

**County of Fairfax, Virginia
Planning Commission Meeting
July 22, 2020
Verbatim Excerpt**

PCA-C-052-09/CDPA-C-052-02/FDPA-C-052-15 – KIW SKYLINE 1, LLC, KIW SKYLINE 2, LLC AND KIW SKYLINE 3, LLC – Appl(s). to amend the proffers, conceptual development plan, and final development plan for RZ-C-052 previously approved for office use, to permit the repurposing of office buildings to accommodate live/work units and associated modifications to proffers and site design at a 2.98 Floor Area Ratio (FAR). Located on the E. side of Seminary Rd., S. of Leesburg Pike and N. of South George Mason Dr. on approx. 6.45 ac. of land zoned PDC, CRD, SC and HC. Comp. Plan Rec: Mixed Uses. Tax Map 62-3 ((1)) 30, 33,35, 35A and 45. (Mason District)

During Commission Matters
(Decision Only) (Public Hearing held on July 15, 2020)

Commissioner Strandlie: Thank you, Mr. Chairman. We have two decisions from a hearing from last week and we – I deferred the decision only for some opportunity to work on the – the proffers and clear up some questions that we had, with both of them. I would like to start with the Skyline case. For decision – PCA-C-052-09, and the accompanying cases. And just briefly, this is a case that where there – the three vacant – substantially vacant office buildings in the Skyline area of the Mason District will be repurposed. Skyline Center Buildings 1, 2, and 3; into a maximum of 720 live-work units. Where each tenant can choose whether to use each unit as an office, a residential unit, or a combination of both. As an option, one of the three buildings may be used for up to 240 age restricted live-work units. The lower levels of each building would include a minimum of 10,000 square feet of space for use as designated to act with the ground floor and surrounding public spaces. These will include building amenities commonly found in residential and office buildings, retail spaces, such as restaurants, business service, personal service, supply services, etcetera. The existing three-story parking garage system underneath the building will be retained and approximately half the possible service parking will be removed and replaced with an open space. This is a very exciting project to revitalize this area and to actually create an innovation center. These buildings are also very timely, given the remote – work from home. These buildings provide the opportunity to do exactly that. We have been, as I mentioned, working on the proffers since last week. A revised set of proffers were circulated...later in the afternoon, today. One of that things that we were working on was ensuring that the musts, where inserted in the proffers where appropriate for clarity. We were also working on some language with Commissioner Cortina, regarding landscaping and tree cover and I would ask Sharon William, the staff – the contact for this application, to please give an overview of what happened in that area. And then, I have one more, very exciting development, in that there was an oversight, and there will be two preemption devices proffered with this application. Sharon, can you answer the question about the concerns that we had that – Mary – Commissioner Cortina had about the landscaping and tree – tree covers?

Sharon Williams, Department of Planning and Development, Zoning Evaluation Division: So, we briefly discussed this at the hearing last week, but the applicant had some concerns that we were not able to necessarily meet the tree canopy cover requirements, here on site, as Julie alluded to. These three buildings are sited on top of an underground garage. Given that some of these trees don't have adequate soil depths, that would be defined and required in the PFM. So, there was some back and forth with that and the proffers weren't – and last week the proffers weren't in a place where staff was necessarily comfortable. We had brief discussion about that, last week. At this point in time, the language has been revised to a point where we're comfortable that the trees

that will go in there. If they don't meet the soil requirements, they won't be able to be counted for their tree canopy coverage. But the applicant is requesting a waiver of that and we feel comfortable from the staff perspective that that's something that can be dealt with at site plan. So that issue has been resolved. And Julia, as you had alluded to, there are several other, sort of minor proffer changes that the applicant made. We're very comfortable with them. And again, we did add a brand-new proffer for the signal preemption devices, so now we'll be able to have money. The applicant provided money so we'll have two singles out here. Otherwise everything else, from a proffer standpoint is – is acceptable for staff.

Commissioner Strandlie: Great, thank you.

Commissioner Cortina: Chair – Chairman – Commissioner Strandlie, if I could jump in.

Chairman Murphy: Yes?

Commissioner Cortina: Thank you.

Chairman Murphy: Commissioner Cortina.

