

**County of Fairfax, Virginia  
Planning Commission Meeting  
October 4, 2018  
Verbatim Excerpt**

*RZ/FDP 2017-DR-026 – BENCHMARK ASSOCIATES, LP – Appls. to rezone from C-8, CRD, SC and HC to PRM, CRD, SC and HC to permit mixed use development with an overall Floor Area Ratio (FAR) of 1.99, waiver of minimum district size requirement and approval of the conceptual and final development plan. Located in the W. quadrant of Old Dominion Dr. and Lowell Ave. on approx. 1.43 ac. of land. Comp. Plan Rec: Retail with an option for mixed-use. Tax Map 30-2 ((9)) 73. (Dranesville District)*

After Close of Public Hearing

Commissioner Ulfelder: We still need to come up with some language for the WDU parking. However, I'm confident that we could do – the Board – this is scheduled for a Board hearing on October 16<sup>th</sup>, a week from next Tuesday. Therefore, I'm reluctant to defer this. And, I would like to move – proceed with it with the understanding that we'll come up with some acceptable language on the WDU parking between now and the Board. And is – Ms. Greenlief are you – you all are ready to work and to come up with that for a revised proffer?

Lori Greenlief, Applicant's Agent, McGuire Woods LLP: Absolutely.

Commissioner Ulfelder: And the correction also that Commissioner Hart noted...

Ms. Greenlief: Proffer 17. Yes.

Commissioner Ulfelder: Proffer 17. Okay. Thank you. Well let me make a couple of brief remarks because I am gonna proceed. Actually, we've got a lot going on next week and so on, and I'd to take care of this. I think that the CDP FDP in this case demonstrates that the proposed development conforms to all applicable conditions that were – it came along with the plan amendment as well the applicable McLean CBC open space design standards. That's what staff concluded and I think it's clear on the face. And I that think this proposed multi-family building by adding residents would help support some of the surrounding retail and service and restaurant uses. And will also add some residential housing to the mix – and mix of uses to create a more vibrant environment throughout the day, as well as the evening which is an appropriate goal for this CBC. The site does include some existing retail and office space and we would be adding residential to that. And I think it in – I think it's been well spoken to tonight by all of the speakers and therefore Mr. Chairman, I'm gonna request that the applicant confirm for the record their agreement to the proposed development conditions – what development – dated September 19<sup>th</sup>, 2018 in connection with – I guess that's in connection with the – the FDP?

Bob Katai, Zoning Evaluation Division, Department of Planning and Zoning: Yes.

Commissioner Ulfelder: Right.

Ms. Greenlief: Yes. On behalf of the applicant, we do agree with the FDP conditions.

Commissioner Ulfelder: Okay. Alright. Therefore Mr. Chairman, I move that the Planning Commission recommend to the Board of Supervisors, approval of RZ 2011 – what am I reading – this is DR 026, isn't it?

Vice Chairman Hart: Yes. Well.

Mr. Katai: Okay...

Vice Chairman Hart: Mine says RZ/FDP 2017...

Commissioner Ulfelder: Yeah, I've got...

Mr. Katai: Yeah, the application number should be RZ – for the rezoning is RZ 2017-DR-026.

Commissioner Ulfelder: Right.

Vice Chairman Hart: But the development conditions go with the FDP.

Commissioner Ulfelder: But the development conditions go with the FDP which we – you agreed to on the record. Okay let's – let's MOVE THAT THAT PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS APPROVAL OF RZ 2017-DR-026.

Mr. Katai: Okay.

Commissioner Ulfelder: BASED ON THE PROPOSED PROFFERS NOW DATED SEPTEMBER – OCTOBER 3<sup>RD</sup>, 2018.

Commissioner Niedzielski-Eichner: Second.

Vice Chairman Hart: With the changes that...

Commissioner Ulfelder: WITH THE CHANGES THAT WE DISCUSSED THIS EVENING TO PROFFER 17 AND THE ADDITION OF THE LANGUAGE CONCERNING THE WDU PARKING.

