

## **SUMMARY OF COMMITMENTS**

### **NORTHFAX JV LLC**

### **ZONING MAP AMENDMENT**

### **Z-20-00006**

**June 1, 2020**

Pursuant to Section 15.2-2303(a) of the *Code of Virginia*, 1950, as amended, and Section 6.4.10 of the Zoning Ordinance of the City of Fairfax, Virginia (the “Zoning Ordinance”), Northfax JV LLC, for itself, the owners, and successors and/or assigns (collectively, "the Applicant") in Z-20-00006 filed on property identified on the City of Fairfax tax map as 57-2-02-003, 57-2-02-005, 57-2-02-017, 57-2-02-018, 57-2-02-019, 57-2-02-020, 57-2-07-015-B, 57-2-08-005, 57-2-08-006, 57-2-08-007, 57-2-08-008, 57-2-08-010, 57-2-08-011, 57-2-08-012, 57-2-08-013, 57-2-08-014, 57-2-47-000-A, and portions of right-of-way to be vacated and/or abandoned (hereinafter collectively referred to as the "Application Property") hereby commits to the following, provided that the City Council approves a rezoning of the Application Property from the CR and RM Districts to the PD-M District in conjunction with a Master Development Plan for the development of up to fifty-six (56) townhouses as well as a senior living facility with up to two hundred (200) age-restricted units (the “Senior Living Building”). The Master Development Plan also includes an area designated as the “Future Development Parcel.” In the event this rezoning is denied by the City Council, these commitments shall immediately become null and void. At such time as the uses for the Future Development Parcel have been determined, the Applicant will request an amendment to the approved Master Development Plan for review and approval by the City Council.

1. **MASTER DEVELOPMENT PLAN.** Development of the Application Property shall be in substantial conformance with the Master Development Plan, prepared by Christopher Consultants, Ltd., consisting of thirty-five (35) sheets, dated January 3, 2020, as amended through June 1, 2020 (the “MDP”). Minor modifications to site design and improvements shown on the MDP based on final engineering and design may be permitted, subject to the approval of the Zoning Administrator.
2. **PHASING.** The Application Property will be developed in four phases as follows:
  - A. **Phase One – Construction of a storm drainage culvert, utility relocations, the realignment of Orchard Street, and the following improvements on the Future Development Parcel as shown on the MDP:** (i) a multi-use trail and temporary landscaping along Chain Bridge Road, including the replacement of light fixtures within the existing streetlight poles on the Application Property’s Chain Bridge Road frontage with LED lights, if not already replaced by others, and (ii) temporary landscaping to extend the linear park on the south side of Orchard Street across the frontage of the Future Development Parcel.

