU-B (Mixed Use – Bealeton District) in effect on the date of approval of this Rezoning.
 - 2.1.4. The Property shall be developed as a single, unified development; provided that the development may be phased as the Applicant determines appropriate, subject to any proffered conditions otherwise relating to phasing.
 - 2.1.5. That portion of the Property comprising 90.86 acres more or less that is currently zoned RA (Rural Agricultural District) as shown on the Rezoning Plat, shall remain so zoned and shall be subject to these proffers as provided herein.

3. CODE OF DEVELOPMENT

- 3.1. The COD is incorporated herein by reference as a proffer. The standards established in the COD shall govern all institutional, commercial, residential, common open space, and other construction on the Property as set forth therein. Further, the COD sets forth design standards and guidelines for the Property that shall be binding on the development thereof. Notwithstanding anything to the contrary herein, or in the COD, colored renderings included in that document are illustrative in nature and are included solely to provide a visual reference for what may be built on the Property pursuant to the COD, and shall not be binding on the development. In the event of any discrepancy between the COD and this Proffer Statement, this Statement shall control.
- 3.2. Variations from the requirements of the COD will be permitted in accordance

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with the standards set forth in the COD.

4. LAND USE, RESIDENTIAL AND COMMERCIAL:

4.1. All development of the Property shall be in substantial conformance with the C/GDP and the COD, with these proffers as further set forth below, and with the applicable regulations for such development set forth in the Fauquier Zoning Ordinance.

4.2. Residential development of the Property shall not exceed the following number of units in the locations generally depicted on the C/GDP, and subject to the requirements of the COD.

4.2.1. There shall be not more than-: ~~463 fee simple single family detached and single family attached residential dwelling units, 102 work force multi-family residential units, 475 residential dwelling units~~ and 100 active adult multi-family residential units in Block 5 constructed. For the 102 work force units there shall be no more than 20 one bedroom units and no more than 42 three bedroom units.

4.2.2. ~~For the purposes of this project, t~~The 100 active adult multi-family (age restricted) residential units in Block 5 shall require that a minimum of 80% of the residents be 55 years of age or older. In addition, all of the units shall be affordable for low income tenants, in accordance with Fauquier County's definition of Affordable Housing found in Section 15-300 of the Zoning Ordinance. The income requirements of the Virginia Housing Development Authority shall be used in calculating tenant income.

4.2.3. The 102 multi-family (workforce) residential units in the MU-B Village Center Neighborhood B shall require that units be affordable in accordance with Fauquier County's definition of Affordable Housing found in Section 15-300 of the Zoning Ordinance. The income requirements of the Virginia Housing Development Authority shall be used in calculating tenant income.~~The total authorized number of residential dwelling units shall be comprised of not fewer than 18 residential over commercial units to be located in the MU-B Village Center, A maximum of 60 fee simple single family attached residential units may~~ and not fewer than ~~54 multi-family units to~~ be located in the MU-B Village Center Neighborhood B. In addition, the project ~~It~~ shall also be comprised of not fewer than 100 single-family attached not more than 303 single-family detached dwelling units, and not more than 100 active adult multi-family residential units in the

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MU-B Core Subdistrict Block 5 of Neighborhood A. No multi-family unit may be constructed with an exterior elevated deck on the front of such units but may include a balcony not greater than four feet in depth.

~~4.2.3.1. The Applicant shall have received occupancy permits for not fewer than 24 of the 54 multi-family units referenced above prior to the issuance of an occupancy permit for the 325th residential unit, and not fewer than 30 additional such units prior to the issuance of an occupancy permit for the 400th residential unit, to assure the construction of the 54 such units proffered herein prior the issuance of that 400th occupancy permit.~~

4.2.4. Of the single-family detached dwelling units authorized herein, not fewer than 12 shall be one to one and one-half stories in height. Not fewer than 3 such units shall be included in Phase 1; not fewer than 2 such units shall be included in Phase 2; and not fewer than 7 such units shall be included in Phase 3; as those Phases are defined in Proffer 5, below the COD. Such units shall be equally distributed within each Phase and shall not be grouped together, placed adjacent to or across any street from one another.