Vice Chairman Hart: Right. Motion's been seconded by Commissioner Niedzielski-Eichner. Is there discussion on the motion? Seeing none we'll move to a vote. All those in favor of the motion to approve the rezoning as articulated by Commissioner Ulfelder, please say aye.

Commissioners: Aye.

Vice Chairman Hart: Those opposed. That motion carries.

Commissioner Ulfelder: I MOVE THAT THE PLANNING COMMISSION RECOMMEND THAT THE BOARD OF SUPERVISORS APPROVAL OF THE WAIVERS AND MODIFICATIONS AS LISTED IN THE HANDOUT DATED OCTOBER 4<sup>TH</sup>, 2018, THAT WAS PROVIDED TO YOU TONIGHT AND WHICH SHALL BE MADE A PART OF THE RECORD OF THESE APPLICATIONS.

Commissioner Niedzielski-Eichner: Second.

Vice Chairman Hart: Seconded by Commissioner Niedzielski-Eichner. Discussion on that motion. Seeing none we'll move to a vote. All in favor please say aye.

Commissioners: Aye.

Vice Chairman Hart: Those opposed? That motion carries.

Commissioner Ulfelder: One more. I MOVE THAT THE PLANNING COMMISSION APPROVE FDP 2017-DR-026, SUBJECT TO THE DEVELOPMENT CONDITIONS DATED SEPTEMBER 19<sup>TH</sup>, 2018 AS PROVIDED IN APPENDIX 2 OF THE STAFF REPORT AND SUBJECT TO THE APPROVAL OF RZ 2017-DR-026 BY THE BOARD OF SUPERVISORS.

Commissioner Niedzielski-Eichner: Second.

Vice Chairman Hart: Seconded by Commissioner Niedzielski-Eichner. Is there any discussion of that motion? Seeing none we'll move to a vote. All in favor please say aye.

Commissioners: Aye.

Vice Chairman Hart: Those opposed? That motion carries.

Each motion carried by a vote of 8-0. Commissioners Murphy and Tanner were absent from the public hearing. Commissioners Sargeant and Cortina were not present for the vote.

SL

**Proffered Conditions**  
**Benchmark Associates, LP**  
**RZ 2017-DR-026**  
**December 4, 2017**  
**February 1, 2018**  
**May 1, 2018**  
**June 6, 2018**  
**July 9, 2018**  
**August 15, 2018**  
**September 11, 2018**  
**October 2, 2018**  
**October 3, 2018**

Pursuant to Section 15.2-2303(A), Code of Virginia, 1950 as amended, the undersigned Applicant, in this rezoning proffer that the development of the parcels under consideration and shown on the Fairfax County Tax Map as Tax Map References 30-2((9))73 (hereinafter referred to as the “Property”) will be in accordance with the following conditions (the “Proffered Conditions”), if and only if, said rezoning request for the PRM Zoning District is granted. In the event said rezoning request is denied, these Proffered Conditions will be null and void. The Owner/Applicant, for themselves, their successors and assigns hereby agree that these Proffered Conditions will be binding on the future development of the Property unless modified, waived or rescinded in the future by the Board of Supervisors of Fairfax County, Virginia, (hereinafter referred to as the “Board”) in accordance with applicable County and State statutory procedures. The Proffered Conditions are:

**I. GENERAL**

1. Substantial Conformance. Subject to the provisions of Section 18-204 of the Fairfax County Zoning Ordinance (hereinafter referred to as the “Zoning Ordinance”), development of the Property will be in substantial conformance with the Conceptual Development Plan/Final Development Plan (CDP/FDP), prepared by Walter Phillips Inc., dated July 19, 2017, revised through August 27, 2018.
2. Principal and Secondary Uses. The Applicant will be permitted to develop the Property up to a 1.99 FAR. The principal uses on the Property will be multifamily residential dwellings, as identified on the CDP/FDP. Secondary uses will consist of those uses permitted per Section 6-403 of the Zoning Ordinance with the exception of:
  - Vehicle sale, rental and ancillary service establishments
  - Billiard and pool halls
  - Commercial swimming pools, tennis courts and similar courts
  - Indoor archery ranges, fencing and other similar indoor recreational uses
  - Skating Facilities
  - Hotels, Motels
  - Kennels
  - Congregate Living Facilities

