

**MUSSARAT S. AHMAD, ADEELA I. AHMAD, TANZEELA I. AHMAD**

**RZ 2012-LE-005  
PROFFERS**

**June 28, 2012  
July 25, 2012  
September 24, 2012  
October 26, 2012  
November 5, 2012  
November 6, 2012  
November 7, 2012  
November 15, 2012  
December 17, 2012**

Pursuant to Section 15.2-2303(a) of the Code of Virginia, 1950, as amended, the Applicants/Property Owners (hereinafter referred to as "Applicants") in this rezoning proffer that the development of the parcels under consideration and shown on the Fairfax County Tax Maps as Tax Map Reference 81-4((3))L and M (hereinafter referred to as the "Property") shall be in accordance with the following conditions if, and only if, said rezoning request for the PDH-5 District is granted by the Board of Supervisors of Fairfax County, Virginia (the "Board"). In the event said application request is denied or the Board's approval is overturned by a court of competent jurisdiction, these proffers shall be null and void. The Applicants, for themselves, their successors and assigns, agree that these proffers shall supersede any and all previously approved proffers and shall be binding on the future development of the Property unless modified, waived or rescinded in the future by the Board, in accordance with applicable County and State statutory procedures. The proffered conditions are:

**Preamble**

1. Conceptual/ Final Development Plan. The Property shall be developed in substantial conformance with the Conceptual Development Plan ("CDP ") and Final Development Plan ("FDP") entitled "Ahmad Property", prepared by Urban, Ltd., dated January 30, 2012 and revised through September 24, 2012, consisting of Sheets 1 through 9.
2. Elements of CDP. Notwithstanding the fact that the CDP and FDP are presented on the same plan, the elements that are components of the CDP are limited to the points of access, the location of the dwellings, amount and location of open space, uses, maximum number of dwelling units, and setbacks from the peripheral lot lines. Modification to such elements shall require a subsequent Proffered Condition Amendment (PCA). The Applicants reserve the right to request a Final Development Plan Amendment (FDPA) for elements other than CDP elements from the Planning Commission for all or a portion of the FDP in accordance with Section 16-402 of the Zoning Ordinance if such an amendment

is in accordance with these Proffers as determined by the Zoning Administrator.

3. Minor Modifications. Minor modifications to the CDP/FDP may be permitted when necessitated by sound engineering or that may become necessary as part of final site design or engineering, pursuant to Section 16-403(4) of the Zoning Ordinance.

#### **Design and Amenities**

4. Architecture. Prior to subdivision plan approval, the Applicant shall demonstrate with the submission of photographs and elevations to the satisfaction of the Zoning Administrator that the new dwelling units are designed to be in substantial conformance with the existing homes in the North Hampton subdivision in terms of general architectural style, type and proportion of building materials and architectural elements as shown in the photograph on Sheet 2 of the CDP/FDP.
5. Universal Design. At the time of initial purchase, the Applicant shall offer each purchaser the following universal design options at no additional cost:
  - i. Front entrance doors that are a minimum of 36 inches wide
  - ii. Clear knee space under the sink in the kitchen
  - iii. Lever door handles instead of knobs
  - iv. Light switches 44-48 inches high
  - v. Thermostats a maximum of 48" high
  - vi. Electrical outlets a minimum of 18" high

At the time of initial purchase, the Applicant shall offer each purchaser additional universal design options at the purchaser's sole cost. These additional options may include, but not be limited to:

- vii. Step-less entry from the garage to the house and/or into the front door
- viii. A curb-less shower, or a shower with a curb of less than 4.5" high
- ix. A turning radius of five feet near the first floor bathroom commode
- x. Grab bars in the bathrooms that are ADA compliant
- xi. A first-floor bathroom console sink in lieu of a cabinet-style vanity

#### **Transportation**

6. Private Road. The private street shall be designed and constructed with materials and depth of pavement in accordance with public residential street standards in the Public Facilities Manual (PFM), subject to Department of Public Works and Environmental Services (DPWES) approval. In conjunction with the subdivision plan review process, the private drive shall be dedicated to either KROC or a Homeowners Association (HOA) and maintained by the same. A public access easement in a form approved by the County Attorney shall be placed on the private drive within the approved development.