4.3. Reasonable adjustments in acreage (not including modifications to zoning lines), road locations, lot lines, lot widths and depths, utility lines, stormwater management, natural drainage, and other features depicted on the C/GDP or COD may be made at the time of site or subdivision plan approval consistently with § 4-718 of the Fauquier Zoning Ordinance, and in conformance with the provisions of the COD.

4.4. The Applicant shall retain the existing farmhouse, farm pond, and mature trees surrounding the farmhouse, subject to the following.

4.4.1. Interior and exterior improvements to the farmhouse shall be permitted in the discretion of the Applicant that are consistent with the character of the existing home. If the cost to improve or maintain the farmhouse to a standard permitting human occupancy, or for ordinary and customary maintenance thereof in any calendar year, exceeds 66% of the value of the farmhouse at the time such improvements, maintenance, or repairs are undertaken, then the Applicant may, in its discretion, elect to demolish the structure.

~~4.4.2.~~ No additional residential units may be constructed north of the East-West Connector Road, except that in the event that the Applicant demolishes the farmhouse, as provided herein, it may construct one single-family house and garage in the place thereof, of similar size and character to the original

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structure. The owner may also construct customary accessory farm structures associated with the farm property including a garage capable of housing no more than three vehicles in a structure architecturally compatible with the existing farmhouse.

~~4.4.3.4.4.2. The existing duplex home adjacent to the farmhouse may be removed at the Applicant's discretion, but shall be removed not later than the issuance of the 300th residential occupancy permit.~~

- 4.5. The existing farmhouse may be used as a single-family dwelling, a commercial sales office for the Mintbrook project, or it may be converted to any other use that is permitted in the RA zoning district, subject to County approvals.
- 4.6. The use of standard markings and other identifiers of the corporate identity of commercial users, in building form, architectural style, or design, are discouraged. Such markings and identifiers shall, where employed, be reasonably consistent with the architecture of the Piedmont Vernacular, and in strict conformance with the Code of Development as otherwise proffered herein.

5. RESIDENTIAL AND COMMERCIAL PHASING

- 5.1. The Applicant may construct no more than ~~80 the following number of~~ single-family detached or attached residential dwelling units in any given year on the residentially-designed portions of the PRD properties; provided further that any units not constructed in a given year may be constructed in subsequent years, so long as no more than 100 residential occupancy permits shall be issued in any one calendar year. ~~This does not apply to the residential over commercial units or multifamilyany residential units authorized in the MU-B Core Subdistrict. The first year of development as referenced herein, shall begin on the last day of the 12th month following the date of the Board's April 12, 2012 approval of this amended rezoning ("Year 1").~~

~~5.1.1. Year 1 — issuance of occupancy permits for 75 units~~

~~5.1.2. Year 2 — issuance of occupancy permits for 75 units~~

~~5.1.3. Year 3 — issuance of occupancy permits for 75 units~~

~~5.1.4. Year 4 — issuance of occupancy permits for 75 units~~

~~5.1.5. Year 5 — issuance of occupancy permits for 75 units~~

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~~5.1.6. Year 6 — issuance of occupancy permits for 14 units~~

~~5.1.7. Year 7 — issuance of occupancy permits for 14 units~~

- 5.2. There may be not more than ~~220~~280,000 gross square feet of permitted commercial development on the commercially designated portions of the MU-B ~~Village Center~~Core Subdistrict. The following language specific to the issuance of residential occupancy permits does not apply to residential over commercial units or multifamily residential units authorized in the MU-B Core Subdistrict. Moreover the following language is specific to the issuance of residential occupancy permits applying only to the initial residential occupancy permits for single family detached and single family attached units for the occupancy of the primary dwelling in the PRD zoning district.