- Theater
  - Bus or Railroad Station
  - Electrically-powered regional rail transit facilities
  - Regional non-rail transit facilities
  - Vehicle transportation service establishments
  - Single-family attached dwellings
  - Light public utility uses
  - Commercial off-street parking
  - Commercial recreation restaurant.
3. Elements of the CDP/Elements of the FDP. Notwithstanding the fact that the CDP and FDP are presented on the same plan, the elements that are components of the CDP are limited to the points of perimeter access, the internal circulation, the maximum number and type of dwelling units, the maximum square footage, the maximum building heights, the minimum percentage and general location of open space, the location of the limits of clearing and grading, the setbacks from peripheral lot lines and the general location of buildings and only a future amendment to such elements will require a Conceptual Development Plan amendment (CDPA) or a Proffered Condition Amendment (PCA). The Applicant reserves the right to request a Final Development Plan Amendment for elements other than CDP elements listed above from the Planning Commission for all or a portion of the FDP in accordance with Section 16-402 of the Ordinance if such amendment is in accordance with these Proffers as determined by the Fairfax County Zoning Administrator. Additionally, any portion of the Property may be the subject of a CDPA, PCA, Rezoning, Special Exception (“SE”), Special Exception Amendment (“SEA”), Comprehensive Sign Plan, Special Permit (“SP”), Variance or other zoning action without the joinder and/or consent of the owner(s) of the other land area(s), provided that such application complies with Paragraph 6 of Section 18-204 of the Zoning Ordinance and Section 15.2-2302 of the Code of Virginia, as applicable. Previously approved proffered conditions or development conditions applicable to a particular portion of the Property that is not the subject of such future application will remain in full force and effect.
4. Minor Modifications. Pursuant to Paragraph 4 of Section 16-403 of the Zoning Ordinance, minor modifications to the CDP/FDP, such as, but not limited to locations of utilities, landscaping, minor adjustments of property lines and the general location of dwellings and driveways on the proposed lots may be permitted when it is determined by the Zoning Administrator that such modifications are in substantial conformance with the CDP/FDP and provided that the modifications do not increase the total number of dwelling units, increase the height of the buildings or height of any above-grade parking within the residential building or reduce the amount of structured parking, decrease the amount character or quality of open space, or distances to peripheral lot lines, change the points of access to the Property, or alter the limits of clearing and grading as shown on the CDP/FDP.
5. Establishment of Property Owners/Condominium Association. Prior to plat recordation, the Applicant/Owner will provide the Department of Land Development Services (LDS)

with documentation that the Owner/Applicant has complied with the requirements of Sect. 2-700 of the Zoning Ordinance regarding the establishment of a legal entity under the laws of Virginia for the ownership, care and maintenance of all common lands and elements. Specifically, the Owner/Applicant will establish a unit owners association for the condominium units and an umbrella community association whose membership includes both the residential and the office building. The purpose of the umbrella association will be, among other things, to establish the necessary covenants governing the use and operation of any common open space and other facilities and to provide a mechanism for ensuring the ability to complete the maintenance obligations and other provisions noted in these Proffer Conditions for such elements as private streets, open space and its associated elements, and any privately held and maintained stormwater management facilities.

