

**RZ/FDP 2012 BR-003
TARIQ KHAN
PROFFER STATEMENT**

January 31, 2013

Pursuant to Section 15.32-2303(A) of the Code of Virginia, as amended, and subject to the Fairfax County Board of Supervisors' (the "Board") approval of rezoning application RZ 2012-BR-003, as proposed, for rezoning from the R-1 and WSPOD Districts to the PDH-2 and WSPOD Districts, Tariq Khan (the "Applicant"), for himself and his successors and assigns, hereby proffers that development of Tax Map Parcel 56-4((6))1 (the "Property"), containing approximately 1.8984 acres, shall be in accordance with the following proffered conditions:

1. Substantial Conformity. The Property shall be developed in substantial conformance with the Conceptual Development Plan and Final Development Plan ("CDP/FDP") consisting of nine (9) sheets prepared by Sanie Consulting Group, Inc., and dated December 8, 2011 revised through January 29, 2013, as further modified by these proffered conditions.
2. Final Development Plan Amendment. Notwithstanding that the CDP/FDP consists of nine (9) sheets and is the subject of Paragraph 1 above, it shall be understood that (i) the CDP shall consist of the entire plan relative to the general layout, points of access to the existing road network (subject to minor adjustments as required by VDOT), peripheral setbacks, the maximum number and type of units, limits of clearing and grading and the location and amount of open space on the Property; and (ii) the Applicant has the option to request Final Development Plan Amendment ("FDPA") approvals from the Planning Commission in accordance with Section 16-402 of the Zoning Ordinance with respect to the remaining elements.
3. Minor Modifications to Design. Pursuant to Paragraph 4 of Section 16-403 of the Zoning Ordinance, minor modifications from the approved CDP/FDP may be permitted as determined by the Zoning Administrator. The Applicant shall have the flexibility to modify the layout shown on the CDP/FDP provided such changes are in substantial conformance with the CDP/FDP and proffers, and do not increase the total number of units, change the unit mix, decrease the minimum amount of open space or peripheral setbacks, or increase the limits of clearing and grading shown to be provided on the Property.
4. Maximum Density. A maximum of two (2) single family detached dwelling units at a maximum density of 1.05 dwelling units per acre shall be permitted on the Property. The Applicant reserves the right to develop fewer than this maximum number of units referenced in this paragraph without the need for a Proffered Condition Amendment ("PCA") application or CDPA/FDPA.

5. Fairfax Center Area (“FCA”) Road Fund. At the time of final site plan approval, the Applicant shall contribute to the FCA Road Fund in accordance with the Procedural Guidelines adopted by the Board of Supervisors on November 22, 1982, as amended, subject to credit for all creditable expenses as determined by Fairfax County Department of Transportation and/or DPWES.

6. Limits of Clearing and Grading. Development of the Property shall conform to the limits of clearing and grading shown on the CDP/FDP, subject only to the installation of utilities, trails and roadways, if necessary, as approved by DPWES. All limits of clearing and grading shall be protected by temporary wire fencing that is a minimum of four (4) feet in height, in accordance with County Urban Forestry Division standards (see below). Any necessary disturbance for utilities beyond that shown on the CDP/FDP shall be coordinated with the Urban Forester and accomplished in the least disruptive manner reasonably possible given engineering, cost, and site design constraints, as determined by the Urban Forester. Any area protected by the limits of clearing and grading that must be disturbed due to the installation of any and all utilities shall be replanted with the application of straw, mulch, grass seed and/or a mix of native vegetation as determined by the Urban Forester, to return the area as nearly as reasonably possible to its condition prior to the disturbance, as determined by the Urban Forester.

7. Tree Preservation.
 - A. Plan. The Applicant shall contract with a certified arborist to prepare a tree preservation plan to be submitted as part of the first and all subsequent subdivision submissions. The plan shall be reviewed and approved by the Urban Forest Management Division in accordance with all applicable Code and Zoning Ordinance requirements, as such may be modified by appropriate approvals. The certified arborist responsible for the preparation of the tree preservation plan shall be referred to as the “Project Arborist.” Said tree preservation plan shall provide for preservation of specific quality trees or stands of trees within the tree save areas depicted on the CDP/FDP to the maximum extent reasonably feasible, subject to the potential installation of utilities, and to the maximum extent reasonably feasible without precluding the development of a single family home typical to this project on each of the building envelopes and lots shown on the CDP/FDP. The Urban Forester may require reasonable modifications of such plan to the extent these modifications do not alter the number of dwelling units shown on the CDP/FDP, reduce the size of the proposed units, significantly move their location on the lot,. The tree preservation plant shall consist of a tree survey which includes the locations, species, size, crown spread, and condition rating percent of all trees measuring ten (10) inch diameter at breast height (dbh”) or greater located within ten feet (10) inside and twenty-five (25) feet outside the limits of clearing areas depicted on the CDP/FDP. Additionally, included in the tree preservation plan shall be a condition analysis and rating for all trees

measuring ten (10) inch dbh or greater located within ten (10) feet of the inside and twenty-five (25) feet outside of the limits of clearing and grading for all tree buffer areas shown to be preserved on the CDP/FDP. The condition analysis shall be prepared using methods outlined in the latest edition of “The Guide for Plant Appraisal.” Specific tree preservation activities shall be incorporated into the tree preservation plan. Activities should include, but no be limited to, crown pruning, root pruning, mulching and fertilization.

