

TOWN OF HERNDON, VIRGINIA

ORDINANCE

AUGUST 9, 2022

Ordinance- to approve DP #19-01, 593 Herndon Parkway, Parkview, a development plan in the Planned Development-Transit Oriented Core Zoning District with proffered conditions, to allow redevelopment of the site with mixed office, retail, and multi-family residential uses.

In adopting this Ordinance, the Town Council has considered the factors set out in 15.2-2284, Code of Virginia (1950) as amended.

BE IT ORDAINED by the Town Council of the Town of Herndon, Virginia that:

A. The zoning of the property described below, lying in the Town of Herndon, Fairfax County, Virginia, is amended to allow mixed office, retail, and residential use with a zoning ordinance modification as proposed in the Parkview Executive Center, Joint Venture, RLLP/Lerner Corporation/Christopher Consultants, LLC/KGD Architecture/Gorove-Slade, Inc/ McGuireWoods, LLP Generalized Development Plan dated June 21, 2022, as amended by the applicant's "Interim Promenade Exhibit" dated August 9, 2022, and the Proffer Statement dated August 8, 2022 of DP #19-01, and in accordance with Section 78-50.8 and 78-155.1 of the Town of Herndon Zoning Ordinance.

The property is shown in the above referenced Generalized Development Plan and described in the land records of Fairfax County in Deed Book 6039 on Page 62. The Fairfax County Tax Map Number is 0164-10-0007C and the total land area is 5.65 acres.

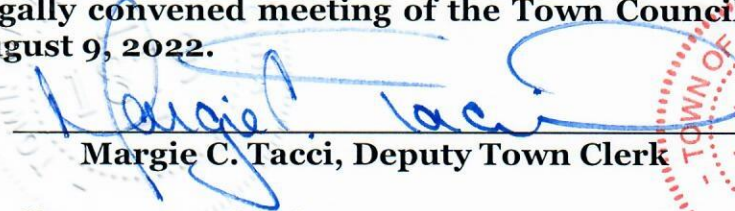
B. This rezoning shall be governed by this ordinance, the Town of Herndon Zoning Ordinance, the above referenced Proffer Statement for DP #19-01, and the above referenced Generalized Development Plan for DP #19-01, as amended by applicant's "Interim Promenade Exhibit" dated August 9, 2022. The Proffer Statement is included as an attachment to this ordinance. This Development Plan is consistent with the adopted 2030 Comprehensive Plan of the Town of Herndon.

C. The Town Council approves the following modification to the zoning regulations, as allowed under Section 78-50.2(d):


i. A modification to Section 78-100.2D to allow a reduction in the number of required loading spaces.

- D. As to the modification set out in item C. above, the Town Council finds that such modification will afford equal or greater assurance of meeting the goals of the zoning ordinance, Town of Herndon, Virginia, as set out in the preamble of that ordinance.
- E. This ordinance shall be effective on and after its adoption.

This is certified to be a true and accurate copy of Ordinance 22-O-20 adopted at a legally convened meeting of the Town Council of the Town of Herndon on August 9, 2022.



Margie C. Tacci, Deputy Town Clerk



Attached is the proffer statement dated August 5, 2022, executed/signed August 8, 2022 and identified as "Attachment 2."

Proffer Statement

Parkview Development Plan # 19-01

July 19, 2019

May 19, 2020

July 12, 2021

April 8, 2022

April 25, 2022

June 6, 2022

June 21, 2022

July 27, 2022

August 5, 2022

Pursuant to Section 15.2-2303 of the Code of Virginia (1950, as amended) and Section 78-50.8 of the Town of Herndon Zoning Ordinance, as amended, (the "Zoning Ordinance"), Parkview Executive Center, Joint Venture RRLP, the owner of the hereafter described property, for itself and its successors and/or assigns (referred to hereafter as the "Applicant"), hereby voluntarily proffers that the development (the "Development") of the parcel that is the subject of this application, which is shown on the Fairfax County 2022 Tax Map as parcel 16-4(10))7C (the "Property") shall be in substantial conformance with the conditions set forth below ("the Proffers") if and only if the Property is approved for development by the Town of Herndon (the "Town") as set forth in Applicant's development plan entitled Parkview DP# 19-01 prepared by Christopher Consultants dated June 21, 2022 (the "Development Plan") in the PD-TOC (Planned Development – Transit Oriented Core). It is noted that the development plan includes two options for redevelopment of the Property and the proffers below are applicable to both options unless specifically noted otherwise within the proffer.