~~5.2.1. There shall have been issued occupancy permits for 8,000 gross square feet of commercial development prior to the issuance of the 150th-285th residential occupancy permit.~~

~~5.2.1.1.5.2.1. Notwithstanding the foregoing, if the Applicant has been issued an occupancy permit for a grocery anchor, there shall have been issued occupancy permits for 60,000 gross square feet of commercial development prior to the issuance of the 150th residential occupancy permit.~~

~~5.2.2. There shall have been issued occupancy permits for 2030,000 gross square feet of commercial development prior to the issuance of the 225th-350th residential occupancy permit.~~

~~5.2.2.1.5.2.2. Notwithstanding the foregoing, if the Applicant has been issued an occupancy permit for a grocery anchor, there shall have been issued occupancy permits for 75,000 gross square feet of commercial development prior to the issuance of the 225th residential occupancy permit.~~

~~5.2.3. The remaining permitted commercial development may occur at any time during the development of the Property, as market conditions dictate. There shall have been issued occupancy permits for 30,000 gross square feet of commercial development prior to the issuance of the 300th residential occupancy permit.~~

~~5.2.3.1. Notwithstanding the foregoing, if the Applicant has been issued an occupancy permit for a grocery anchor as set forth above, there shall have been issued occupancy permits for 80,000 gross square feet of commercial development prior to the issuance of the 300th resi-~~

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~~dential occupancy permit.~~

~~5.2.4. There shall have been issued occupancy permits for 50,000 gross square feet of commercial development prior to the issuance of the 350th residential occupancy permit.~~

~~5.2.4.1. Notwithstanding the foregoing, if the Applicant has been issued an occupancy permit for a grocery anchor as set forth above, there shall have been issued occupancy permits for 90,000 gross square feet of commercial development prior to the issuance of the 350th residential occupancy permit.~~

~~5.2.5. There shall have been issued occupancy permits for 70,000 gross square feet of commercial development prior to the issuance of the 400th residential occupancy permit.~~

~~5.2.5.1. Notwithstanding the foregoing, if the Applicant has been issued an occupancy permit for a grocery anchor as set forth above, there shall have been issued occupancy permits for 100,000 gross square feet of commercial development prior to the issuance of the 400th residential occupancy permit.~~

~~5.2.6. There shall have been issued occupancy permits for 100,000 gross square feet of commercial development prior to the issuance of the 475th residential occupancy permit.~~

~~5.2.6.1. Notwithstanding the foregoing, if the Applicant has been issued an occupancy permit for a grocery anchor as set forth above, there shall have been issued occupancy permits for 120,000 gross square feet of commercial development prior to the issuance of the 475th residential occupancy permit.~~

~~5.2.7-5.2.3. The remaining permitted commercial development may occur at any time during the development of the Property, as market conditions dictate.~~

~~5.3. No commercial building which faces onto a key pedestrian street, as identified in the COD, shall be used exclusively for office uses on the ground floor.In the event that the Applicant enters into a binding agreement with a potential user for a two or three story building devoted exclusively to office use, it shall put one of the buildings authorized herein in the MU-B zoned portion of the property to such office use; provided further that the Applicant shall not put exclusively to office use any commercial building that faces onto the Village Main Street in the commercial area.~~

5.4. In order to assure commercial construction on the Village Main Street the Applicant shall construct certain commercial buildings in the MU-B Village Center in accordance with the following:

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5.4.1. The two story ~~or taller~~ commercial building depicted on the C/GDP on the southwest corner of the intersection of Route 17 and the Village Main Street shall be part of the first 80,000 sf of commercial space built as part of the village center. The buildings identified with asterisks on C/GDP shall be a minimum of two stories as indicated thereon. There shall be no fewer than five separate two story or taller commercial/office/retail/mixed use/residential buildings constructed at buildout. Buildings that are not identified with asterisks may also be two stories or taller, and further ~~identified as Building 1 on the Exhibit entitled "Exhibit 1, Village Center Buildings," dated April 10, 2012, prepared by Bowman Consulting attached hereto and incorporated herein by reference, shall be the first commercial structure commenced pursuant to these Proffers. This building shall be constructed either prior to and independently from, or it may be constructed contemporaneously with, the first construction of any commercial building(s) on the Property.~~

~~5.4.2. The commercial building depicted on the C/GDP on the Village Main Street, identified as Building 2 on the aforesaid Exhibit 1 shall be constructed as the next such commercial structure following the construction of building(s) in compliance with Proffer 5.4.1.~~

~~5.4.3. The two story or taller commercial building depicted on the C/GDP on the northwest corner of the intersection of Route 17 and the Village Main Street, and further identified as Building 3 on the aforesaid Exhibit shall be constructed not later than the issuance of the 300th residential occupancy permit for the Property.~~