## Environmental

7. Stormwater Management/Best Management Practices (SWM/BMPs). The Applicant shall provide SWM and BMP facilities in accordance with the Public Facilities Manual (PFM) and in substantial conformance with the CDP/FDP, unless waived or modified by DPWES. SWM and BMP facilities for the Property may be provided onsite with any combination of the techniques shown on Sheet 4 of the CDP/FDP, or in the existing SWM pond located on property identified among the Fairfax County tax assessment records as 91-2 ((1)) 28A1, provided appropriate approvals are obtained from DPWES. If the on-site option is exercised, such Facilities shall be designed to maximize opportunities for possible infiltration as determined by the Applicant and approved by DPWES. In the event that SWM and BMP facilities can not be provided in accordance with the PFM and in substantial conformance with the CDP/FDP as outlined above, the Applicants shall request a PCA for the review and approval of a new CDP/FDP.
8. Conservation Easement. The Applicant reserves the right to utilize the Conservation Easement shown on the CDP/FDP to meet applicable BMP requirements should such requirements not be addressed through the use of the off-site regional pond referenced in Proffer 7 above. If applicable, the Conservation Easement shall be recorded following any applicable site grading and/or demolition activity and after the establishment of landscaping reflected on the CDP/FDP and permitted by this Proffer. The size and configuration of the easement area shall be based on final engineering and may result in the easement being configured differently from that shown on the CDP/FDP. The Applicant further reserves the right to provide additional landscaping in the easement area beyond that shown on the CDP/FDP. Any such enhanced landscaping shall be designed in consultation with UFMD to ensure that its type, species, maintenance requirements and general survivability are consistent with the requirements of the Conservation Easement, the form of which shall be approved by the County Attorney.
9. Energy Conservation. The new dwelling units shall be designed and constructed as ENERGY STAR qualified homes. The major features of ENERGY STAR homes could include features such as: Effective Insulation, High-Performance Windows, Tight Construction and Ducts, Efficient Heating and Cooling Equipment, Efficient Products, and Third Party Verification (Home Energy Rater). Prior to the issuance of the Residential Use Permit (RUP) for each dwelling unit, documentation shall be submitted to the Environment and Development Review Branch of the Department of Planning and Zoning (DPZ) from a home energy rater certified through the Residential Energy Services network (RESNET) program that demonstrates that the dwelling unit has attained the ENERGY STAR for homes qualification.

### Landscaping and Tree Preservation

10. Landscaping. At the time of subdivision plan review, the Applicants shall submit to DPWES, a landscape plan showing landscaping consistent with the quality, quantity and general location shown on the Landscape Plan of the CDP/FDP. This plan shall be subject to review and approval of Urban Forestry Management, DPWES. At the time of planting, the minimum caliper for deciduous trees shall be two (2.0) inches and the minimum height for evergreen trees shall be eight (8) feet. Actual types and species of vegetation shall be determined pursuant to more detailed landscape plans approved by Urban Forest Management at the time of subdivision plan approval.
  
11. Tree Preservation. Prior to subdivision plan approval, the Applicants shall submit a Tree Preservation Plan and Narrative as part of the first and all subsequent subdivision plan submissions. The preservation plan and narrative shall be prepared by a Certified Arborist or a Registered Consulting Arborist, and shall be subject to the review and approval of the Urban Forest Management Division, DPWES.

The tree preservation plan shall include a tree inventory that identifies the location, species, critical root zone, size, crown spread and condition analysis percentage rating for all individual trees to be preserved, as well as all on and off-site trees, living or dead with trunks 12 inches in diameter and greater (measured at 4 ½ -feet from the base of the trunk or as otherwise allowed in the latest edition of the Guide for Plant Appraisal published by the International Society of Arboriculture) located within 25 feet to either side of the limits of clearing and grading. The tree preservation plan shall provide for the preservation of those areas shown for tree preservation, those areas outside of the limits of clearing and grading shown on the CDP/FDP and those additional areas in which trees can be preserved as a result of final engineering. The tree preservation plan and narrative shall include all items specified in PFM 12-0507 and 12-0509. Specific tree preservation activities that will maximize the survivability of any tree identified to be preserved, such as: crown pruning, root pruning, mulching, fertilization, and others as necessary, shall be included in the plan. The requirements of this proffer shall not require the Applicants to undertake or obtain permission for work beyond the boundaries of the Application property.