GENERAL

1. Development Plan. The Property shall be developed in substantial conformance with the Development Plan (said Development Plan being attached hereto and made a part hereof as Exhibit A). It is understood by the Applicant that all other applicable regulations and policies governing land development within the Town shall apply to the Property and its development, unless specifically modified by the language of this approval and these Proffers. Minor modifications of the Development Plan may be permitted without the need for an Amendment to this approval when necessitated by final engineering and architectural plans or final site design provided that the development is in substantial conformance with the Development Plan and these Proffers. Substantial conformity shall be determined as provided in Section 78-155.1(f)(3)(d) of the Zoning Ordinance.

The Applicant may proceed with the approval of a unified commercial subdivision development plan without the need to amend these Proffers, provided the proposed

subdivision plan does not adversely impact the ability of the site to develop in accordance with the Development Plan and these proffers.

2. Architecture. The exterior architecture of all buildings and parking structures in the Development Plan shall be designed to create a unique sense of place and a cohesive identity, through the use of a variety of materials, colors and textures that are diverse yet complementary to one another in substantial conformity with that shown in the Development Plan and the HTOC Urban Design and Architectural Guidelines, as amended from time to time. Architectural plans may be revised subsequent to the final approval of the Development Plan and pursuant to approval by the Town Architectural Review Board (ARB). All garage facades shall be architecturally designed to integrate them into the overall project design through the use of complementary materials, textures, and colors while providing natural or mechanical ventilation. Screening measures, a conceptual example of which is shown on Sheets 17.5 and 32.5 of the Development Plan, shall be utilized for any exposed garage facades in the interim phases of development.
3. Uses. Any use or combination of uses permitted in the Town of Herndon Planned Development Transit Oriented Center District (“PD-TOC”) may be established on the Property as long as such use is in substantial conformance with the following density levels:
 - a. The total maximum floor area of any use or combination of uses shall be limited to 1,025,541 square feet (“Total Maximum Floor Area”) which is a floor area ratio (FAR) of 4.3.
 - b. Total gross floor area constructed for residential use shall not exceed 60% of the Total Maximum Floor Area.
 - c. In the mixed use option, total gross floor area constructed for office use shall not be less than the minimum shown on Sheet 4.1 of the Development Plan nor more than the Total Maximum Floor Area.
 - d. Total gross floor area constructed for retail use shall not be less than 7,500 square feet.
 - e. Subject to the Zoning Ordinance and provided that any temporary use or structure shall receive the requisite Town approvals, the Applicant, or its designee, is permitted to operate or hold festivals, fairs, farmers' markets, food trucks/carts or similar activities on the Property, either in the interim surface parking lots or within privately-owned open spaces, sidewalks and private streets. Portions of the private street network may be closed for such activities, provided that alternate circulation, garage and parking access is maintained.
4. Maintenance. The Applicant shall maintain all elements within the areas designated as Public Access Easements on the Development Plan. Maintenance commitments

include, but are not limited to: landscaping, hardscape, walls, streetscape furnishings, lighting, snow and leaf removal, trash, recycling and litter removal, and drainage facilities.

5. Declaration or Owner's Association. Prior to the approval by the Town of any subdivision of the Property, and subject to review and comment by the Town, the Applicant shall record one or more declaration of covenants of a form and substance appropriate to address, among other things, responsibility for the various proffer and maintenance obligations set forth in the Development Plan and these proffers, including the maintenance of certain streets, bicycle facilities, associated sidewalks and streetscapes, the elements within Public Access Easements, as well as funding implementation and monitoring of the TDM Program, hereinafter defined in Proffer 14 (collectively referred to as the "Governance Documents"). The entirety of the Property shall ultimately be governed by such Governance Documents and purchasers of land or buildings shall be advised of these obligations as part of the contract of sale. At the Applicant's election, the Governance Documents may include multiple declarations of covenants that may include an Umbrella Owners Association and/or individual associations or sub associations that are specific to individual subdivided parcels. Such parcel specific associations or sub associations may be created and recorded as further subdivision of the property occurs.
6. Phasing. The Applicant shall construct the streets and provide pedestrian improvements, private amenities and road improvements as shown on the Phasing Exhibits Sheets 5.1 through 5.7A and Sheets 21.1 through 21.7A and as further specified in Proffers 14, 15, and 16.