~~5.4.4. The buildings identified with asterisks on the aforesaid Exhibit 1 shall be a minimum of two stories as indicated thereon. There shall be no fewer than seven separate two story or taller commercial/office/retail/mixed use/residential buildings constructed at buildout as indicated on that Exhibit.~~

~~5.5. The Applicant shall construct a sidewalk immediately adjacent to the proposed commercial structures along the side of the property adjacent to Route 17, between Jefferson Boulevard and Lafayette Avenue, eleven feet in width and of brick, pavers, or stamped concrete, with trees and un-grated tree wells each 60 feet along that sidewalk.~~

5.6.5.5. The Applicant shall develop architectural treatments for the sides and rears of commercial structures that cause those sides and rears to reasonably continue the architectural scheme as depicted in the Code of Development.

6. EMPLOYMENT OPPORTUNITIES

6.1. In order to provide continued support for the Bealeton community and Fauquier County, bona fide efforts will be made to cause employment opportunities during the development of the Property to be made public during that development. Advertisements will be published in a newspaper of general circulation in the County listing requests for proposals for services to include, but not be limited to, carpentry, plumbing, electrical, heating and air conditioning, roofing, bricklaying, and landscaping. Such advertisements may be provided by a general contractor or by individual builders that may acquire properties for development. The Applicant will insure that employment opportunities, and a current list of both future commercial tenants and residential homebuilders, are reasonably made public, provided that this shall not include disclosure of proprietary information. Responsible and responsive contractors whose principal place of business is Fauquier County will be considered.

7. ARCHITECTURE, LANDSCAPING, OPEN SPACE, RECREATION, AND TRAILS / COD CONFORMANCE.

7.1. Each of the elements of the development of the Property set forth in the title to this section of these Proffers shall be in substantial conformance with the provisions of the COD therefor.

8. CREATION OF PROPERTY OWNERS' ASSOCIATIONS:

8.1. Property Owners' Associations:

8.1.1. One or more property owners' associations (hereinafter "POA") shall be created and in addition to any other duties and responsibilities as may be assigned. Such POA shall have title to and responsibility for (i) common open space areas not dedicated to public use in accordance with these Proffers and (ii) common buffer areas located outside of residential lots. The POA shall also have (iii) responsibility for the perpetual maintenance of any entrance feature (subdivision) signs, private street, private alleyways and perimeter or road buffers for those purposes to be granted to the POA; (iv) responsibility for the maintenance of any street trees located in common open space areas; (v) maintenance of any street trees located within the street tree easement(s) or within the VDOT right-of-way to the extent permitted or required by that Department, and (vi) all landscaping in common areas and open spaces.

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- 8.1.2. The POA shall be granted such other responsibilities, duties, and powers as are customary for such associations, or as may be required to effect the purposes for which such POA is created. It shall be also granted sufficient powers as may be necessary, by regular or special levies or assessments, to raise revenues sufficient to perform the duties assigned hereby, or by the documents creating the POA.
- 8.1.3. If the Applicant elects to establish more than one POA within the community, an umbrella organization or agreement shall be established whereby costs of and responsibility for maintenance of all open spaces and storm-water management facilities are shared by all owners within the property, whether commercial, residential or civic.
- 8.1.4. The POA documents shall prohibit (i) conversion of garages to living area or conversion to any other use that prohibits the storage of vehicles; and (ii) parking of recreational vehicles within the residential area of the PRD and MU-B Core Subdistrict. Recreational vehicles shall include but not be limited to boats, trailers, and campers.
- 8.1.5. POA documents shall include provisions that assure that common open space and facilities for common use are made available to all residents.

9. WATER AND SEWER

- 9.1. The Property shall be connected to public water and sewer systems at the Applicant's expense.

10. SCHOOLS

- 10.1. In recognition of the very substantial dedication of property to the County for public school purposes, the Applicant shall contribute to the Board for school purposes in the amount of \$2,793.00 per residential single-family detached units, payable upon the issuance of an occupancy permit for each such unit.
- 10.2. In recognition of the very substantial dedication of property to the County for public school purposes, the Applicant shall contribute to the Board for school purposes in the amount of \$793.00 per residential single-family attached units, payable upon the issuance of an occupancy permit for each such unit.