Commissioner Cortina: Thank you, Mr. Chairman. I also wanted to note that the applicant, and I do appreciate this, put into the proffers the commitment they had made to address stormwater underneath the artificial turf. So, that has now been memorialized as well, and those proffers that they've added are now more in line with the Comprehensive Plan. And – and overall, the already developed property into a new use, will be positive for the community and will live up to the vision that they addressed, in terms of the proffers. Thank you.

Chairman Murphy: Thank you. Commissioner Strandlie.

Commissioner Strandlie: Thank you, Commissioner Cortina. We do have signed proffers and this afternoon, I spoke with Mike Van Atta about a couple of further revisions, just as I was going through them. And, I will ask him to confirm this conversation. One of the things that was not specified was that the WDUs should not be located on the same floor. They will be disbursed between the buildings, and I just wanted to clarify that. So, between now and the Board, I would ask them to do that. And, also in reviewing the proffers, for which I spent a substantial of time - time this week working on grammar and sentence construction on a couple of – of documents. The proffers include lists of some requirements or options. And I've asked the – the applicant, between now and the time before the Board to go back and revise those. Because it needs to be clear whether these are a list that requires an and, that all things need to be complied with or, it's an or, not one of the above. So, I would commend – commend everyone to look at all their own proffers to make sure that these are actually very clear. So, with that Mr. Chairman, I'd like the applicant to confirm for the record their agreement to the Development Conditions now dated July 13th, 2020.

Gregory A. Riegler, Applicant's Agent, McGuire Woods, LLP: Mr. Chairman, for the record, this Greg Riegler from McGuire Woods, on behalf of the applicant, and we are in agreement with those conditions that were referenced having the date of July 13th. I will also confirm for the record that we are in further agreement with Ms. Strandlie's comment regarding WDU disbursals on individual floors of buildings. Frankly, that was always the intent and we are happy to capture

that in the proffers and I will also note that we should – that – I will note two things. And Commissioner Strandlie has proven herself to be a very capable editor, as I think everyone knows. And we will address those editorial comments in the time between now and the Board as well. And while I have the floor, I will thank Commissioner Strandlie and Commissioner Cortina for a lot of effort and hard work during on the deferral period. Thank you, Mr. Chairman.

Chairman Murphy: Thank you.

Commissioner Strandlie: Thank you, Mr. Riegler. And I also want to thank Sharon Williams, the – the staff developer on this project. She has been great to work with and has been very helpful, along with the applicants, as well. And thank you, Mr. Riegler, for confirming those conversations and continuing to – to work on that. It's much easier to have it with clarity in the beginning, than a question later. So with that, I MOVE THAT THE PLANNING COMMISSION RECOMMEND APPROVAL OF PCA C-052-09, AND ITS ASSOCIATED CONCEPTUAL DEVELOPMENT PLAN, CDPA C-052-02, TO THE BOARD OF SUPERVISORS, SUBJECT TO THE EXECUTION OF THE PROFFERS CONSISTENT WITH THOSE NOW DATED JULY 22ND, 2020.

Commissioner Cortina: Second.

Chairman Murphy: Seconded by Commissioner Cortina. Is there a discussion of the motion? All those in favor of the motion to approve – recommending to the Board of Supervisors that they approve PCA C-052-09 and CDPA C-052-02, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries. Commissioner Strandlie.

Commissioner Strandlie: I move that the – I MOVE THAT THE - THE PLANNING COMMISSION APPROVE FDPA C-052-15, SUBJECT TO DEVELOPMENT CONDITIONS, DATED JULY 13TH, 2020 AND SUBJECT TO THE BOARD OF SUPERVISORS' APPROVAL OF THE CONCURRENT PCA APPLICATION.

Commissioner Cortina: Second.

Chairman Murphy: Seconded by Commissioner Cortina. Is there a discussion? All those in favor of the motion to approve FDPA C-052-15, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries. Thank you very much.

Commissioner Strandlie: And finally...

Chairman Murphy: Go ahead.

Commissioner Strandlie: Finally, I MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS APPROVAL OF THE WAIVERS AND

MODIFICATIONS CONTAINED IN THE HANDOUT DATED JULY 10TH, 2020, WHICH WILL BE MADE PART OF THE RECORD.

Commissioner Cortina: Second.

Chairman Murphy: Seconded by Commissioner Cortina. Discussion? All those in favor of that motion, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

Each motion carried by a vote of 12-0.