If construction of the streetscape improvements along the Property's Herndon Parkway frontage, as shown on Sheets 5.8 and 21.8 of the Development Plan, has not commenced by fifteen (15) years from the date of the approval of the Development Plan, the Applicant shall grant a temporary construction easement and maintenance easement to the Town of Herndon of sufficient duration so as to reasonably allow the construction of said streetscape by the Town. The language of said easements shall be mutually agreed upon between the Applicant and the Town. The Applicant's obligation under this proffer does not include any responsibility for the removal of vegetation and/or other impediments in the easement area, including but not limited to, the relocation of the existing transformers or any existing underground utilities. Any proposed relocation of the transformers, or any other infrastructure to other portions of the Applicant's property shall be subject to review and approval by the Applicant, which shall not be unreasonably withheld. The Applicant shall have no responsibility for any permits or Town approvals related to such relocation work. Similarly, the Applicant shall not be responsible for any amendments to prior site plan or rezoning approvals that might be deemed necessary by the Town for work by others in the easement areas.

Development may proceed in any order provided that each building provides the

infrastructure improvements and elements depicted on such Phasing Exhibits. Adjustments to the phasing boundaries shown in the Development Plan may be approved with specific site plan approvals provided that the adjustments do not materially adversely affect the ability to construct such infrastructure improvements and elements in other phases.

7. Car Pull-Off Area. The Future Car Pull-Off area along the front facade of Building C (identified on Sheet 5.9 of the Development Plan as “Future Car Pull-Off”) will be completed and open for use prior to the Applicant’s demolition of the current Car Pull-Off area constructed by the Town (identified on Sheet 3.0 of the Development Plan as “Current Car Pull-Off”). Subject to requisite approvals from the Town, a portion of the Current Car Pull-Off will have to be closed during construction of the Future Car Pull-Off because of a small overlap in the two locations. The Applicant reserves the right to re-route pedestrian traffic during construction in accordance with an approved Maintenance of Traffic Plan.
8. Herndon Identity. The Applicant shall install an information kiosk on the Promenade, as shown on Sheets 5.8 and 21.8 of the Development Plan. While the Applicant will retain the ability to program the kiosk, it shall be made available to the Town, at no cost and with prior approval by the Applicant, for the advertisement of Town events. The Applicant shall also incorporate other elements within and/or adjacent to the Promenade which reflect Herndon’s identity. Sheets 17.5 and 32.5 of the Development Plan provide several possible methods and features to meet this goal, in addition to depicting the information kiosk. The Applicant reserves the right to work with the ARB during the appropriate site plan phase to determine the final selection of these elements, as well as the final design for the information kiosk. These additional elements may include those shown on Sheets 17.5 and 32.5 of the Development Plan or other elements of similar quality and intent.
9. Private Amenities. Private amenity areas are depicted for each development option on Sheets 9.0 and 25.0 of the Development Plan. Precedent images, the purpose of which is to illustrate the quality and breath of amenity, are also included on Sheets 17.2 and 32.2 of the Development Plan. The Applicant reserves the right to determine the type of amenity to be provided within each area at the time of site plan.
10. Activated Promenade. The Promenade frontages of Buildings A and C shall be occupied predominantly by retail/commercial/restaurant uses with the remainder being lobbies or activate amenity uses such as a fitness center.
11. Sustainable Practices. The Applicant shall utilize, in concept, the sustainable practices shown on Sheets 17.4 and 32.4 of the Development Plan. The Applicant reserves the right to incorporate/substitute other sustainable practices at the time of site plan approval, as approved by the Town.
12. Open Space. The Applicant shall not erect, without the prior written approval of the Zoning Administrator, any fencing, signage, barriers or other structures, nor