11. PARKS AND RECREATION

- 11.1. In response to comments from the Department of Parks And Recreation, and in

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view of the provision of an extensive trail network, dedication of public recreation space, and inclusion of playgrounds and open spaces within the development, as set forth in this Proffer Statement, the Applicant shall not separately contribute to the Board funds for park and recreation purposes.

12. LIBRARIES

12.1. The Applicant shall contribute to the Board for library purposes the amount of \$707.00 per residential unit, payable upon the issuance of an occupancy permit for each such unit.

13. EMERGENCY SERVICES

13.1. The Applicant shall contribute to the Board for emergency services the amount of \$3003.00 per residential unit, payable upon the issuance of an occupancy permit for each such unit.

14. SHERIFF

14.1. The Applicant shall contribute to the Board for the County Sheriff's Department the amount of \$468.00 per residential unit, payable upon the issuance of an occupancy permit for each such unit.

15. ENVIRONMENTAL SERVICES

15.1. The Applicant shall contribute to the Board for Environmental Services the amount of \$641.00 per residential unit, payable upon the issuance of an occupancy permit for each such unit.

16. ANIMAL SHELTER

16.1. The Applicant shall contribute to the Board for the Animal Shelter the amount of \$128.00 per residential unit, payable upon the issuance of an occupancy permit for each such unit.

17. TRANSPORTATION

17.1. The Applicant shall at the time required in paragraph 17.32 dedicate sufficient right-of-way for and shall construct those transportation improvements as set forth in the C/GDP, and as detailed in the COD.

17.2. For that portion of proposed Jefferson Boulevard which lies west of the intersec-

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tion with Blair Way, the Applicant shall grant right-of-way to the western property line and shall construct that portion of Jefferson Boulevard as depicted on the C/GDP. Additional future road improvements within this portion of the right-of-way shall only be made when the off-site road section is in place (by others) to Weaversville Road thus completing the road between route 17 and route 662.

~~17.2.~~17.3. Design of future on-site and off-site transportation improvements, including thru lane, deceleration lane, acceleration lane, turn lane, and traffic signal design and installation, as shown on the Mintbrook C/GDP, shall be incorporated into each COD Site Plan submitted to and approved by Fauquier County and VDOT, and no occupancy permit may be issued for any residential or commercial structure until access thereto has been constructed as shown on the COD Site Plan. Should VDOT not permit any proposed traffic signals, alternative intersection improvements, as approved by VDOT and the County, will be installed that allow for safe full motion turning. Each COD Site Plan shall include those transportation improvements directly related to the proposed use(s) and transportation demands generated by and associated with such uses, and shall further accommodate the cumulative impact of each previously approved COD Site Plan. The Applicant shall submit a traffic analysis with each COD Site Plan sufficient to permit the County and VDOT to determine the adequacy of the proposed improvements and their cumulate impact. When the cumulative transportation impacts of development so warrant, the Applicant shall construct segments of (i) Jefferson Boulevard, (ii) Lafayette Avenue connecting Route 17 and Route 28, and (iii) Hale Street connecting Jefferson Boulevard and Lafayette Avenue. Future design changes to transportation improvements as shown on the C/GDP shall be permitted if authorized by the Board of Supervisors through a C/GDP amendment; provided, however, that prior to approval of any such change the Applicant shall submit a Transportation Impact Analysis meeting VDOT requirements for rezonings, for review by VDOT and the County.

~~17.3.~~17.4. In the event that road access has not already been provided, such access shall be constructed to the 3.39 acres of land for fire station site within 18 months from the time that the County takes title to that property, and has obtained the necessary approvals for the construction of such station.

~~17.4.~~17.5. In the event that road access has not already been provided, such access shall be constructed to the 16.3 acres and the 47.2 acres of land for public school and/or park purposes within 24 months from the time that the County takes title to the property, and has obtained the necessary approvals for construction or use of such property.