- B. Phase Two – Construction of 56 townhouses and associated infrastructure, including an eight-foot wide trail in the northwest portion of the Application Property, and a linear park on the north side of Orchard Street as shown on the MDP.
  - C. Phase Three – Construction of a senior living building, as defined below, and associated infrastructure, as shown on the MDP. Phase Three may precede, be concurrent with, or follow Phase Two.
  - D. Phase Four – Construction of the Future Development Parcel, which will require approval of an amendment to the MDP by the City Council. Said amendment to be submitted solely on the Future Development Parcel without any requirement for the consent or joinder of the owners of any portions of Phases One, Two and Three of the Application Property, unless the amendment to the MDP for Phase Four requires a modification to Phase Two and/or Phase Three, in which event the consent of the applicable property owner(s) will be required.
3. PHASE TWO AND PHASE THREE USES. The use of the Application Property shall be limited in Phase Two to townhouses, and in Phase Three to a Senior Living Building comprised of age-restricted independent living units, each with a full kitchen, assisted living units, and memory care units. The City of Fairfax Zoning Ordinance does not include independent living or memory care as defined uses, so these uses, as referenced in these Commitments, are classified as congregate living facility and assisted living, respectively.
4. RIGHT OF WAY VACATION AND DEDICATION. At time of final site plan approval and pursuant to an exhibit, titled “Parcel Consolidation, Proposed Right of Way Vacation, Right of Way Dedication, Easements Vacated, Created and to be Quitclaimed, and Subdivision,” prepared by Christopher Consultants, Ltd., the Applicant, with the consent of the City of Fairfax, shall vacate and/or abandon portions of existing right-of-way known as Orchard Street and the Applicant shall dedicate right-of-way for Orchard Street Realigned and the portion of Farr Avenue Extension located on the Application Property, consistent with the improvements shown on Sheets 4 and 4A of the MDP, subject to review and approval of the Director of the City of Fairfax Department of Public Works (the "DPW"). The Applicant reserves the right to make modifications to Orchard Street Realigned from what is shown on the MDP based upon and coordinated with the final design of the Northfax West Roadway Project/Farr Avenue Extension by the City of Fairfax. The dedication of the right-of-way for that portion of Farr Avenue Extension located on the Application Property will be coordinated with the City of Fairfax and the right-of-way requirements of the Northfax West Road Project.
5. FARR AVENUE EXTENSION. Farr Avenue Extension is shown on the MDP to be constructed by others. It is anticipated that the construction of the Farr Avenue Extension will be performed by the City of Fairfax as part of the Northfax West Roadway Project. In the event the proposed Farr Avenue Extension is not completed by the City of Fairfax or

others, the Applicant reserves the right to construct the Farr Avenue Extension located on the Application Property at its own cost and expense, as generally depicted on the MDP.

6. **PUBLIC IMPROVEMENT PLAN.** To implement Phase One of development as defined in Commitment 2.A., the Applicant will submit and receive approval of a Public Improvement Plan (the “PI Plan”) by DPW. The PI Plan will include easements and improvements as specified for Phase One as defined in Commitment 2.A. The Applicant will construct the improvements shown on the PI Plan prior to commencement of construction of any other improvements on the Application Property.
7. **ORCHARD STREET REALIGNED IMPROVEMENTS.** In coordination with DPW, the Applicant will design and construct Orchard Street Realigned to connect to the proposed Farr Avenue Extension that will be constructed by others, as shown on the MDP, and in accordance with the following:
  - A. The street design on the north side of Orchard Street Realigned will include a 6-foot wide concrete sidewalk, a 4-foot wide planting strip (including curb), an 8-foot wide strip for parallel parking with curb and gutter, a 5-foot wide bicycle lane, a 10-foot drive aisle, and LED streetlights as depicted on the MDP.
  - B. The street design on the south side of Orchard Street Realigned will include a 6-foot wide concrete sidewalk, a 4-foot wide planting strip (including curb), an 8-foot wide strip for parallel parking with curb and gutter, a 5-foot wide bicycle lane, a 10-foot drive aisle, and LED streetlights as depicted on the MDP.
  - C. Three (3) painted crosswalks mid-block on Orchard Street Realigned will be installed as shown on the MDP, including ADA curb ramps on all sides, as may be necessary.
  - D. Two (2) painted crosswalks on Orchard Street Realigned at the Farr Avenue Extension will be installed on the north and east sides of the intersection, as shown on the MDP, including ADA curb ramps on all sides, as may be necessary.
8. **LINEAR PARK.** Concurrent with Phase Two, as defined in Commitment 2.B., the Applicant will install an eight to nine foot wide linear park between the north side of Orchard Street Realigned right-of-way and the townhouses as shown on the MDP. Said linear park shall include plantings, benches, and stormwater management planter boxes, as shown on the MDP.
9. **CHAIN BRIDGE ROAD FRONTAGE IMPROVEMENTS.** Consistent with Commitment 2.A., the Applicant will install a multi-use trail along the Application Property’s Chain Bridge Road frontage, as shown on the MDP. As shown on the MDP, the multi-use trail shall generally be ten (10) feet in width that transitions to an existing six (6) foot wide sidewalk toward the southern end of the Application Property’s Chain Bridge Road frontage

and terminates at an existing curb cut toward the northern end of the Application Property's Chain Bridge Road frontage just south of Orchard Street.