inact operational restrictions that would permanently prohibit public pedestrian access through the ground level common areas, defined as hard- or soft-scape areas between the buildings and the sidewalk along the southern access road. This proffer shall not prevent or limit the Applicant's ability to prevent use of the ground level common areas and vehicular passageways as a "de facto Kiss and Ride" nor prevent or limit its ability to manage and/or operate the ground level common areas to ensure proper maintenance and/or the protection, health, welfare and safety of the Property, its tenants, business invitees and/or otherwise exercise its property rights. Similarly, this proffer does not preclude reasonably limiting or prohibiting access on a short term or interim basis as may be needed in connection with tenant, resident, or owner specific activities or events.

13. Existing Development. The Property is currently developed with a commercial office building and an associated surface parking lot as shown on Sheet 3 of the Development Plan (the "Existing Condition"). The Applicant may obtain building permits for internal improvements and obtain Certificates of Occupancy for any non-residential permitted use in the PD-TOC zoning district for the Existing Condition. Provided the required approval is obtained, building permits for internal improvements and Certificates of Occupancy may also be obtained for any uses permitted by special exception in the PD-TOC zoning district for the Existing Condition. The provisions of this proffer are voided upon commencement of construction of whichever phase is first of the options shown on Sheets 5.1 and 21.1 of the Development Plan. If portions of the parking lots or landscaping become the property of and are removed by the Town for the construction of either Worldgate Drive extended and its associated streetscape, Herndon Parkway and its associated streetscape or the Promenade, the Existing Condition shall not be deemed non-conforming with respect to parking ratio, building setback, site lighting, or required landscaping.

TRANSPORTATION

14. Transportation Demand Management. This Proffer sets forth the programmatic elements of a transportation demand management program (the "TDM Program") that shall be implemented by the Applicant to encourage the use of transit (Metrorail, Fairfax Connector, Metro bus, or other public transit service), other high-occupant vehicle commuting modes, walking, biking and teleworking, all in order to reduce automobile trips generated by the multi-family units and the office uses constructed on the Property. The proffered elements of the TDM Program will be implemented through a Transportation Demand Management Work Plan (the "TDM Work Plan") developed by the Applicant with input from and approval by the Town of Herndon Department of Community Development. This TDM Work Plan shall be submitted for approval prior to approval of the first site plan on the Property. It is the intent of this Proffer that the TDM Work Plan will be adapted over time to respond to changing transportation-related circumstances of the

Property, the surrounding community and region, as well as to technological and/or other improvements. The Applicant's TDM Work Plan has the objective of meeting the trip reduction goals for single occupancy vehicles measured at the peak AM/PM hours by 35% for residential uses and 25% for office uses.

The TDM Work Plan shall incorporate any combination of the following elements:

- a. Appointment of a TDM Program Manager
 - b. Contributions to resident and employee Metro fare cards.
 - c. Dissemination of Transportation Program Information
 - d. Ride sharing and carpool parking spaces.
 - e. Bicycle racks and bicycle share stations.
 - f. Bicycle storage rooms and office tenant shower and changing rooms.
 - g. Program monitoring to include surveys and/or vehicular traffic counts
15. Parking. Parking shall be provided in phases concurrent with development of the Property and in substantial conformance with the Development Plan and these Proffers. Notwithstanding the above, Applicant reserves the right to provide parking at revised ratios as may be permitted at time of site plan by the Town of Herndon Zoning Ordinances so long as it does not result in an additional parking deck level or the replacement of active floor area; or may seek future parking reductions for the Property as permitted by the Town of Herndon Zoning Ordinance, neither of which shall require a Development Plan amendment.
16. Promenade. The portions of the Promenade adjacent to Building A and Building C shall be constructed in the ultimate condition prior to the issuance of the first certificate of occupancy for the respective building as shown on Phasing Sheets 5.2, 5.4, 21.2, and 21.4 of the Development Plan. At the same time, the interim condition for the remainder of the Promenade, as shown on the same sheets, shall be constructed. The Applicant shall dedicate to the Town of Herndon, at no cost to the Town, in fee simple a ten (10) foot wide area and grant, at no cost to the Town, a Public Access Easement over a 14 foot wide area of the Promenade, both as shown on Sheets 8.1 and 24.1 of the Development Plan for the ultimate condition. The dedication and public access easement conveyances shall be granted prior to the approval of a site plan for either Building A or C.
17. Herndon Parkway. The Applicant shall install the streetscape along the Property's Herndon Parkway frontage, as shown on Sheets 5.8, 6.0, 21.8 and 22 of the Development Plan prior to the issuance of a certificate of occupancy for Building B or C, whichever is constructed first. The Applicant shall grant, at no cost to the Town, a Streetscape Easement as shown on Sheets 8.1 and 24.1 of the Development Plan along the Herndon Parkway prior to the issuance of the first site plan for Building B or C, whichever occurs first. At no public cost, the Applicant shall also dedicate in fee simple the area along the frontage of Building C for the Future Car Pull Off as shown on Sheets 8.1 and 24.1. The fee simple dedication shall be