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~~17.5.17.6.~~ In the event that road access has not already been provided, such access shall be constructed to the 22.17 acres of land for a community center or other public or quasi-public use within 36 months from the time that the County takes title to the property, and has obtained the necessary approvals for the construction or use of such property.

~~17.6.17.7.~~ Provision of access as required herein shall mean that a road has been constructed and is open for traffic, though not yet accepted into the State System of Secondary Highways for operation and maintenance.

~~17.7.17.8.~~ Notwithstanding any proffer herein to the contrary, in the event that funds are made available for, and VDOT grants approval for, alternative improvements to the intersection of Routes 17 and 28 that would otherwise be constructed by the Applicant in accordance with these proffers, and provided that the Applicant has not yet entered into binding contracts for, or initiated construction of, those improvements, then upon the County's written request the Applicant shall contribute to the County a sum equal to the cost of the improvements that it would otherwise have made, and shall thereafter be free of further obligation with respect to the construction of such improvements. Nothing contained herein, however, shall be construed to preclude the Applicant from constructing those improvements according to its development schedule prior to any such written request.

~~17.8.17.9.~~ The Applicant shall construct a single connection, approved by VDOT and the County, between the property now or formerly Mawyer, GPIN 6899-17-4995, and Lafayette Avenue, at the northernmost access point between the Property and the Mawyer land shown on the C/GDP as "right-of-way shown" (the extension of Hancock Street at the proposed roundabout). Such connection shall be made contemporaneously with the closure of the existing northern intersection of Bowers Run Road and Route 17.

18. COMMERCIAL DEVELOPMENT CONTRIBUTION.

18.1. The Applicant shall contribute to the Board for such use as it may elect in its discretion the sum of \$2.00 per gross square foot of commercial development to be paid upon the issuance of an occupancy permit for each such individual commercial use.

19. RESIDENTIAL USES IN THE MU-B CORE SUBDISTRICT

19.1. The Applicant shall make no monetary contribution for any residential units authorized within the MU-B Core Subdistrict.

20. REQUIREMENTS FOR CONSTRUCTION OF SUBSURFACE STRUCTURES.

- 20.1. For all residences constructed on the Property that will include basements, no below grade basements shall be constructed on soils with high water tables, unless the foundation drainage system of the structure is designed by licensed professional engineers to assure a dry basement and to preclude wet yards and recirculation of pumped or collected water, and approved by the County.
- 20.2. Drainage easements, where required, shall be placed on the final plat.
- 20.3. The deeds to each unit with a basement so constructed shall include the following language:

This house has been constructed on property that has been determined to possess a high subsurface water table. A foundation drainage system for this home and lot has been engineered and built according to standard engineering practices. The property owner is advised that any disturbance of this foundation drainage system may result in excess water in the yard or basement of the home, and that any such disturbance is undertaken at the sole risk of the property owner. The owner is advised to consult with a competent civil or geotechnical engineer prior to undertaking any land disturbance activity, which means any activity that changes the volume, velocity, or peak flow discharge rate of rainfall runoff from the land surface. This may include the grading, digging, cutting, scraping, or excavating of soil, placement of fill materials, paving, construction, substantial removal of vegetation, or any activity that bares soil or rock or involves the diversion or piping of any natural or man-made watercourse that may affect the foundation drainage.

21. DEDICATION OF REAL PROPERTY FOR PUBLIC USES AND CONSTRUCTION OF CERTAIN PUBLIC IMPROVEMENTS

- 21.1. The Applicant shall dedicate to Fauquier County, approximately 89.06 acres more or less, a portion of Geographic Parcel Identification Number (G.P.I.N.) 6889-~~989-62143419~~, of which 72.76 acres will remain zoned to the RA Classification, and 16.30 acres zoned to the PRD Classification, as depicted on the CDP as Public Use Property. Such dedications shall be made as follows:

21.1.1. Approximately 3.39 acres of land shall be dedicated for a (i) fire station,

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(ii) approximately 16.30 acres of land for school or recreational purposes, and (iii) approximately 22.17 acres of land for a community center or other public or quasi-public use as authorized by the Zoning Administrator, and each will be dedicated to the County within sixty (60) days if the requested parcel is recorded and utilities are installed and within one year if the requested parcel is not recorded or utilities are not installed, one year following approval of the first site or subdivision plan for the development of the Property upon written request by the County. Such sites will be rough graded prior to or following the conveyance thereof, and public sewer and water will be extended to the boundary of such parcel at such time as the Applicant constructs access to each such parcel as provided in Proffer 17 above. The Applicant shall provide or assure the provision of Opticom or equivalent facilities for the signal that VDOT may approve for the intersection of Route 17 and Jefferson Boulevard, and the intersection of Route 17 and Lafayette Street.

