MAT 9

PROFFERS

FDPA 84-P-129, PCA 84-P-129-2

May 3, 1989

Pursuant to Section 15.1-491 (a) Code of Virginia, 1950 edition as amended, subject to the Board of Supervisors approving the above-referenced Proffered Condition Amendment, the Applicant proffers the following:

1. The subject property shall be developed in accordance with the approved Conceptual Development Plan prepared by HOK, architects and planners, dated June 23, 1987, and Final Development Plans prepared by HOK, architects and planners, dated March 23, 1988, as revised.

2. The Applicant shall provide the following along the subject property's frontage as graphically illustrated in the attachment prepared by Barton-Aschman Associates, Inc. made a part hereof dated June 24, 1987.

a) Dedicate to the Board of Supervisors and convey in fee simple right-of-way measured 65.5 feet from existing center line of Gallows Road.

b) Subject to VDOT approval, Applicant will construct, in conjunction with the infrastructure improvements for this site, (a) a third through lane between the property's southern boundary line and the northern access road within the dedicated right of way, (b) a right turn lane on northbound Gallows Road extending from the southern boundary of the site to the southern access to the site, and (c) a right turn lane on northbound Gallows Road extending 250 feet to the northern access to the site. If this construction or any part thereof is not approved by VDOT, the Applicant will construct those improvements which are approved by VDOT at the time of initial infrastructure improvements and will, at the Applicant's election, provide either the remaining improvements at the time the Gallows Road bridge is widened to 6 lanes or provide an equivalent contribution to Fairfax County.

c) The Applicant shall provide the following on-site dedication and temporary easements along the frontage of Gallows Road between the site's north access road and the right of way of I-66:

o Dedicated right of way not to exceed 77 feet from center line for the slopes/grading required for the widening of Gallows Road to a six lane facility.

o Provide a temporary construction easement not to exceed 92 feet from the center line of Gallows Road.

d) Provide a stubbed vehicular connection to the east for future connection to Hartland Road, as shown on the FDP. This connection shall be constructed to the property line as a private street and shall be designed to meet the vertical alignment of a future, possible extension of Hartland Road.

e) Subject to VDOT approval, reconstruct the median in Gallows Road between the site's southern access road and the site's northern access road to provide a south bound left hand turn lane at the southern access road. This construction may require modification by the Applicant to the existing north bound left hand turn lane for WMATA's "kiss and ride" entrance.

f) Applicant shall provide signals at each of the two subject site entrances to Gallows Road when warrants are achieved and signals are approved by VDOT along with a signal along Prosperity Avenue at the entrance to WMATA's Park and Ride, all signals to be appropriately synchronized.

Dedication shall be provided on demand of Fairfax County and density for all on-site land areas dedicated for right of way shall be reserved pursuant to Section 2-308 of the Fairfax County Ordinance.

3. The use of mass transit, ride-sharing, and other transportation strategies to reduce single-occupant vehicular traffic generated by site development during peak periods shall be implemented to reduce peak hour trip generation. Lessees shall be advised of this transportation strategy Development Condition. The following transportation management strategies shall be implemented by the developer and/or the occupants of the building(s):

a) Voluntary car pool/van pool programs shall be established for employees occupying office space on the property, and the program shall be under the direction of a transportation director provided by the occupants of the buildings on site.

b) A program for matching car pool and van pool service shall be coordinated with various governmental agencies and other private employers in the immediate area.

c) Convenient parking in preferred locations shall be designated for car pool/van pool use.

d) Mass transit usage shall be encouraged and promoted by the transportation director, including the construction of bus stops and/or shelters (as required by mass transit service to the site) and/or pedestrian walkways linking access to adjacent properties.

e) Applicant will conduct a transportation analysis within six (6) months of occupancy of 50 percent of the subject property's second office building. In the event the projected trip generation rates set forth in the study by Barton-Aschman dated April 4, 1987, (as revised June 19, 1987) are exceeded, the Applicant shall undertake additional TSM techniques as necessary to achieve the said projected rate. If the rates are not accomplished at the 50 percent occupancy, the Applicant shall conduct a similar study at 75 percent occupancy with added TSMs implemented if necessary.

4. The Applicant shall develop the site in accordance with the Dunn Loring Metro Station Area section of the Comprehensive Plan for building heights, pedestrian circulation, open space, and landscaped buffers as illustrated in the adopted sector plan.

5. Applicant shall develop the property in conformance with the accompanying Landscape Plan prepared by HOK dated June 15, 1987, which indicates high quality site and architectural design, streetscape, urban design, and development amenities as approved by the County Arborist.