- B. Tree Preservation Walk-Through. The Applicant 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 or potentially hazardous may be removed as part of the clearing operation with approval of the Urban Forest Management Division. 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.

- C. Tree Preservation Fencing. All trees and buffers shown to be preserved on the tree preservation plan shall be protected by fencing. Tree protection fencing shall be erected at the limits of clearing and grading. Materials and installation of tree protection fencing shall consist of four foot-high, 14-guage welded wire, attached to six foot steel posts, driven 18 inches into the ground and placed no further than 10 feet apart. The tree protection fencing shall be installed after the tree preservation walk-through meeting and prior to the performance of any clearing and grading activities on-site. All tree preservation activities, including the installation of tree protection fencing, shall be performed under the supervision of the Project Arborist and accomplished in a manner that does not harm existing vegetation to be preserved. Prior to commencement of any clearing and grading activities on-site, the Project Arborist shall verify in writing that the tree protection fencing has been properly installed.

- D. Signage. Signage shall be surely attached to the protective fencing, identifying the tree preservation area and made clearly visible to all construction personnel. Signs shall measure a minimum of 10x12 inches and read: “TREE PRESERVATION AREA – KEEP OUT.” Three days prior to the

commencement of any clearing, grading or demolition activities, the Urban Forestry Division shall be notified and given the opportunity to inspect the site to ensure that all tree protection fencing has been installed properly.

- E. The HOA documents shall require that no structures (other than utilities, utility lines, and/or trails as provided herein above) or fences shall be erected in the tree save area, and that trees in HOA open space areas and the tree save area will not be disturbed except as approved by the Urban Forest Management Division for (i) the removal of disease, dead, dying or hazardous trees or parts thereof; and/or (ii) selective maintenance to remove noxious and poisonous weeds.
 - F. Tree preservation along the Northern boundary of the project shall preserve to the maximum extent possible.
8. Landscaping. Landscaping shall be generally consistent with the quality, quantity and the locations shown illustratively on Sheet 5 of the CDP/FDP. At the time of planting, the minimum caliper for deciduous trees shall be two (2) to two and one-half (2 ½) inches and the minimum height for evergreen trees shall be seven (7) feet. Actual types, locations and species of vegetation shall be determined pursuant to more detailed landscape plans submitted at the time of submission of subdivision plans for review and approval by the Urban Forester. Such landscape plans shall provide tree coverage and species diversity consistent with the PFM criteria, as determined by the Urban Forester. The Applicant reserves the right to make minor modifications to such landscaping to reasonably accommodate utilities and other design considerations, provided such relocated landscaping shall retain a generally equivalent number of plantings as shown on the approved CDP/FDP.
9. Low-Impact Development (“LID”) Techniques. Supplementary innovative measures may be used on the subject Property, such as a bio-retention facility (rain garden) infiltration trenches, rain barrels, and/or grassy swales, subject to DPWES approval, to meet water quality requirements if necessary. In addition, a rain basket shall be installed in each lot to capture runoff and recycle rain water. Pervious materials shall be used in all driveways and patios and under any deck. Other approved BMP measures can be substituted as approved by DPWES, in general conformance with the CDP/FDP.
10. Public Schools Contribution. At time of the issuance of the first building permit, the Applicant shall contribute to Fairfax County a maximum of \$9,738.00 for capital improvements to schools located within the pyramid serving the subject Property.
11. Recreational Facility Contribution. The Applicant shall provide a contribution of \$2,679.00 to the Fairfax County Park Authority for fair share to offset impart on Park Authority recreational facilities (“Park Contribution”), plus the \$3,400.00 required by Sections 6-110 and 16-404 of the Zoning Ordinance for on-site recreational amenities and to address impacts to parks . Said Park Contribution shall be payable to the Fairfax County Park Authority at the time of subdivision plan approval and used entirely off-site

for development of park facilities in Fairfax Villa Park or within the service area of the subject property.