21.1.2. Approximately 47.2 acres of land for school or recreational purposes will be dedicated to the County within sixty (60) days if the requested parcel is recorded and utilities are installed and within one year if the requested parcel is not recorded or utilities are not installed two years following approval of the first site or subdivision plan for the development of the Property, upon written request by the County. Except as provided below, such site will be rough graded prior to or following the conveyance thereof and public sewer and water shall be extended to the boundary of such time as the Applicant constructs access to each such parcel as provided in Proffer 17 above.

21.1.2.1. In addition to dedication of this property as set forth above, the Applicant shall, in consultation with the County, construct four youth soccer/lacrosse fields to U. S. Youth Soccer U-14 specifications with gravel parking areas on the aforesaid land, in a location approved by the County so as not to interfere with the future construction of a school or other permitted public use thereon. Such fields shall become the property of the County upon acceptance of the dedication of the land, and approval of the construction of the fields. The Applicant shall be not required to irrigate or light such fields or to extend public sewer or water thereto. The Applicant shall further contribute four sets of either soccer or lacrosse goals for the County's use as may be directed by the County, prior to the final approval and

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acceptance of such fields. Such fields and parking area shall be constructed and goal sets provided not later than the issuance of the ~~150th-125th~~ residential occupancy permit.

- 21.1.2.2. The Applicant shall further construct one tot lot prior to the issuance of the 150th residential occupancy permit and a second tot lot prior to the issuance of the 275th residential occupancy permit, each in a location that is mutually agreeable to the Applicant, ~~and to the County,~~ and the home owner association.
- 21.1.3. The Applicant shall retain the right to stage development activities and perform other on-site improvements, remove soil from any parcel, and to store soil on any parcel to be so dedicated, either before or after such dedication is made, provided that if such staging, removal or storage of such soil is done after conveyance thereof, such removal or storage does not unreasonably interfere with or restrict the County's ability to use and develop such parcels as it may determine.
- 21.1.4. In order to assure that the rough grading, removal of such soil, or the storage thereof does not unreasonably and adversely affect the County's future use and development of such parcels, after receiving from the County its final construction plans ("FCP") for any school, recreational, fire station, community center or other facility as authorized herein, the Applicant shall prepare and submit rough grading plans, or plans for soil removal and/or storage as appropriate, that shall be consistent with any such FCP. The Applicant's plans shall be subject to approval by the County, and shall assure the retention or replacement of sufficient top soil for any public or quasi-public use as set forth in these Proffers.
- 21.2. Property to be dedicated to the County in accordance with these Proffers, or otherwise lying north of the East-West Connector Road, shall, upon such dedication, be subjected to a restrictive covenant that precludes the use of such property for residential purposes with the exception of the farmhouse use as otherwise provided herein.
- 21.3. Without purporting to restrict or limit the County's authority with respect to the provision of public sewer and water services under law, the Applicant shall construct no sewer or water lines into or on land to be dedicated to the County except as may otherwise be specifically authorized herein.
- 21.4. Notwithstanding anything to the contrary in these Proffers, public sewer and wa-

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ter may be extended at the Applicant's discretion to the farmhouse existing at the time of the rezoning of the Property, and to any non-residential use north of the East-West Connector Road.

- 21.5. The dedications of property provided for herein, and the site work with respect to such dedications identified in these Proffers, shall be made, or performed, without regard to the ultimate use to which such property is put in the Board's discretion.

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22. CONTRIBUTIONS TOWARD THE PHYSICAL CONSTRUCTION OF A NEW BEALETON FIRE AND RESCUE STATION.