6. Applicant shall contribute Twenty-Five Thousand Dollars and No/100 ($25,000.00) to provide an environmental monitoring program for noise and air quality on the subject property upon approval of non-rups for at least 50 percent of the development of the subject property.

7. Applicant shall provide at grade pedestrian linkages connecting the subject site to the Dunn Loring Metro Station as shown on the FDP. The crossing shall include special pavement materials, marked pavement, traffic signals with pedestrian activated cycles, subject to VDOT approval.

8. Applicant and/or assigns shall provide the following options to promote affordable housing:

a) For those units built originally as rental units, the developer will make available, for a period of twelve (12) years, multifamily rental units for low and moderate income families in an amount equal to five percent (5%) of the total number of residential rental dwelling units Site Plan-approved on the subject property. Units reserved for occupancy by low income families will be two (2) bedroom apartments for which initial rents will be established at levels affordable to households at sixty percent (60%) of the median

b) In the event the Applicant proposes to provide elderly housing at a cost of ten percent (10%) below the median cost of the said project within the subject property, said elderly program shall, if approved by Fairfax County Redevelopment and Housing Authority be credited towards the fulfillment of conditions 8 a) and b) to the extent the authority deems it appropriate.

9. Storm water management facilities constructed on the subject property shall meet the standards and policies adopted in the Fairfax County Public Facilities Manual to meet Best Management Practices facilities (BMP) for the purpose of water quality protection.

10. Applicant shall construct the below listed off-site road improvements. In the event that the existing dedicated right of way will not accommodate those improvements, Applicant will use best efforts to acquire and request County to pursue advanced dedication and reservation of density. If the Applicant is unable to acquire the said right of way, the Applicant shall request the Board of Supervisors to condemn at the Applicant's sole expense. The Applicant shall provide the road improvements (as qualified by Proffer Number 31) consistent with the phasing schedule as set forth below:

a) Prior to the issuance of non-rups for the first office building the Applicant shall construct:

o An additional lane eastbound along Prosperity Avenue for a distance of 500 feet plus a 180 foot transition near the metro station opposite the southern access to the site. The Applicant will build any portion not already constructed by WMATA, subject to the approvals of both the Virginia Department of Transportation and WMATA.

b) Prior to issuance of non-rups for the third office building, the Applicant will construct a right turn lane on southbound Gallows Road to westbound Lee Highway.

o A right turn lane from westbound Lee Highway to northbound Gallows Road.

o A right turn lane from northbound Prosperity Avenue to eastbound Lee Highway.

c) After commencement of construction of the portion of the extension of Porter Road required to be performed by the owners of Parcel 52, or prior to issuance of any non-rups for the third office building, whichever shall first occur, the Applicant shall construct the extension of Porter Road from the southern boundary of parcel 52 to Lee Highway. This roadway shall consist of a minimum 48 foot road section from face of curb to face of curb within a 60 foot right of way. However, in the event that Fairfax County does not want the Applicant to commence construction on the above-referenced improvements, the Applicant will provide funds for the construction of that section to Fairfax County. The said funds shall be based upon an estimate from the Applicant's Civil Engineer of funds necessary to complete the said improvements as agreed to by Fairfax County.

d) In the event the improvements and the following further criteria as listed in subparagraphs a, b, and c are constructed by others, Applicant shall provide the monetary equivalent as determined by independent appraisers selected and hired by the Applicant and approved by Fairfax County.

e) In the event Fairfax County relieves the applicant of the obligations to provide off-site road improvements on Lee Highway as enumerated above (except for Porter Road) the applicant shall contribute a cash sum in the amount of Seven Hundred Fifty Thousand and no/100 Dollars ($750,000.00) to Fairfax County to be applied towards transportation improvements that affect the Merrifield area.

The above-referenced improvements and the following further criteria shall be subject to the approval of VDOT and the Fairfax Office of Transportation. All off-site improvements will utilize 11 foot wide travel lanes for all travel lanes from the center line to the face of curb. All proposed off-site turn lanes shall be a maximum of 200 feet in length with a 50 foot transitional taper. Applicant anticipates County assistance - for example, unless inconsistent with County policy, advanced density credits to the grantor to reduce the expense of acquiring necessary off-site rights of way - in taking measures to minimize off-site acquisition costs.