6. Dedication of open space/common features. At the time of record plat recordation, the open space and common features will be dedicated to the applicable entity described in Proffer 5.
7. Disclosure. Prior to entering into a contract of sale, all prospective purchasers in the multi-family building will be notified in writing by the Applicant of the maintenance responsibility for alleys, surface parking and loading areas, dumpster areas, walkways, common area landscaping, stormwater management facilities, and open space amenities, and will acknowledge receipt of this information in writing.
8. Public Open Space. Publicly accessible open space will be provided in the general area identified on the CDP/FDP and will be maintained by the applicable entity described in Proffer 5. The public open space shown on the CDP/FDP, while retained in private ownership, will be subject to a public access easement which will reserve to the applicable entity the right to establish reasonable rules and regulations pertaining to hours of public access, uses, maintenance and repairs.
9. Architectural Design. The architectural design of the multifamily building will be in conformance with the bulk, mass and type and quality of materials and elevations shown on the CDP/FDP. Specifically, the setbacks, balcony modulations and the maximum height of 90 feet at the corner of Emerson Avenue and Lowell Avenue, as shown on Sheets A.07, A.08 and A.09 of the CDP/FDP, will be employed in the building's architecture. Notwithstanding that shown in the Zoning Tabulations chart on the Cover Sheet of the CDP/FDP, the multifamily building height, as defined by the Zoning Ordinance, will be no more than 90 feet. The primary building materials, exclusive of trim and windows will be brick, stone, cementitious siding, cementitious panels, stucco, shingles or other similar materials. The Applicant reserves the right to adjust the architectural design details of the residential building, including but not limited to, the building materials, articulation, and fenestration, as part of the final architectural design and engineering without requiring approvals of the PCA or FDPA provided (a) the maximum building height is not increased, (b) the minimum open space is not decreased, and (c) the quality of the architectural design and the quality of the building materials

remain in general conformance with that shown on the CDP/FDP, as determined by the Zoning Administrator.

10. Screening of Rooftop Mechanical Equipment. The Applicant will screen and/or set back sufficiently from the perimeter of the roof any rooftop mechanical/HVAC equipment on the residential building so that such equipment is generally not visible from the surrounding streets or the residential units within the Palladium.
11. Public Art. The Applicant will provide a piece of public art within the publically accessible open space along Lowell Avenue not to exceed a cost of \$50,000. The Applicant will coordinate with the McLean Planning Committee and the McLean Project for the Arts for recommendations, suggestions and input with regard to the selection of the piece. The public art will not be located within the right-of-way of Lowell Avenue, will not block the public sidewalk and will be maintained by the entity described in Proffer 5.
12. Construction Hours. Any outdoor construction activity will comply with Chapter 4 of the Code of the County of Fairfax (the “Code”). All employees and subcontractors will be notified of the hours of operation stipulated in the Code and will ensure that the hours of operation are respected by all employee and subcontractors. The construction hours and the telephone number of the site superintendent that will be present on-site during construction will be posted on site in both English and Spanish.
13. Pre-Construction Meeting. Prior to the commencement of construction, the Applicant will hold a meeting and will invite the President and Vice President of the Palladium Condominium Owners Association as well as other abutting commercial property owners and the tenants on the Property to provide information regarding planned construction activities for the Proposed Development. The Dranesville District Supervisor’s Office will also be informed of the date and time of this meeting. The information shall include: (a) the anticipated phasing of construction, (b) a preliminary schedule for each phase of construction, (c) a preliminary plan for the routing of construction trucks, and (d) planned measures to minimize off-site dirt and debris in accordance with applicable law. In addition, the Applicant shall provide the name, email address, and telephone number of a contact person responsible for managing construction activities on the Property to the Dranesville District Supervisor prior to the commencement of construction.
14. Signage. Signage for the Property will be provided in accordance with the requirements of Article 12 of the Zoning Ordinance. The Applicant reserves the right to file a Comprehensive Sign Plan at a later time in accordance with Sect. 12-210 of the Zoning Ordinance.
15. Hours. Trash pick-up, outdoor truck loading and unloading on the Property will be limited to the hours of 8:00 am – 5:00 pm (Monday through Friday) and 9:00 am – 5:00 pm (Saturday and Sunday).