12. Tree Preservation Walk-Through. The Applicants shall retain the services of a certified arborist or Registered Consulting Arborist, and shall have the limits of clearing and grading marked with a continuous line of flagging prior to the walk-through meeting. During the tree-preservation walk-through meeting, the Applicant's certified arborist or landscape architect shall walk the limits of clearing and grading with an UFMD, DPWES, representative to determine where adjustments to the clearing limits can be made to increase the area of tree

preservation and/or to increase the survivability of trees at the edge of the limits of clearing and grading, and such adjustment shall be implemented. Trees that are identified as dead or dying may be removed as part of the clearing operation. Any tree that is so designated shall be removed using a chain saw and such removal shall be accomplished in a manner that avoids damage to surrounding trees and associated understory vegetation. If a stump must be removed, this shall be done using a stump-grinding machine in a manner causing as little disturbance as possible to adjacent trees and associated understory vegetation and soil conditions.

13. Limits of Clearing and Grading. The Applicants shall conform strictly to the limits of clearing and grading as shown on the CDP/FDP, subject to allowances specified in these proffered conditions and for the installation of utilities and stormwater management facilities as determined necessary by the Director of DPWES, as described herein. If it is determined necessary to install utilities and/or stormwater management facilities within areas protected by the limits of clearing and grading as shown on the CDP/FDP, they shall be located in the least disruptive manner necessary as determined by the UFMD, DPWES. A replanting plan shall be developed and implemented, subject to approval by the UFMD, DPWES, for any areas protected by the limits of clearing and grading that must be disturbed for any such utilities or stormwater management facilities. Any trees impacted within the limits of clearing and grading as specified above shall be replaced on the site as determined by UFMD, DPWES.
14. Tree Preservation Fencing. All trees shown to be preserved on the tree preservation plan shall be protected by tree protection fence. Tree protection fencing in the form of four (4) foot high, fourteen (14) gauge welded wire attached to six (6) foot steel posts driven eighteen (18) inches into the ground and placed no further than ten (10) feet apart or, super silt fence to the extent that required trenching for super silt fence does not sever or wound compression roots which can lead to structural failure and/or uprooting of trees shall be erected at the limits of clearing and grading as shown on the demolition, and phase I & II erosion and sediment control sheets, as may be modified by the "Root Pruning" proffer below.

All tree protection fencing shall be installed after the tree preservation walk-through meeting but prior to any clearing and grading activities, including the demolition of any existing structures. The installation of all tree protection fencing shall be performed under the supervision of a certified arborist, and accomplished in a manner that does not harm existing vegetation that is to be preserved. Three (3) days prior to the commencement of any clearing, grading or demolition activities, but subsequent to the installation of the tree protection devices, the UFMD, DPWES, shall be notified and given the opportunity to inspect the site to ensure that all tree protection devices have been correctly installed. If it is determined that the fencing has not been installed correctly, no

grading or construction activities shall occur until the fencing is installed correctly, as determined by the UFMD, DPWES.”

15. Root Pruning. The Applicants shall root prune, as needed to comply with the tree preservation requirements of these proffers. All treatments shall be clearly identified, labeled, and detailed on the erosion and sediment control sheets of the subdivision plan submission. The details for these treatments shall be reviewed and approved by the UFMD, DPWES, accomplished in a manner that protects affected and adjacent vegetation to be preserved, and may include, but not be limited to the following:
  - Root pruning shall be done with a trencher or vibratory plow to a depth of 18 inches.
  - Root pruning shall take place prior to any clearing and grading, or demolition of structures.
  - Root pruning shall be conducted with the supervision of a certified arborist.
  - An UFMD, DPWES, representative shall be informed when all root pruning and tree protection fence installation is complete.”
16. Construction Activity within 10 feet of southern and northern property lines. Notwithstanding the limits of clearing and grading as shown on the CDP/FDP, which in some areas are closer than 10 feet to adjacent property lines, a linear strip approximately ten (10) feet in width adjacent to the southern and to the northern property lines shall be designated as an area where all construction activity shall be done in such a manner and to the extent possible to avoid compaction of soil in order to protect off-site trees in good condition and having root zones extending into the subject property. These 10 foot wide strips shall be demarcated with flagging or paint prior to any clearing, grading or construction on the property. Existing areas of asphalt or concrete within this 10 foot wide strip shall be removed in a manner that avoids impacting individual trees and/or groups of trees in good condition that are to be preserved, as reviewed and approved by UFMD, DPWES.
17. Demolition of Existing Structures. All existing features and structures, including asphalt and concrete, within the areas protected by the limits of clearing and grading as shown on the CDP/FDP shall be removed in a manner that avoids impacting trees and/or groups of off-site trees that are to be preserved, as reviewed and approved by UFMD, DPWES.
18. Off-Site Trees. If, within a two (2) year time period after the issuance of the last Residential Use Permit, any off-site trees within 25 feet of the limits of clearing and grading are dead, dying or hazardous and such condition is objectively determined to be the result of the Applicant’s construction activities, the Applicant will remove said trees and provide appropriate replacement trees in terms of species, size and quantity as determined by the Urban Forestry Division pursuant to Section 12-403 of the Public Facilities Manual. This obligation shall