22.1. In addition to other Proffers set forth herein with respect to emergency services, and the dedication and site preparation of a parcel for a new Bealeton Fire and Rescue Station, the Applicant shall further contribute the following toward the physical construction of such a Station.

22.1.1. In addition to any sums otherwise proffered for emergency services, the Applicant shall contribute the additional sum of \$1000.00 per single-family detached residential unit, and \$500.00 per single-family attached unit, payable upon the issuance of an occupancy permit for each such unit, for use in the construction of such Station.

22.1.2. The Applicant shall further contribute the additional sum of \$2.00 per gross square foot of commercial development to be paid upon the issuance of an occupancy permit for each such individual commercial use, for use in the construction of such Station.

~~22.1.3. In order to assist the County in the construction of a new Bealeton Fire and Rescue Station, not later than 36 months from the approval of this Rezoning Application, the Applicant shall make its best good faith effort to identify a construction partner and to prepare and submit an unsolicited proposal for processing in accordance with the Virginia Public-Private Education Facilities and Infrastructure Act of 2002 ("PPEA"), Va. Code Ann. § 56-575.1 et seq., or any similar successor statute, for the construction of such a Station. The Applicant shall not be required to contribute funds toward the construction of that Station in addition to the monetary or other contributions set forth in these Proffers, beyond the costs of preparation and submittal of such a proposal. Nothing contained herein shall be deemed to preclude the County from soliciting proposals for such a Station under the PPEA at its discretion, but if it elects to do so within the aforesaid 36 months, the Applicant shall be relieved of any obligation under this paragraph.~~

23. ENERGY CONSERVATION

All residential builders on the project will be required to use building components that are designed to improve the energy efficiency in all residential units. These components will

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include: Low-E rated and/or higher performance windows and exterior doors; increased R-value of insulation in floors, walls, and attic; ridge vents and attic fans; enhanced exterior caulking and weather sealing; programmable thermostats to regulate heating and air conditioning systems; Energy Star appliances and ceiling fans; high SEER rated and/or high efficiency heating and air conditioning systems. Residential builders will also be encouraged to include low flow shower heads, low flush toilets, tankless water heaters, and low VOC paints and carpeting. Commercial construction shall reasonably incorporate similar energy conservation measures, including but not limited to the installation of low flow fixtures.

~~24. FUTURE “UN-PLANNED” COMMERCIAL AREAS~~

~~The areas identified as “Future Commercial” on the C/GDP (Blocks 4 and 5); Neighborhood A, while included in the overall Mintbrook project and subject to the zoning, land use, building orientation and architectural controls as outlined in the Mintbrook Code of Development, shall require a separate rezoning approval to establish the specific use, mix and layout for each Block prior to commencement of final engineering and development for that individual Block. It shall not be required that the use, mix, and layout be determined for all Blocks at the same time; this will allow each of the three Blocks to be developed individually.~~

25.24. ADJACENT PROPERTIES UNDER THE OWNERSHIP OF OTHERS

Properties bearing GPINs 6899-17-4995 (now or formerly Mawyer) and 6889-05-7716 (now or formerly Steffey) are under the ownership of others. In the interests of good zoning and planning practices, and the harmonious development of Bealeton, the Applicant shall not oppose any future application to rezone those properties, or to obtain special exceptions necessary for their development, for zoning districts, and uses compatible with the Bealeton Service District plan.

26.25. ESCALATOR CLAUSE

Any monetary contributions set forth in this Proffer Statement which are paid to the Board after 36 months from April 12, 2012 (the date of the original rezoning approval by the Board) shall be adjusted in accordance with the Urban Consumer Price Index (“CPI-U”), as published by the United States Department of Labor. The adjustment shall be calculated from the CPI-U published most nearly to and following January 1st from that date 36 months after rezoning approval and the date the contributions are paid, subject to a cap of 3% per year, non-compounded.

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[SIGNATURES APPEAR ON FOLLOWING PAGES]

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OWNER:

MINTBROOK DEVELOPERS LLC

By: _____

Date: _____

MINTBROOK COMMUNITY ASSOCIATION

By: _____

Date: _____

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OWNER: _____ TERRY HODGSON

By: _____

Date: _____

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OWNER: _____ DAVID HODGSON

By: _____

Date: _____