16. Communication Committee. To ensure that there is a forum for on-going discussion during the Construction Period, which is defined by Proffer 20, the Applicant will form a Communications Committee and invite the President and Vice President of the Palladium Condominium Owners Association, the tenants on the Property, as well as the other abutting commercial property owners to be a part of the Committee. The Committee will meet periodically, on a schedule to be determined by Committee members during the Construction Period. The Dranesville District Supervisor's office will be informed of the schedule for these meetings.
17. Garage Windows. The windows at the 1<sup>st</sup> and 2<sup>nd</sup> floor levels of the garage and will be covered with opaque spandrel glass to prevent light spill from within the garage. Architectural screening will be installed at the 3<sup>rd</sup> floor of the garage allowing a diffusion of light and creating a soft glow at the window openings. Crash walls, light screening and diffusers will be implemented within the garage to prevent direct glare outside of the garage from car headlights inside of the garage.
18. Streetscape. The streetscape elements along Emerson Avenue, Lowell Avenue, and Old Dominion Drive, as shown on the CDP/FDP, will be implemented by the Applicant concurrently with the construction of the multi-family building.

## II. TRANSPORTATION

19. Bicycle Parking. The Applicant will provide areas for long-term parking (defined as more than 2 hours) and short-term (defined as less than 2 hours) bicycle parking for the multifamily building and for the commercial building. The existing bike rack in front of the commercial building, which can accommodate 10 bikes, will be maintained to satisfy the short-term bicycle parking requirement for both the multi-family and the commercial building. The long-term storage will be based upon a rate of 1 space for every 10 multifamily dwelling units. The long-term storage for the commercial building will be based on one space per 25,000 square feet or portion thereof for retail uses and one space per 10,000 square feet or portion thereof for office uses. The final location and style of the long-term bicycle parking/storage spaces and racks will be determined in consultation with the Fairfax County Department of Transportation Bicycle Coordinator or his/her designee prior to site plan approval the multifamily building.
20. Parking Plan. Prior to approval of the site plan, the Applicant will submit a Parking Plan to Land Development Services for review and approval by the Board of Supervisors. If approved by the Board of Supervisors, the Applicant will implement the parking plan for the time period beginning with the approval and issuance of the Land Disturbance Permit and ending with County's approval to utilize the proposed garage, or portion thereof, to meet the minimum parking requirements onsite for the existing commercial building (the "Construction Period") subject to any conditions imposed by the Board of Supervisors. It is noted that if the County does not approve the use of the garage prior to the issuance of the first residential use permit, then the Construction Period will end with the issuance of that residential use permit. The Parking Plan will provide the required number of parking



spaces for the existing uses as set forth by Article 11 of the Zoning Ordinance in a combination of on-site and/or off-site parking spaces which may include tandem and/or vehicle lift structures for the stacking and parking of vehicles as may be approved by the Board of Supervisors. The Applicant may seek a parking reduction from the Board of Supervisors if so justified by the unique characteristics of the site as established by the parking utilization study and/or provision of equivalent spaces through the Board of Supervisors' approved use of tandem or vehicle lift structures as part of the Parking Plan. The final elements of the parking plan are subject to the Board of Supervisors' approval and may include, but will not be limited to, a combination of the following parking management strategies:

- A parking utilization study to confirm current on-site parking needs by time of day, together with a parking study indicating all current uses on site and the corresponding parking requirements per the Zoning Ordinance. The results of the parking utilization study will be used in determining the number and location of spaces needed during construction period in addition to determining the Zoning Ordinance requirements for parking.
- Exhibits indicating number and location of on-site spaces which will be available for use on-site during each phase of construction. These exhibits will also indicate how the site will comply with the American with Disabilities Act (ADA) Virginia Uniform Statewide Building Code.
- Compliance with the County's on-site loading space requirements for the existing commercial building, unless waived or modified by the Board of Supervisors.
- Letters of intent which indicate that the Applicant has the right to use off-site parking spaces which, in combination with the spaces maintained on-site, will be sufficient to meet the parking requirements stipulated in the Zoning Ordinance for the uses on site.
- A map with radius and exact locations of off-site parking spaces with the hours of their availability which will be used to demonstrate the general walkability of certain off-site locations. Off-site parking spaces not served by parking attendants or shuttle/taxi service must generally be within a 500 foot walking path from the building entrance.
- A program to ensure that all construction workers, tradesmen, contractors, sub-contractors and any others associated with construction work on the Property do not park on the Property or on the immediately adjacent public streets but rather utilize a pre-determined and approved offsite location at all times with the exception of parking on a short term basis on the street frontages directly adjacent to the Property to facilitate the construction activities such as drop off or pick up of materials, tools, etc. If necessary, a shuttle will be provided to coordinate shift changes to and from the off-site parking area.
- Demonstration of a contract with a parking attendant/valet company in effect for the duration of the Construction Period. The parking plan will include the number of attendants necessary for different hours of the day to ensure efficient management of vehicles on-site and off-site.
- The requirement to post signs at the entrances to the existing office building, and at all entrances to the site warning of the possibility of towing if tenants or patrons park on adjacent properties.