10. UTILITIES. The Applicant will install all new on-site utilities underground that serve Phase Two and Phase Three. An overhead utility pole along the north side of Orchard Street in an existing easement or existing right-of-way of Orchard Street will be relocated by the Applicant to the southwestern corner of the adjacent office building property (3554 Chain Bridge Road) and maintained above ground, and a new terminal pole added off-site to serve the Application Property and the office building at 3554 Chain Bridge Road. Existing above ground utilities located on and/or serving existing structures on the Future Development Parcel will be maintained above ground until such time as the development of this parcel and the undergrounding of these utilities is addressed as part of the amendment to the MDP for Phase Four as defined in Commitment 2.D.
11. UMBRELLA OWNERS ASSOCIATION. In addition to a homeowners association (HOA) established for the townhouse community, the Applicant shall form an umbrella owners association (UOA) for the Application Property. The UOA shall be organized and governed in accordance with Virginia law. The members of the UOA shall be the HOA established for the townhouse community, the owner of the Senior Living Building, and the owner(s) of the Future Development Parcel, including any owners associations created in conjunction with future improvements built on the Future Development Parcel. Maintenance obligations shall be assigned to the HOA, the owner of the Senior Living Building, the owner(s) of the Future Development Parcel, associations created on the Future Development Parcel, or the UOA in accordance with applicable shared maintenance/cross easement agreements. Maintenance obligations include, but are not limited to, private streets, sidewalks, fencing, open space, landscaping, snow removal, and on-site stormwater management facilities. The Applicant shall notify all prospective purchasers of a townhouse, in writing, and prior to entry into a contract of sale, of the maintenance responsibilities and restrictions of the HOA and the UOA.
12. PRIVATE STREETS. The Applicant shall record among the land records a public ingress/egress easement, in a form as approved by the City attorney, over all private streets and adjacent sidewalks. The UOA established for the development shall be responsible for the maintenance of the private streets, sidewalks, and associated streetscape elements.
13. LANDSCAPING AND SCREENING.
  - A. Landscaping on the Application Property shall be in general conformance with the landscaping shown on the MDP, and consistent with the Certificate of Appropriateness. Final selection of landscape materials and layout shall be made at the time of site plan as approved by the Director of Community Development and Planning.

- B. The Applicant shall install landscaping along Orchard Street Realigned, as generally shown on the MDP. The Applicant reserves the right to modify the landscape design at the time of site plan based on final engineering, and as approved by the Director of Community Development and Planning.
  - C. The Applicant will install temporary landscaping along the Application Property's Chain Bridge Road frontage with Phase One, as defined in Commitment 2.A., and as shown on the MDP. The Applicant will install street trees along the Application Property's Chain Bridge Road frontage with Phase Four, as defined in Commitment 2.D. The final number and location of street trees will be determined in accordance with the amendment to the MDP as required for Phase Four.
  - D. The Applicant shall screen any mechanical equipment at grade or located on the roof that is visible from the public right-of-way, except for at grade mechanical equipment in the rear privacy yards of any of the townhouses, which are not visible from a public right-of-way.
  - E. The UOA will be responsible for the maintenance of existing landscaping along the northern property line adjacent to The Assembly townhouses.
  - F. The two courtyards associated with the Senior Living Building will include a combination of landscaping and hardscape, as generally shown on the MDP, and as further described in the Certificate of Appropriateness. Final selection of materials and design shall be made at the time of site plan.
  - G. The Applicant shall use native species and native cultivars (as approved by the Director of Community Development and Planning) to the greatest extent feasible and non-invasive species for landscaping on the Application Property, including perennials and seed mixes. Plant lists identifying selected species will be submitted at the time of site plan and be consistent with the Certificate of Appropriateness.
14. **TREE PRESERVATION.** Tree preservation measures will be utilized for the trees outside the clearing limits that are identified on the MDP as being preserved. These measures may include, but are not limited to, the following: root pruning, crown pruning, mulching, and watering. Said measures shall be consistent with those shown on the MDP that detail how preservation measures will be implemented. In addition, the Applicant shall install the appropriate tree protection devices, such as tree protection fencing, based on site conditions and proposed construction activities.
15. **OPEN SPACE.** At time of site plan, the Applicant, at the option of the City, will either dedicate to the City of Fairfax or convey to the UOA the open space areas as identified on the MDP. The dedication or conveyance shall ensure permanent protection of the open space and the deed shall be in a form as approved by the City Attorney, and recorded among the land records. Approximately 1.0 acre of the open space located on the northwestern portion of the