granted prior to the approval of a site plan for the first of either Building B or C. The Applicant reserves future density credit from the Right-of-Way dedication in accordance with the terms and conditions of Zoning Ordinance Section 78-155.9 in effect as of the date of the approval of these Proffers.

18. Worldgate Drive Extended.

a. Interim Condition.

Prior to the issuance of a certificate of occupancy for Building B, the Applicant shall construct and install the streetscape to include curb, gutter, sidewalks and landscaping along the Property's western boundary and shall construct the on-site interim road improvements as shown on Sheets 6.0 and 22.0 of the Development Plan (half-section of Worldgate Drive Extended). The Applicant shall also grant a public access easement to the Town of Herndon at no public cost extending over the sidewalk along the Property's western boundary as shown on Sheets 8.1 and 24.1 of the Development Plan prior to site plan approval for Building B.

b. Ultimate Condition.

1) The Applicant shall:

- dedicate in fee simple to the Town of Herndon at no public cost, the right-of-way area shown on Sheets 8.1 and 24.1 of the Development Plan along the western boundary of the Property,
- grant, at no public cost any necessary temporary grading and construction easements to facilitate full build-out of Worldgate Drive Extended
- grant, at no public cost, streetscape and public access easements over the sidewalk and streetscape landscaping along Worldgate Drive Extended or the land where such improvements will be if they are not yet installed
- grant, at no public cost, grading and construction easements which are necessary to effectuate an appropriate intersection of the southern access road and Worldgate Drive Extended.

Provided the ultimate configuration of the entirety of Worldgate Drive Extended is fully designed, the necessary plans, permits and any other approvals for pre-construction have been obtained and the Town has otherwise acquired the remaining right-of-way needed to complete Worldgate Drive Extended, with the exception of the subject property, the Applicant will file, with the Town, the necessary deed(s) and plat(s) associated with the above referenced dedication and easements within 60 days of a written request by the Town.