11. Height of the buildings shall be in accordance with the building heights as shown on the FDP. Specifically, the maximum height to the parapet wall of the parking structure for Building "B" along the eastern property line shall be approximately forty feet (40') in height above the grade of the property line closest to the southeast corner of the parking structure. No portion of the structure that exceeds forty feet (40') in height shall be visible from a point five feet above grade at the building shown on the FDP as the northern most building of Merrifield Village Apartments. The maximum height of the parapet wall of the parking structure to Building "C" along the eastern property line shall be approximately forty feet (40') above the average grade at the property line along the length of the said parking structure. No portion of this structure that exceeds forty feet (40') in height shall be visible from a point five feet above grade at the buildings in Merrifield Village Apartments located on the eastern side of Pleasantdale Road.

12. With regard to the office buildings, Applicant and/or assigns proffers, in order to achieve a maximum interior noise level of 50 dBA Ldn within that area impacted by highway noise from I-66, having levels between 70 and 75 dBA Ldn, buildings shall have the following acoustical attributes:

a) Exterior walls shall have a laboratory sound transmission class (STC) rating of at least 39.

b) Windows shall have an STC rating of at least 28. If windows function as the walls, then they shall have the STC rating specifications for exterior walls.

c) Adequate sealing measures and caulking between surfaces shall be provided.

With regard to the residential buildings, Applicant and/or assigns proffers, in order to achieve a maximum interior noise level of 45 dBA Ldn within that area impacted by highway noise from Gallows Road, having levels in excess of 65 dBA Ldn, shall have the following acoustical attributes:

a) Exterior walls shall have a laboratory sound transmission class (STC) rating of at least 39.

b) Windows shall have an laboratory STC rating of at least 28. If windows function as the walls, then they shall have the STC rating specifications for exterior walls.

c) Adequate sealing measures and caulking between surfaces shall be provided.

13. Residential units shall be constructed using material and techniques which merit recognition for the Northern Virginia Builders Energy Savers award program.

14. Applicant shall provide the following facade treatments for the buildings proposed on the subject site:

a) Offices building facades shall consist of construction materials consistent with the following: brick, pre-cast concrete, stone, and glass. Entries will be substantially in compliance with details submitted in the FDP graphics.

b) Residential building facades shall consist of construction materials consistent with architectural stucco (example: dry-vit), brick, and glass. First and second floors of exterior facades shall be architecturally detailed consistent with FDP graphics. Roofs shall be peaked in a residential style. Balconies and ground floor patios shall be provided.

c) Parking structure facades facing Gallows Road shall have architectural treatment compatible with adjacent office buildings (materials, color, and finish). All parking structure facades shall be architecturally treated to include building materials consisting of pre-cast concrete, brick, architecturally treated concrete, and architectural rail systems. Parking structure landscaping shall be designed consistent with landscaping guidelines adopted by Fairfax County.

15. A parking reduction plan in accordance with Section 11-102 of the Fairfax Zoning Ordinance has been proposed in recognition of the subject site's proximity to the Dunn Loring Metro Station. In the event the reduced parking plan is not approved, Applicant shall provide parking consistent with Fairfax County Zoning Ordinance within areas depicted in the FDP.

16. Applicant will construct a six foot barrier around the swimming pool in order to screen noise and visual impacts from the swimming pool to the properties located to the east. Hours of operation shall be limited to 9:00 a.m. to 9:00 p.m. Membership shall be limited to residents of the residential buildings and tenants of the office buildings.

17. Facade materials for the office buildings shall be architecturally compatible with the residential buildings. Roofs and penthouses of the office buildings will be architecturally treated (e.g. cornice treatments, sloping roofs, setbacks and parapets, etc.). If deemed necessary by DEM, the Planning Commission will review architectural materials at the time of site plan submission to determine architectural compatibility.

18. The Applicant shall honor the limits of clearing and grading as shown on the landscape plan.

19. Phasing - Applicant shall not obtain building permits for its third office building until construction has commenced on two (2) of the residential buildings. Commencement of construction shall be defined as structure in place with two (2) levels above grade.

20. Pursuant to Article 6 of the Zoning Ordinance, Applicant agrees to expend at least $300 per unit for developed recreational amenities on site, including the cost of a swimming pool complex, the common area room for the residents, and community center, if acceptable under the Zoning Ordinance.

21. The Applicant shall replace the existing eight inch sanitary sewer line with a 15 inch sewer line underneath I-495 concurrent with the construction of either the first office or residential building. No rups or non-rups shall be issued for either an office or residential building prior to the completion by the Applicant and acceptance of the sanitary sewer by Fairfax County. Applicant shall request DEM to establish a cost reimbursement program for any off-site sanitary sewer line improvements constructed by Applicant. The Applicant also agrees to pay any reimbursement fees for existing improvements of other sewer lines serving this project.