Application Property, as generally shown on the MDP, shall remain undisturbed except as qualified:

- A. Grading Improvements. The Applicant will grade an area to install a box culvert in connection with approved floodplain modifications. These improvements will be consistent with the MDP and in compliance with all applicable state and federal permits.
- B. Trail. The Applicant will construct an eight-foot wide trail, including a small refuge area for pedestrians and cyclists, to connect adjacent communities to Orchard Street Realigned, as shown on the MDP. Improvements will include a sign to identify the trail location. Prior to land disturbance related to the trail construction, the Applicant will obtain any required permits. In the event that the open space is owned by the UOA, the Applicant will record a public access easement, in a form approved by the City Attorney, over the trail and record the easement among the land records. If the open space is owned by the UOA, the trail will be privately maintained by the UOA.
- C. Vegetation. The Applicant shall remove dangerous and/or invasive trees and plants to improve the health and safety of existing vegetation. Any trees or invasive plants that need to be removed outside of the clearing limits will be done with minimal ground disturbance and under the supervision of a Virginia Certified Pesticide Applicator, where required. Any vegetation planted as a part of the Landscape Plan will be done with minimal ground disturbance. The Applicant will supplement existing vegetation with plantings to enhance the wooded environment.

16. SUSTAINABLE DESIGN.

- A. Townhouse Development. The proposed townhouses shall be constructed to achieve qualification in accordance with ENERGY STAR<sup>®</sup> for Homes. Such qualification will be demonstrated by the submission of documentation to the Department of Community Development and Planning from a home energy rater certified through the Residential Energy Services Network (RESNET) program which shows that the townhouses have attained the ENERGY STAR<sup>®</sup> for Homes qualification.
- B. Senior Living Building. The following sustainable building measures will be taken in conjunction with the construction of the proposed Senior Living Building, as depicted on the MDP:
  - (1) Green roofs on all areas visible to residents and adjacent building users, as generally depicted on the MDP. Design details of said green roofs will be determined at time of site plan;
  - (2) Low-flow plumbing fixtures;