12. Garages and Driveways. The Applicant shall place a covenant on each residential lot that prohibits the use of the garage for any purpose which would preclude motor vehicle storage. This covenant shall be recorded among the land records of Fairfax County prior to the sale of lots and shall run to the benefit of the HOA and to the Board. Prior to recordation, the covenant shall be approved by the Fairfax County Attorney's office. The HOA documents shall expressly state this use restriction. The driveway provided for each home shall be a minimum of thirty (30) feet in length and eighteen (18) feet in width.
13. Architectural Elevations. Illustrative building elevations for the proposed units shall be generally consistent in character, as to architectural style, colors, and quality, with the conceptual elevations depicted on Sheet 2 of the CDP/FDP, as determined by DPWES. As determined by the Applicant, siding materials consisting of brick, stone and/or similar materials shall be provided. The materials and architectural style of the house and yard lights shall be compatible with the house in the cloisters as depicted on the CDP/FDP.
14. Energy Efficiency. All new dwelling units shall be designed and constructed as ENERGY STAR qualified homes. Prior to 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 (DZP) 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.
15. Archaeological Studies. Prior to any land disturbing activities on that property identified among the Fairfax County tax records as (TAX MAP ID), Applicant shall conduct a Phase I archaeological study of the Application Property, and provide the results of such studies to the Heritage Resources Branch of the Fairfax County Park Authority ("Heritage Resources"). If deemed necessary by Heritage Resources, the Applicant shall conduct a Phase II and/or Phase III archaeological study on only those areas of the Application Property identified for further study by Heritage Resources. The studies shall be conducted by a qualified archaeological professional approved by Heritage Resources, and shall be reviewed and approved by Heritage Resources. The studies shall be completed prior to subdivision plat recordation.
16. Escalation. All monetary contributions required by any proffer herein shall be adjusted by increases to the Consumer Price Index for all urban consumers (CPI-U), 1982-1984=100 (not seasonally adjusted) as reported by the United States Department of Labor, Bureau of Labor Statistics OR by increase to The Marshall and Swift Building Cost Index from the date of the Board of Supervisors' approval of this rezoning application to the date of site/subdivision approval.

17. Asbestos Containing Soils. If based on the soils analysis submitted as part of the site plan approval process, DPWES determines that a potential health risk exists due to the presence and associated disturbance of asbestos-containing soils on the Property, the Applicant shall:
 - (A) Take appropriate measures as determined by the Fairfax County Health Department to alert all construction personnel as to the potential health risks; and
 - (B) Commit appropriate construction techniques as determined by DPWES in coordination with the Fairfax County Health Department to minimize this risk. Such techniques shall include, but not be limited to, dust suppression during all blasting and drilling activities and covered transportation of removed materials presenting this risk, and appropriate disposal.
18. Affordable Dwelling Units. Prior to the issuance of the first Building Permit for the single family detached units, the Applicant shall contribute to the Fairfax County Housing Trust Fund the sum equal to one half of one percent (1/2%) of the value of all the units approved on the property. The one half of one percent (1/2%) contribution shall be based on the aggregate sales price of all of the units subject to the contribution, as if those units were sold at the time of the issuance of the first Building Permit. The project sales price shall be determined by the Applicant through an evaluation of the sales prices of comparable units in the area, in consultation with the Fairfax County Department of Housing and Community Development (HCD) and DPWES.
19. Stormwater Management. If DPWES does not accept the proposed BMP or stormwater measures, Applicant will substitute other measures, subject to their approval that conform to the PFM in substantial conformance with CDP/FDP.
20. Sight Distance. Applicant will meet the sight distance requirements per VDOT standards for the proposed private street intersection with Shirley Gate Rd prior to site plan approval.
21. Conservation Areas. A Conservation Easement shall be placed on those areas shown as "conservation areas" on the CDP/FDP. The applicant shall disclose the fact that there are easements on this land to prospective purchasers in both the sales promotion literature and the sales contracts. The terms of those easements shall be included in the HOA documents, including the provisions that the conservation area will remain undisturbed, that clearing of the area is prohibited, that the dumping of yard or other debris is prohibited, that the location or construction of sheds, fences or recreation equipment is prohibited in these areas.
22. Private Street. The on-site private street shall be constructed in conformance with the Public Facilities Manual ("PFM") and shall be constructed of pervious materials as shown on the CDP/FDP and depth of pavement consistent with Sect. 7-0502 of the PFM, subject to any design modifications as to pavement and easement width and use of curb, that are approved by the Director of DPWES. The Homeowners' Association shall be

responsible for the maintenance of the on-site private street. All prospective purchasers shall be advised of this maintenance obligation prior to entering into a contract of sale and said obligation will be disclosed in the HOA documents.

23. Successors and Assigns. Each reference to “Applicant” in this Proffer Statement shall include within its meaning, and shall be binding upon, Applicant’s successor(s) in interest, assigns, and/or developer(s) of the Property or any portion of the Property.

By: _____
Tariq Khan