22. In addition to the transitional landscape screening as shown on the Final Development Plan, the Applicant will plant off-site a double row of staggered pines (or similar evergreens), an average of 6 feet in height, between Keystone Lane and the subject property along the eastern property line; and also between the Merrifield Village Apartments' buildings and the subject property along the southern property line. This proffer is subject to agreement to access by the owners of the Merrifield Village Apartments at no charge to the Applicant. Maintenance of the plant materials on the Merrifield Village Apartments' property shall be the responsibility of the Merrifield Village Apartments' owners.

23. The rear elevation of the residential buildings adjacent to the Merrifield Village Apartments shall be consistent in building materials and design with the front elevations of the said buildings. Provided, however, that specific design details may vary.

24. The Applicant shall provide public ingress and egress easements for all internal streets.

25. The Applicant shall take reasonable steps (including standard parking lot security measures and towing) to preclude long term parking by users of metro in parking areas on site necessary for use of the office, retail, and residential uses on the subject property.

26. The Applicant shall review its reduced parking application with the owners of the Merrifield Village Apartments or their appointed representatives.

27. Immediately upon completion of buildings C and D, the Applicant shall provide on-site pedestrian access from the east between buildings C and D. Immediately upon completion of the second phase of building E, the Applicant shall provide pedestrian access from the east through the opening between the buildings designated E on the FDP if previously requested by Merrifield Village Apartments' owners.

28. The Applicant shall enclose any trash containers behind buildings D and E with screen fencing or walls and to provide landscaping and a six foot high screen wall to screen loading areas along the southern and eastern property lines.

29. The Applicant will direct parking deck lighting along the eastern property line downward to minimize the impact of lighting on the adjacent residential apartment community.

30. The Applicant shall take necessary measures to assure security and prevent trespass during construction of the project.

31. If final costs of proffers numbered 2, 6, 7, 10, and 21 are less than three million dollars ($3,000,000.00), the Applicant will escrow with Fairfax County, the difference, as determined by Fairfax County, between such final costs and $3,000,000.00, for the design and/or construction of a grade separated interchange at the intersection of Gallows Road and Lee Highway. This payment will be made (a) upon completion and acceptance of the improvements required by the enumerated proffers (if constructed by Applicant) and payment of all sums required by those proffers to be paid to Fairfax County in escrow or otherwise, or (b) upon the issuance of non-rups for the third office building, whichever is earlier. Notwithstanding the foregoing, the Applicant shall provide the appropriate credit for the controller box and traffic signal poles located at Prosperity and Gallows Road and provided by others.

If the construction of the third office building does not start within 42 months after the completion and initial occupancy of the second office building, any of the $3,000,000.00 not escrowed and not reconciled with Fairfax County will escalate at a rate established as the C.C.I. in Engineering News Record.

APPLICANT/TITLE OWNER

By: Stephen M. Cumble, Trustee

CONTRACT PURCHASER

NVHOMES, L.P.

By: Stephen M. Cumble, Director of NVCompanies, Inc. as General Partner of NVHomes II, L.P., General Partner of NVRyan, L.P., General Partner of NVHomes Holding, L.P., General Partner of NVHomes, L.P.

FOR INFORMATION ONLY

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FOR INFORMATION ONLY

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PROFFERS - MAY 3, 1989

METRO PLACE AT DUNN LORING

PARCEL C-1 (PROPOSED PARCEL L)

PROVIDENCE DISTRICT
FAIRFAX COUNTY, VIRGINIA

DATE	1/99
SHEET	26 OF 35
FILE No.	PP-805

DATE	DESIGNER	NO.	DESCRIPTION	REV. BY	APPROVED	DATE
ENGINEER			REVISION APPROVED BY: DIVISION OF DESIGN REVIEW			

COMMONWEALTH OF VIRGINIA
R. LIN LEMON JR.
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5/1/97
PROFESSIONAL ENGINEER

ENGINEER'S SEAL & SIGNATURE

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PROFFERS

WESTBRIAR

METRO PLACE AT DUNN LORING
PARCEL C

PROVIDENCE DISTRICT FAIRFAX COUNTY, VIRGINIA

Drawn By	RMAC
Designed By	DEM
Checked By	SAM
Date	JANUARY 1997
Scale	NO SCALE
Plan Number	7462-SP-07
Zoned	PDH-40
SHEET	31A OF 31
File Number	SP-1898

Eld; sheet 26 of 35