- (3) LED lighting throughout the community;
  - (4) Low VOC building materials and furniture; and
  - (5) Energy Star rated or equivalent appliances and equipment.
17. UNIVERSAL DESIGN. Townhouse dwelling units shall be designed and constructed with a selection of universal design features and options as determined by the Applicant and at the sole cost of the purchaser. Said features may include, but are not be limited to, elevators, seat in master bath shower where possible, emphasis on lighting in stairs and entrances, lever door handles, slip resistant flooring, hand-held shower heads at tubs and showers, front loading washers and dryers, and rocker light switches.
18. SENIOR LIVING BUILDING TRASH COLLECTION. Trash and recycling receptacles shall be located in the structured parking garage and will not be visible from the public right-of-way. Such receptacles will be moved onto the Farr Avenue Extension for collection on scheduled trash or recycling days.
19. STORMWATER MANAGEMENT. Design and construction of stormwater management facilities shall comply with 4VAC50-60 Virginia Stormwater Management Program (VSMP) Permit Regulations, as may be amended, or other relevant standard in place at the time of the applicable site plan submission. At time of site plan, the Applicant shall consider low impact development techniques to the extent feasible which may include, but not be limited to, permeable pavers, infiltration, tree box filters, bio-retention and/or stormwater reuse (i.e. landscape irrigation, air conditioning unit makeup water, etc.).
20. CONSTRUCTION MANAGEMENT PLAN.
- A. Subsequent to rezoning approval, but prior to site plan approval, the Applicant will submit a management plan for approval by the City Manager or designee for phasing and construction which will include the following information:
- (1) Hours of operation;
  - (2) Truck routes to and from entrances;
  - (3) Location of parking areas for construction employees;
  - (4) Truck staging and cleaning areas;
  - (5) Storage areas;
  - (6) Temporary fencing as needed to screen on-site staging areas;
  - (7) Trailer and sanitary facility locations;

- (8) Traffic control measures; and
  - (9) Maintenance of entrances.
- B. Prior to commencement of construction, the Applicant shall provide the Department of Community Development and Planning with the name and telephone number of a community liaison who will be available throughout the duration of construction on the Application Property.
- C. Prior to site plan approval, the Applicant shall provide a plan to DPW for temporary pedestrian and vehicular circulation during construction. This plan shall identify temporary sidewalks and any other features necessary to ensure safe pedestrian and vehicular travel around the Application Property during construction.
- D. Outdoor construction activity shall be limited to the hours of 7:00 A.M. to 6:00 P.M., weekdays and 8:30 A.M. to 5:00 P.M., Saturdays. No construction activity shall take place on Sundays.

21. PARKING.

- A. As shown on the MDP, the Applicant shall provide parking spaces on the Application Property as follows.
- (1) Each townhouse shall include a two-car garage. Contract purchasers of townhouses shall be notified in writing prior to, or as a part of, entering a contract of sale of the restrictions in Commitment 28.
  - (2) In addition to the townhouse garage parking spaces, a minimum of 22 surface parking spaces shall be constructed in conjunction with the townhouse portion of the development.
  - (3) A minimum of 126 parking spaces shall be constructed in conjunction with Phase Three of the development. Parking shall consist of a minimum of 114 parking spaces in the garage that is part of the Senior Living Building, and twelve surface parking spaces, all as shown on the MDP. The Applicant reserves the right to evaluate the need for the surface parking spaces. The Applicant may request the removal of up to six surface parking spaces with the submission of a parking study to the Zoning Administrator that demonstrates that peak parking demand is met with the provision of 120 parking spaces. The Applicant may remove up to six surface parking spaces subject to the approval of the parking study by the Zoning Administrator.
  - (4) The Applicant shall provide a minimum of twenty-eight on-street parallel public parking spaces along Orchard Street Realigned within the public right-of-way. The number of public parking spaces to be constructed within



Orchard Street Realigned is subject to change based upon the approved construction plans for the right-of-way by the City of Fairfax and/or the Virginia Department of Transportation.