- Demonstration of a contract with a local towing company in effect for the duration of the Construction Period.
  - A list of incentives to tenants and patrons to utilize taxis, car-sharing services, Metrobus and carpooling.
  - Utilization of the partial or full garage, as soon as feasible, for construction worker parking and cars parked by the valet service.
  - A commitment to apply for a separate Non-Residential Use Permit for the garage to enable parking by tenants and visitors, as soon as feasible.
  - A commitment to distribute a contact name, email and phone number to adjacent property owners to field complaints or concerns during the Construction Period.
21. Construction Trucks. The Applicant will prepare a plan for the routing of construction trucks, in accordance with applicable law, will provide such plan to the property owners and/or property owners associations in the immediate vicinity of the Property prior to the commencement of construction and will include such plan as part of the site plan. The Applicant will inform all contractors and subcontractors of the plan for the, routing of construction trucks and signs identifying such construction truck routes will be posted at all construction entrances on the Property.
22. TransitScreen. The Applicant will install and maintain a TransitScreen or other similar brand of real time transit information technology in the lobby or outside entrance way of the office building to keep tenants and visitors informed of all available transportation choices and to provide real time transportation updates.

### III. ENVIRONMENTAL

23. Green Building Practices. The Applicant will select one of the following programs to be implemented and will inform the Environment and Development Review Branch (EDRB) of the Department of Planning and Zoning which program has been chosen as part of the first site plan submission:
- Earthcraft. Certification of the residential building in accordance with the EarthCraft House Multifamily Program as demonstrated through documentation provided to EDRB prior to the issuance of the RUP for each dwelling unit.
  - 2015 National Green Building Standard (NGBS). Bronze Level Certification in accordance with 2015 NGBS using the ENERGY STAR® Qualified Homes path for energy performance as demonstrated through documentation submitted to EDRB from a Verifier certified through the Home Innovation Research Labs, that demonstrates that the dwelling unit has attained such Bronze Level certification prior to the issuance of the residential use permit (RUP) for each dwelling unit/building. To use an energy path other than ENERGY STAR, the dwelling unit must provide both the above reference certification documentation and additional documentation demonstrating equivalent or greater energy performance to the ENERGY STAR standard prior to the issuance of the RUP for each dwelling unit/building.

24. Landscaping. A landscape plan that shows, at a minimum, landscaping in conformance with the landscape design shown on the CDP/FDP will be submitted concurrently with the first submission, and all subsequent submissions of the site plan for review and approval by Urban Forest Management Division (UFMD), Department of Public Works and Environmental Services (DPWES). The Applicant will provide maintenance and replacement of landscaping, as necessary, until final Bond release, at which point the maintenance of all landscaping on the Property will be the responsibility of the applicable entity described in Proffer 5.

Landscaping will be generally consistent with the quality, quantity and the locations shown on the CDP/FDP and will be non-invasive, predominantly native species and improved cultivars. At the time of planting, the minimum caliper for deciduous trees will be two (2) inches to two and one-half (2.5) inches and the minimum height for evergreen trees will be six (6) feet. Actual types and species of vegetation will be determined pursuant to more detailed landscape plans approved by Urban Forestry Management Division (UFMD) at the time of site plan approval. The Applicant or Owner reserves the right to make minor modifications to such landscaping to reasonably accommodate utilities and other design considerations, as approved by UFMD, provided such relocated landscaping will retain a generally equivalent number of plantings as shown on the approved CDP/FDP.