- 2) Should it occur that the Town or others constructs Worldgate Drive Extended prior to the Applicant constructing their half-section, the construction will not result in nonconformities nor the loss of density or uses permitted by this Development Plan, nor prohibit the design and construction of Building B as approved by this Development Plan.
- 3) The Applicant reserves future density credit from the above described right-of-way dedication in accordance with the terms and conditions of Zoning Ordinance Section 78-155.9 in effect as of the date of the approval of these Proffers. The Applicant shall not be responsible for any road improvements necessary to facilitate full build-out of Worldgate Drive extended as it relates to the off-site half-section to be constructed by others.
19. Southern Access Road. In the event a development plan is filed and in the review process for the redevelopment of the property located at Tax Map 1602((2))25A and 26A1 (herein the “Adjacent Property”), the Applicant shall, in good faith, work with and/or negotiate with the owner of the Adjacent Property and the Town regarding a possible reorientation of the southern access road shown on the Parkview Development Plan to better and more logically serve both the Subject Property and the Adjacent Property based on the development, uses and tenancies reflected in, or otherwise associated with the approved development plans.
- Any relocation of the southern access road is dependent on the Applicant and the Adjacent Owner mutually arriving at a private written Agreement with respect to the configuration of the road and how construction cost and future maintenance is to be allocated.
- In the event that, for any reason, the Applicant and Adjacent Owner fail to arrive at a mutually acceptable Agreement prior to the approval of the development plan for the Adjacent Property, there shall be no further obligation under this proffer.
20. Metro and Town of Herndon Maintenance Vehicle Access. As shown the Phasing Sheets of the Development Plan for each phase of development, the Applicant will grant, at no cost to the Town, access easements to ensure that Metro and Town of Herndon maintenance vehicles have access to the station area.
21. Traffic Signal. Concurrent with the submission of each site plan for the Property, the Applicant shall submit a signal justification report for a potential traffic signal at the intersection of Herndon Parkway and Worldgate Drive Extended. If such signal is warranted based on the above referenced signal justification report, the Applicant shall install the signal prior to the issuance of the first certificate of occupancy for the building that generated such signal requirement, unless such signal has been previously installed by others (in which case the Applicant shall have no further obligation to construct or provide such report). Any monies contributed toward the installation of the signal by others may be utilized by the

Applicant for the installation of such signal.

22. Signal Timing Modification. Subject to submittal of an application by Applicant and the prior approval by the Town of Herndon, the Applicant will, to extent reasonably possible, implement signal timing modifications to the existing traffic signal at the intersections of Herndon Parkway and Van Buren Street and Herndon Parkway and Spring Street, prior to the issuance of the certificate of occupancy for the last building in the full build-out condition.
23. Micro-Mobility Vehicles. At the time of site plan review, the Applicant shall designate an area of the ground level private open space for the parking of micro-mobility vehicles.

ENVIRONMENT

24. Green Building.
 - a. Residential Building Certifications. The Applicant shall design and construct each residential building to achieve either LEED v4 New Construction or Multifamily Midrise Certification from U.S. Green Building Council, Multifamily Building Certification from National Green Building Standard (NGBS), EarthCraft Multifamily Certification, or an equivalent green building program to be chosen by the Applicant and approved by the Zoning Administrator.
 - b. Office Building Certification. The Applicant shall design and construct the office building to achieve either LEED v4 Core and Shell Silver Certification from U.S. Green Building Council, or an equivalent green building program to be chosen by the Applicant and approved by the Zoning Administrator.
 - c. The Applicant shall include, at the time of application for a building permit for each building, a list of specific credits or design elements incorporated into the building design using the then current documentation of the selected green building program for each building.
 - d. The Applicant shall meet with the Town following application for each site plan to coordinate green building strategies and priority credits.
 - e. The Applicant shall install at least 4 electric vehicle charging stations within the garage for each building.
25. Interior Noise Attenuation. The Applicant shall submit a highway noise study, prepared by a qualified acoustical consultant, at the time of each building permit submission to determine what if any noise attenuation measures are needed to

achieve Day-Night Average Sound Levels (DNL) of no more than 45 dBA for interior residential uses or hotel uses and no more than 55 dBA for interior office uses. Based on the findings of the studies, the Applicant shall incorporate the appropriate noise attenuation elements into the design and construction documents to achieve no more than the DNL set forth in the preceding sentence.

26. Stormwater Management. Bio-retention or other Low Impact Development facilities (“LID”) shall be provided as shown on Sheets 14.1 and 29.1 of the Development Plan. Such LID facilities may include, but shall not be limited to: Filterra, StormFilter, or BayFilter devices, bio retention facilities/rain gardens, sheet flow to vegetated buffers, or any alternative LID practice proposed by the Applicant, deemed by the Town to be acceptable and permitted by State regulations.
27. Trash Service. The development shall be served by a private trash and recycling service.
28. Dog Waste Stations. The Applicant shall install and maintain a minimum of two (2) dog waste stations, with disposal bags and a trash can, on the Property.