- B. The operator of the Senior Living Building, within its sole discretion, may establish rules, regulations, and procedures for the structured parking garage, as shown on the MDP. The parking garage shall be available to future residents, residents' guests, employees, and other visitors to the Senior Living Building. The final number of garage parking spaces shall be determined at final site plan based on final design.
22. **BICYCLE RACKS.** The Applicant shall install a minimum of two inverted-U or similar style bicycle racks within the townhouse development, as generally depicted on the MDP. The Applicant will also install a minimum of eleven inverted-U or similar style bicycle racks in the structure parking garage of the Senior Living Building. Notwithstanding the locations indicated on the MDP, the final locations of the bicycle racks may be adjusted at the time of site plan.
23. **ELECTRIC VEHICLE CHARGING STATIONS.**
- A. Each townhouse dwelling unit shall have a pull-string ready conduit leading from the electric panel to a code compliant outlet (or access point to a future outlet) within the garage that will support future wiring for Level 2 electric vehicle charging.
  - B. The operator of the Senior Living Building may, within its sole discretion, partner with a third-party to install electric vehicle charging stations within the parking garage, as identified on the MDP.
24. **TRANSPORTATION DEMAND MANAGEMENT.** In an effort to reduce the number of vehicle trips generated by the proposed development, the Applicant shall implement a Transportation Demand Management ("TDM") program. The TDM Program will include, but shall not be limited to, the following measures:
- A. Townhouse community.
    - (1) Appointment of a representatives of the townhouse community to serve as a property transportation coordinator (PTC).
    - (2) At the time of the initial settlement of each townhouse, the distribution of an information package to initial townhouse purchasers that includes, but is not limited to, a description of bus routes and nearby bus stop locations, metro transit schedules, and ride share initiatives.
    - (3) Distribution to townhouse residents of any transit advertising information provided by the City and community information at set intervals agreed to by

the City and the HOA, which will include links to websites for local transit opportunities.

- (4) At the time of the initial settlement of each townhouse, the distribution to initial townhouse purchasers of one of the following items of their choice:
  - a. SmarTrip card with \$50.00 fare loaded limited to two persons per townhouse, or
  - b. A one-year bike share membership, or
  - c. A one-year car share membership.
- (5) Identification by signs or pavement markings of a total of 22 visitor parking spaces.
- (6) Resident transportation surveys conducted on an annual basis by the PTC to determine the success of the transportation program and submission of the surveys to the City. Said surveys to commence the year after the issuance of the final occupancy permit in Phase Two.

B. Senior Living Building.

- (1) Designation of an employee as a Transportation Management Plan (TMP) coordinator.
- (2) Installation of a transit information display in the lobby area of the Senior Living Building. Said display shall include information regarding Metrorail, Metro bus, CUE bus, ridesharing, and other relevant transit options available to employees and residents.
- (3) Display of the TMP coordinator's name and contact information in designated common areas, employee break areas, and on-line.
- (4) Annual events established by the TMP coordinator to provide communication regarding transit, target transit marketing, and support bicycling efforts.
- (5) Use of regular web-based resident and employee communication tools by the TMP coordinator to provide commuting information with links to external transit websites.
- (6) Distribution of a SmarTrip card with \$20.00 pre-loaded fare value and information regarding enrollment in a Smart Benefits pre-tax benefits program to employees upon initial hire. In addition, ride sharing marketing materials provided by the City and/or Commuter Connections will be

included in employee welcome packages and displayed in employee break rooms.

- (7) Operation of a transportation service for residents of the Senior Living Building to formal activities/events and individual destinations, such as doctor's offices, community centers, places of worship, and shopping centers. This service will be provided with a company-owned van and sedan that will be operated by employees of the senior living community.
- (8) Bi-annual surveys conducted by the TMP coordinator to determine the success of the transportation program. In addition to surveys, the TMD coordinator shall collect car counts and evaluate bicycle parking usage. The surveys and other information shall be submitted to the City. Said surveys to commence one year after the issuance of the final occupancy permit for Phase Three.

C. The final TDM Program for Phases Two and Three, consistent with this Commitment, will be reviewed and approved by City staff prior to site plan approval for each of those Phases of the development. The final TDM Program for Phases Two and Three will be consistent with the Northfax Development Phase 1 (Townhouses and Senior Living) TDM Program Guidelines dated April 15, 2020 prepared by Gorove/Slade, and submitted to City staff. The TDM Program is intended to result in a robust plan with incentives to reduce the number of vehicle trips generated by the development, as periodically reported to the City.