25. Limits of Clearing and Grading. The Applicant will conform strictly to the limits of clearing and grading as shown on the CDP/FDP, subject to allowances specified in the proffers and for the installation of utilities and/or trails as determined necessary by the Director of DPWES, as described herein. If it is determined necessary to install utilities and/or trails/sidewalks in areas protected by the limits of clearing and grading as shown on the CDP/FDP, they will be located in the least disruptive manner necessary as determined by the UFMD, DPWES. A replanting plan will be developed and implemented, subject to approval by the UFMD, DPWES, for any areas protected by the limits of clearing and grading that must be disturbed for such utilities or trails/sidewalks.
26. Pre-Installation Meeting. Prior to the installation of plants to meet requirements of the approved landscape plan, the Applicant will coordinate a pre-installation meeting on site with the landscape contractor and a representative of UFMD. Any proposed changes to the location of plantings, size of trees/shrubs, and any proposed plant substitutions for species specified on the approved plan will be reviewed at this time and must be approved prior to planting. The installation of plants not specified on the approved plan, and not previously approved by UFMD, may require submission of a revision to the landscape plan or removal and replacement with approved material prior to bond release. UFMD will be contacted a minimum of three (3) days prior to the meeting on site.
27. Stormwater Management Facilities and Best Management Practices Stormwater management (SWM) will be provided as generally depicted on the CDP/FDP and as approved by LDS. The requirements for maintaining non-County maintained SWM improvements will be in a standard maintenance agreement between the County and the Applicant, its successor and assigns. This agreement will be recorded in the County land

records and run with the land. Should future County policy permit all or part of the SWM facilities on the Property to be eligible for County Maintenance, then the Applicant or the successor association pursuant to Proffer 5 may request County maintenance for eligible facilities.

28. Private Outdoor Amenity Area. The private outdoor amenity area located on top of a portion of the garage (shown as elevated plaza on the CDP/FDP) will include some combination of the following elements: artificial turf (open play area), grill stations/outdoor kitchen area, seating, trash receptacles, lighting, trellis or overhead structure, landscaping, fire pit, or other elements of similar quality.

#### IV. CONTRIBUTIONS

29. Workforce Dwelling Units. Workforce Dwelling Units. The Applicant also will provide for-sale housing units with the Proposed Development to be sold as Workforce Dwelling Units ("WDUs") administered as set forth in the "Board of Supervisors' Workforce Dwelling Unit Administrative Policy Guidelines" adopted on October 15, 2007, in effect as of the approval date of this Application (the "Policy Guidelines"), such that at the sole option of the Applicant either (i) a maximum of twelve percent (12%) of the total number of residential units constructed as part of the Proposed Development are sold as WDUs, or (ii) three 3 bedroom units are sold as WDUs. The Applicant shall exercise this option prior to approval of the Final Site Plan for the Proposed Development.

WDUs will be allocated to three approximately equal groupings or tiers: eighty percent (80%) of the Area Median Income ("AMI") for the Washington Standard Metropolitan Statistical Area as specified annually by the Department of Housing and Urban Development (HUD); one hundred percent (100%) of AMI and one hundred twenty percent (120%) of AMI.

30. Parks and Recreation. Pursuant to Section 6-110 of the Zoning Ordinance regarding developed recreational facilities, the Applicant or Owner will provide the recreational facilities to serve the Application Property as shown on the CDP/FDP. Installation of the features shown on the CDP/FDP will be deemed to fulfill the requirement of Sect. 6-110. In the event that the nature or extent of the features are altered so as to not be deemed to fulfill the requirements, the Applicant or Owner will contribute funds in the amount needed to achieve the overall proffered amount of \$1,900 per non-affordable residential unit to the Fairfax County Park Authority ("FCPA") for off-site recreational facilities and/or athletic field improvements intended to serve the future residents within the Dranesville District.
31. Public School Contribution. Prior to issuance of the first building permit for the multi-family building on the Property, the Applicant or Owner will contribute \$12,262 per expected student associated with the multi-family building to the Board of Supervisors for transfer to FCPS for capital improvements to Fairfax County public schools to address impacts on the school division resulting from the proposed multi-family building.