CONTRIBUTIONS

29. Offsite Recreation Contribution. The Applicant shall make a per gross square foot contribution payment of \$0.35 to the Town for offsite recreation improvements for residential Gross Floor Area (“GFA”) and \$0.15 for offsite recreation improvements for non-residential GFA prior to the issuance of the first certificate of occupancy for each phase based on the actual GFA of the building constructed. Such funds shall be used for the improvements of Town recreational facilities in locations that logically serve the approved development and the HTOC area.
30. Recreation/Community Amenities/Civic Facilities. Prior to the issuance of a certificate of occupancy for each residential building, the Applicant shall demonstrate that the total value of any proposed recreational on-site private amenities/community amenities/civic facilities and improvements are equivalent to a minimum of \$1,900.00 per residential unit (“Minimum On-Site Amenity Value”). The Minimum On-Site Amenity Value calculation shall include the cost of all amenities offered residents such as, but not limited to, benches and seating, outdoor seating and gathering areas, fitness centers, community rooms, theaters, swimming pools, decks, artwork, fire pits, trellises and other amenities. The Applicant shall submit the verification of the Minimum On-Site Amenity Value to the Town as provided by its general contractor and/or vendors. In the event it is demonstrated that the proposed facilities do not meet the required Minimum On-Site Amenity Value, the Applicant shall provide the remainder in a cash contribution to the Town for use on recreational facilities in the Town.
31. School Contribution. Per the Residential Development Criteria Implementation

Motion adopted by the Fairfax County Board of Supervisors on January 7, 2003, as amended, prior to the issuance of a certificate of occupancy for each residential building, the Applicant will contribute funds to the Board of Supervisors for transfer to the Fairfax County School Board at an assumed rate of 0.062 students per unit for elementary school, 0.019 students per unit for middle school, 0.031 students per unit for high school multiplied by \$12,262.00 per student generated to be used for capital improvements and capacity enhancements to schools that serve the Town. The contributions will be based on the actual number of residential units constructed, as the total amount may vary. Following approval of this Development Plan and prior to the Applicant's payment of the amount(s) set forth in this Proffer, if the Fairfax County Board of Supervisors should modify the ratio of students per unit or the amount of the contribution per student, the Applicant will pay the modified contribution amount for that phase of development to reflect the then current ratio and/or contribution. Prior to beginning construction, the Applicant will notify Fairfax County Public Schools of the intended construction and anticipated completion date.

32. Fire Department Contribution. The Applicant shall contribute a total of \$10,000.00 to the Fairfax County Fire and Rescue Department towards the cost of preemptive devices within a two-mile radius of the Property. The contribution shall be paid in full prior to building permit approval for the first building to be constructed on the Property.
33. Public Safety. The Applicant shall contribute a total of \$25,000 to the Town of Herndon prior to the issuance of a certificate of occupancy for the first building on the Property. The Applicant shall also ensure that there are two (2) parking spaces in one of the garages dedicated to police vehicle parking. The spaces shall be signed to allow police vehicle parking only.
34. Escalation. All monetary contributions required by these proffers, with the exception of the proffer related to the school contribution, shall escalate on a yearly basis from the base year of 2022 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, as permitted by Virginia State Code 15.2-2303.3.3.

Successors and Assigns

These Proffers shall bind and inure to the benefit of the Applicant and its successors and assigns.

TITLE OWNER/APPLICANT SIGNATURE TO FOLLOW ON THE NEXT PAGE:

Parkview Executive Center, Joint Venture RRLP
By: Lerner Enterprises, LLC
Its managing venturer

Title Owner of 16-4((10))7C

JDP JDP

By: [Signature]

Name: Mark D. Lerner

Title: Manager

State
COMMONWEALTH OF Maryland
CITY/COUNTY OF Montgomery, to-wit:

The foregoing instrument was acknowledged before me this 8th day of August, 2022
by Mark D. Lerner as Manager of and on behalf of Lerner Enterprises, LLC
managing venturer

Joseph Patrick May
NOTARY PUBLIC
MONTGOMERY COUNTY, MARYLAND
MARYLAND
MY COMMISSION EXPIRES 11/29/2025

[Signature]
Notary Public

Notary Registration No: N/A

My Commission Expires: 11.29.25