be contingent upon the Applicant receiving permission from the respective adjacent property owner or owners. Such permission, if needed, shall be diligently pursued. In the event that the adjacent property owner(s) will only permit access to the Applicant if the adjacent property owner(s) are compensated for such access, the Applicant shall not be required to comply with the requirements set forth in Proffer 17.

19. Site Monitoring. During any clearing or tree/vegetation/structure removal on the Property, a representative of the Applicants shall be present to monitor the process and ensure that the activities are conducted as proffered and as approved by the UFMD. The Applicant shall retain the services of a certified arborist or Registered Consulting Arborist to monitor all construction and demolition work and tree preservation efforts in order to ensure conformance with all tree preservation proffers, and UFMD approvals. The monitoring schedule shall be described and detailed in the Landscaping and Tree Preservation Plan, and reviewed and approved by the UFMD, DPWES.”

#### **Public/Community Facilities**

20. Park Authority Contributions. The Applicants shall contribute \$6,251 to the Board of Supervisors, within 60 days after subdivision plan approval for transfer to the Fairfax County Park Authority, for use at off-site recreational facilities intended to serve the future residents, as determined by FCPA.
21. Parks and Recreation. Pursuant to Section 6-409 of the Zoning Ordinance regarding developed recreational facilities, the Applicants shall provide the recreational facilities to serve the Property as shown on the CDP/FDP. At the time of subdivision plan review, the Applicants shall demonstrate that the value of any proposed recreational amenities are equivalent to a minimum of \$1,700 per unit. In the event it is demonstrated that the proposed facilities do not have sufficient value, the Applicants shall contribute funds in the amount needed to achieve the overall proffered amount of \$1,700 per unit to the Fairfax County Park Authority ("FCPA") for off-site recreational facilities intended to serve the future residents within the Property's service area.
22. School Contribution. A contribution of \$18,756 shall be made to the Board of Supervisors for transfer to Fairfax County Public Schools (FCPS) and designated for capital improvements directed to the Edison School Pyramid and/or Cluster V schools that service the subject property. The contribution shall be made at the time of, or prior to, subdivision plan approval. The specific capital improvements shall be determined in consultation with, and with the approval of, both the Supervisor for the Lee District and the School Board Member for the Lee District. Following approval of this Application and prior to the Applicant's payment of the amount set forth in this Proffer, if Fairfax County should increase the

contribution per student, the Applicants shall increase the amount of the contribution for that phase of development to reflect the then-current contribution. If the County should decrease the ratio or contribution amount, the Applicant shall provide the greater of the two amounts. In addition, notification shall be given to FCPS when construction is anticipated to commence to assist FCPS by allowing for the timely projection of future students as a part of the Capital Improvement Program.