Such contributions will be adjusted on a pro rata basis if the number of units actually built is less than the maximum allowed under this rezoning. Following approval of this Application and prior to the Applicant's payment of the amount set forth in this Proffer, if Fairfax County should increase the ratio of students per unit or the amount of the contribution per student, the Applicant will increase the amount of the contribution for that phase of development to reflect the then-current contribution, not to exceed an increase of ten percent per year. In addition, notification will be given to FCPS when construction is anticipated to commence to assist FCPS by allowing for the timely projection of future students as a part of the Capital Improvement Program.

32. Recreation Contribution. Prior to the issuance of the first residential use permit for the multifamily dwelling units, the Applicant or Owner will contribute \$893 per resident based on the number of multifamily units as shown on the final approved building permit and the current published household size for the appropriate Planning District to the Fairfax County Park Authority for use at off-site recreational facilities intended to serve the future residents of the Dranesville District, as determined by the Fairfax County Park Authority in consultation with the Dranesville District Supervisor.
33. Contribution for Underground Utilities. Prior to the issuance of the first Residential Use Permit for the multi-family building, the Applicant will contribute \$450,000 to the Fairfax County Board of Supervisors to be utilized for the undergrounding of utility lines in the McLean CBC. Upon request of the County, the Applicant will grant a 15 foot wide easement to Dominion Virginia Power for a utility duct bank across the Old Dominion Drive frontage of the Property and will cooperate with, but will not be responsible for, the relocation or the cost of relocating any conflicting utilities, facilities, landscaping or structures of any kind in this easement area or otherwise impacted by the relocation of utilities within this easement area.
34. Escalation. All monetary contributions required by these proffers, with the exception of the proffer relating to the public school contribution, will escalate on a yearly basis from the base year of 2018, and change effective each January 1 thereafter, based on the Consumer Price Index as published by the Bureau of Labor Statistics, the U.S. Department of Labor for the Washington-Baltimore, MD-VA-DC-WV Consolidated Metropolitan Statistical Area (the "CPI"), as permitted by Virginia State Code Section 15.2-2303.3.3.

### **Successors and Assigns**

These proffers will bind and inure to the benefit of the Applicant or Owner and his/her successors and assigns.

**Counterparts**

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

TITLE OWNER AND APPLICANT SIGNATURES TO FOLLOW ON THE NEXT PAGE:

Benchmark Associates, LP  
Applicant and  
Title Owner of 30-2((9))73

BY: \_\_\_\_\_  
Printed Name: Charles W. Bassing, III

Title: Authorized Signatory for General Partners Charles W. Bassing, III and CWB Investments

Waivers and Modifications  
Benchmark – RZ/FDP 2017-DR-026  
October 4, 2018

- Waiver of Par. 1 of Sect. 6-407 of the Zoning Ordinance (ZO) to allow a district size of less than two acres in the PRM district.
- Modification of Sect. 11-201 and 11-203 of the ZO to permit a reduction in the required number of loading spaces to that shown on the CDP/FDP.
- Modification Sect. 17-201 of the ZO to permit the walkways shown on the CDP and FDP in place of any trails shown for the subject property on the Comprehensive Plan.



## **APPROVED FINAL DEVELOPMENT PLAN CONDITIONS**

**FDP 2017-DR-026**

**September 19, 2018**

The Planning Commission approved FDP 2017-DR-026, located at 6707 Old Dominion Drive, Tax Map 30-2 ((9)) 73, for mixed use development pursuant to Sect. 6-402 and 6-403 of the Fairfax County Zoning Ordinance, by requiring conformance with the following development conditions:

1. Development of the property must be in substantial conformance with the FDP entitled "6707 Old Dominion Drive, Conceptual/Final Development Plan", prepared by Walter L. Phillips, Inc., consisting of 36 sheets dated August 10, 2017, as revised through August 27, 2018.
2. The applicant will coordinate resident moving days to reduce the potential for conflicts with the provided loading space. In addition, the applicant will designate surface parking spaces prior to final site plan approval that could be used for temporary loading with prior approval from the applicant's property management staff.