25. **TEMPORARY SPECIAL USE PERMIT.** On March 24, 2015, City Council approved Special Use Permits SU-14120068 and -69 to permit the temporary use of a vehicle storage lot on portions of the Application Property. The Applicant shall terminate the temporary use for vehicle storage and remove all vehicles prior to the commencement of construction associated with the PI Plan, or within twelve months of the approval of this application by City Council, whichever shall first occur, unless a separate Special Use Permit application for temporary vehicle storage is submitted by the Applicant and approved by the City Council prior to the occurrence of either of these events.
26. **VAN DYCK PARK STREAM RESTORATION IMPROVEMENTS.** The Applicant will complete stream restoration improvements on approximately 2,190 linear feet of the stream located within or adjacent to the boundaries of Van Dyck Park, as more particularly shown on Figure 1 (Bank Erosion Hazard Index Map) prepared by Apex Companies, LLC, dated April 10, 2019, and attached hereto as Exhibit A. (the "Stream Restoration Project") unless an alternative stream restoration project on property under City ownership and equal in length, accessibility and stream condition to the referenced Van Dyck Park stream is selected by the City and agreed upon by the Applicant within three months of the approval of this application by City Council (the "Alternative Stream Restoration Project"). The Stream Restoration Project or the Alternative Stream Restoration Project will be completed as a

Nutrient Offset Trading Bank (“NOTB”) project to be approved and permitted by the Virginia Department of Environmental Quality. The Applicant will be solely responsible for the preparation, submission, and processing of the permit applications, design drawings, and construction documents required to implement the Stream Restoration Project or the Alternative Stream Restoration Project. All such applications, drawings, and documents required to obtain approval of the Stream Restoration Project as an NOTB project will be prepared and processed in accordance with an Agreement to be entered into between the Applicant and the City of Fairfax. The Agreement will provide for all permissions, authorizations, agreements, easements and/or covenants from the City of Fairfax as required for the approval, construction, and maintenance of the Stream Restoration Project or the Alternative Stream Restoration Project as an NOTB project, and in accordance with a schedule as mutually agreed to by the Applicant and the City. The Applicant shall diligently pursue the required approvals and shall commence construction of the Stream Restoration Project or the Alternative Stream Restoration Project no later than two years from the later to occur of the following: (i) approval of this application by City Council, or (ii) the selection and agreement upon the Alternative Stream Restoration Project by the City and the Applicant in accordance with the terms of this Commitment. Additional time to commence construction may be administratively approved by the Zoning Administrator should the required approvals be delayed through no fault of the Applicant.

27. FUTURE DEVELOPMENT PARCEL INTERIM IMPROVEMENTS AND USES.

- A. Improvements. Prior to the issuance of the first occupancy permit for either Phase Two or Phase Three as defined in Commitments 2.B. and 2.C., the Applicant shall install interim improvements on the Future Development Parcel to include, but not be limited to, seeding of all open areas and a temporary linear park and landscaping along the south side of Orchard Street across the frontage, as generally depicted on the MDP. Said interim improvements to be maintained by the Applicant and/or the UOA.
- B. Interim Uses. Prior to the development of improvements in accordance with the approval of an amendment to the MDP by the City Council, interim uses on the Future Development Parcel shall be subject to the following provisions:
  - (1) Continued use of the existing building located on Parcel 20 of the Application Property (also known as 3570 Chain Bridge Road) as a restaurant/food service facility, with associated parking, or as a sales, rental and/or management office related to the construction in Phases One, Two and/or Three, as defined in Commitments 2.A., 2.B., and 2.C.
  - (2) Special events, subject to the provisions of Section 3.5.6.J of the City of Fairfax Zoning Ordinance (the “Zoning Ordinance”).