### Miscellaneous

23. Establishment of HOA. Prior to record plat approval, the Applicant shall provide the Department of Public Works and Environmental Services documentation that incorporation of the project into the existing Kingstowne Residential Owners Corporation (KROC) has been requested of KROC. If incorporation is denied by KROC, then prior to record plat approval, the Applicant shall establish a Homeowners Association (HOA) in accordance with Sect. 2-700 of the Zoning Ordinance for the purpose of, among other things, establishing the necessary residential covenants governing the use and operation of common open space and other facilities of the approved development and to provide a mechanism for ensuring the ability to complete the maintenance obligations and other provisions noted in these proffer conditions, including an estimated budget for such common maintenance items. If the property is not incorporated into KROC, then prior to issuance of the first residential use permit, the Applicant shall enter into a contract with an appropriate contractor for maintenance of the stormwater facility with such contract structured to be assignable to the HOA. Such contract shall be to maintain the stormwater facility until the HOA is turned over to the residents. At such time, the Applicant shall also provide the HOA with contact information and all records of such maintenance to the HOA along with a written set of instructions that fully describe proper maintenance of the approved stormwater facility. At the time of bond release, or turnover of the community to the HOA, whichever first occurs, the Applicant shall provide the HOA with funds in the amount of \$10,000.00, which shall be earmarked for future maintenance of any on-site stormwater management facilities.
24. Dedication to HOA. At the time of record plat recordation, open space, common areas, private roadways, and amenities not otherwise conveyed or dedicated to the County shall be dedicated to the HOA and be maintained by the same.
25. Disclosure. Prior to entering into a contract of sale, prospective purchasers shall be notified in writing by the Applicant of the maintenance responsibility for the private roadways, stormwater management facilities, common area landscaping, and any other open space amenities and shall acknowledge receipt of this information in writing. The initial deeds of conveyance and HOA governing

documents shall expressly contain these disclosures and an estimated budget for such common maintenance items.

26. Housing Trust Fund. At the time of the first building permit issuance, the Applicants shall contribute a sum equal to one-half of one percent (0.5%) of the projected sales price for each dwelling unit on the Property to the Fairfax County Housing Trust Fund, as determined by the Department of Housing and Community Development in consultation with the Applicants to assist the County in its goal to provide affordable dwellings. The projected sales price shall be based upon the aggregate sales price of all of the units, as if those units were sold at the time of the issuance of the first building permit and is estimated through comparable sales of similar type units.
27. Temporary Signage. No temporary signs (including "popsicle" style paper or cardboard signs) which are prohibited by Article 12 of the Zoning Ordinance, and no signs which are prohibited by Chapter 7 of Title 33.1 or Chapter 8 of Title 46.2 of the Code of Virginia shall be placed on-site or off-site by the Applicants or at the Applicants' direction to assist in the initial marketing and sale of homes on the subject Property. Furthermore, the Applicants shall direct their agents involved in marketing and/or sale of residential units on the subject Property to adhere to this proffer.
28. Garage Conversion. Any conversion of garages or use of garages that precludes the parking of vehicles within the garage is prohibited. A covenant setting forth this restriction shall be recorded among the land records of Fairfax County in a form approved by the County Attorney prior to the sale of any lots and shall run to the benefit of the HOA and the Board of Supervisors. This restriction shall also be disclosed in the HOA documents. Prospective purchasers shall be advised of this use restriction, in writing, prior to entering into a contract of sale.
29. Escalation in Contribution Amounts. All proffers specifying contribution amounts or budgets for operational expenses shall escalate on a yearly basis from the base year of 2013 and change effective each January 1 thereafter, based on changes in the Consumer Price Index for all urban consumers (not seasonally adjusted) ("CPI-U"), both as permitted by Virginia State Code Section 15.2-2303.3.
30. Reciprocal Easements. At the time of subdivision 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.
31. Successors and Assigns. These Proffers will bind and inure to the benefit of the Applicants and their successors and assigns. Each reference to "Applicants" in this proffer statement shall include within its meaning and shall be binding upon Applicants' successor(s) in interest and/or developer(s) of the site or any portion of the site.

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

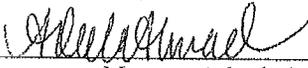
SIGNATURES TO FOLLOW ON NEXT PAGES

**MUSSARAT S. AHMAD**  
Co-Title Owner of Tax Map No. 81-4((3))L

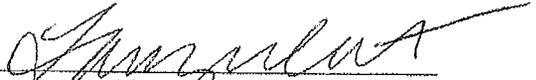
By: *Mussarat Ahmad*  
Name: Mussarat S. Ahmad

**ADEELA I. AHMAD**

Co-Title Owner of Tax Map No. 81-4((3))L

By:   
Name: Adeela I. Ahmad

**TANZEELA I. AHMAD**  
Co-Title Owner of Tax Map No. 81-4((3))L  
Owner of Tax Map 81-4(93))M

By:   
Name: Tanzeela I. Ahmad

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