- (3) Temporary uses identified in Section 3.5.6.B.2, .4, .6 and 9. of the Zoning Ordinance, subject to the receipt of required approvals.
  - (4) Minor events and seasonal sales as more specifically described in Section 3.5.6.C.1(a) and (c) of the Zoning Ordinance.
  - (5) Temporary vehicle storage, but only subject to the provisions of Commitment 25.
28. **RESTRICTIVE COVENANTS.** Restrictive covenants for the Application Property shall be included in the HOA documents and shall include, but not be limited to, the following:
  - A. Conversion of townhouse garages that will preclude the parking of vehicles and the storage of trash and recycling containers within the garage will be prohibited. This shall not preclude the use of said garages as sales offices in model homes during marketing of the development, with the understanding the sales offices will be converted back to garages upon sale of the models.
  - B. Prohibition of the outside storage or parking of recreational vehicles on the Application Property.
29. **SCHOOL CONTRIBUTION.** Prior to the issuance of the final occupancy permit for Phase Two, the Applicant will contribute the sum of \$108,000.00 to the City of Fairfax to be utilized for capital improvements to Providence Elementary School.
30. **HISTORICAL MARKER.** For purposes of recognizing the former Electric Trolley Line that operated in the City, the Applicant shall fund the research, fabrication and installation of an interpretative marker on the Application Property in an amount not to exceed \$3,000.00. Said payment will be made no later than the issuance of the final occupancy permit for Phase Three, as defined in Commitment 2.C., to the City Office of Historic Resources (“Historic Resources”). The location of the interpretative marker shall be selected in coordination with Historic Resources. Future maintenance of the marker shall be performed by the UOA with input from Historic Resources. Should Historic Resources elect not to place a marker on the Application Property, this commitment shall become null and void, and of no further force and effect.
31. **RECIPROCAL EASEMENTS.** At the time of site plan approval, the Applicant shall create reciprocal easements along common residential property lines to provide future homeowners with reasonable rights of access to adjacent lots if needed to perform routine home maintenance functions.
32. **COUNTERPARTS.** These commitments may be executed in one or more counterparts, each of which when so executed and delivered shall be deemed an original document and all of which taken together shall constitute but one in same document.

33. **SUCCESSORS AND ASSIGNS.** These commitments shall bind and inure to the benefit of the Applicant and its successors and assigns.

A0919536.DOC / 1 Draft Summary of Commitments 06.01.20 (cln) 000577 000152

[SIGNATURES ON NEXT PAGE]

APPLICANT/TITLE OWNER OF  
TAX MAP 57-2-02-020

NORTHFAX JV LLC

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By: John E. Napolitano  
Its: Manager

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By: Andrea Sylos-Labini  
Its: Manager

[SIGNATURES CONTINUE ON NEXT PAGE]

TITLE OWNER OF TAX MAP

57-2-08-010, 57-2-02-005, 57-2-08-005, 57-2-08-006, 57-2-08-007, 57-2-08-008, 57-2-02-003, 57-2-07-015-B, 57-2-47-000-A

ORCHARD RE INVESTMENTS, LLC

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By: John E. Napolitano  
Its: Class A Member

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By: Andrea Sylos-Labini  
Its: Class A Member

[SIGNATURES CONTINUE ON NEXT PAGE]



TITLE OWNER OF TAX MAP

57-2-02-017, 57-2-02-018, 57-2-02-019, 57-2-08-011, 57-2-08-012, 57-2-08-013, 57-2-08-014

A.R.G. II, L.L.C.

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By: John E. Napolitano  
Its: Operating Manager

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By: Andrea Sylos-Labini  
Its: Vice Operating Manager

[SIGNATURES CONTINUE ON NEXT PAGE]

CONTRACT PURCHASER

MHI-NORTHFAX, LLC

By: MADISON HOMES, INC., its manager

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By: Russell S. Rosenberger, Jr.  
Its: President

[SIGNATURES CONTINUE ON NEXT PAGE]

CONTRACT PURCHASER

BRIGHTVIEW SENIOR LIVING DEVELOPMENT LLC

By: BRIGHTVIEW GROUP, LP, its Manager

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By: David D. Carliner

Its: \_\_\_\_\_

[SIGNATURES END]