SS

SKYLINE CENTER – BUILDINGS 1, 2 AND 3

PCA C-052-09/CDPA C-052-02 PROFFERS

July 22, 2020

PREAMBLE

Pursuant to Section 15.2-2303(a) of the Code of Virginia (1950, as amended) and Section 18-204 of the Zoning Ordinance of Fairfax County (1978 as amended), the property owner and the Applicant, for themselves and their successors and/or assigns (hereinafter referred to as the "Applicant"), hereby proffer that the development of the parcels under consideration and shown on the Fairfax County tax map as Tax Map 62-3 ((1)) 30, 33, 35, 35A and 45 (the "Property") must be in accordance with the following conditions if, and only if, PCA C-052-9 is granted. Upon approval, these Proffers will supersede any and all previously approved proffers and development conditions associated with RZ C-052, PCA C-52-2 and other subsequent amendments, as they apply to the Property.

GENERAL

1. Conceptual/ Final Development Plan. Any development of the Property must be in substantial conformance with the Conceptual Development Plan Amendment ("CDPA") and Final Development Plan Amendment ("FDPA") entitled "Skyline Center Buildings 1, 2 and 3", prepared by VIKA dated January 10, 2020 and revised through June 19, 2020, containing 44 sheets.
2. Elements of CDP. Notwithstanding the fact that the CDPA and FDPA are presented on the same plan, the elements that are components of the CDPA are limited to the perimeter points of access, the proposed uses, the maximum number of units, minimum amount of open space, the maximum building heights, the grid of streets, and only a future amendment to such elements must require a subsequent CDPA or Proffered Condition Amendment (PCA). Other elements of the CDPA may be adjusted or modified with approval of future FDPAs in accordance with the provisions set forth in Section 16-402 of the Fairfax County Zoning Ordinance (the "Ordinance").
3. Minor Modifications. Minor modifications to the CDPA/FDPA may be permitted when necessitated by final engineering, final building design, or final site design or engineering, pursuant to Section 16-403(4) of the Zoning Ordinance. Minor modifications of building footprints, GFA, and reductions to the number of units and corresponding adjustments in minimum required and provided parking (increases or

decreases) may be permitted, so long as (a) the provided publicly accessible open space is not reduced; (b) the building height is not increased; (c) the building setbacks to the peripheral lot lines are not diminished; and (d) the development otherwise is in substantial conformance with the CDPA/FDPA as determined by the Zoning Administrator. Such permitted adjustments or modifications will include, but not be limited to final architecture, landscape design, final design of open spaces, and access to individual structures. All improvements to occur on the top level of the parking structure, or other elevated structure, including but not limited to required landscaping, both existing and proposed, open space amenities, and other site improvements as shown on the CDPA/FDPA, are subject to meeting and conforming to existing structural load limitations on the existing garage and building slabs, other elevated structures, and existing recorded REA requirements, as may be amended, on/with the adjoining properties, and therefore will not be required to meet County PFM and/or UFMD requirements for tree planting depth, soil volume, or other requirements normally associated with either planting on grade or with new construction projects. Should any improvements on the CDPA/FDPA not be feasible due to existing structural load limitations, the Applicant must provide alternative improvements of similar purpose, quantity, and quality and in general conformance with the CDPA/FDPA.

4. Fire Marshal Evaluation. Changes from the development plan will be permitted in response to the review of the CDPA/FDPA by the Fire Marshal, including but not limited to adjustments to tree locations, the streetscape, FDC locations, and perimeter building areas as necessary to allow for required emergency vehicle access, and public safety, without requiring the approval of a PCA, CDPA, or FDPA, provided such modifications are made in consultation with the Department of Planning and Development (DPD), Fairfax County Department of Transportation (FCDOT), Land Development Services (LDS), and Urban Forest Management Division (UFMD).
5. Construction Hours. The staging and parking of construction vehicles must occur on the Property, including personal vehicles utilized by construction workers, or elsewhere as may be agreed via agreement with other property owners, including commercial parking lots, provided no staging or parking occurs on public streets. The construction hours and posting thereof must be consistent with standard County requirements at the time of construction.
6. Existing Development. As reflected on Sheet C-06 of the CDPA/FDPA, the Property is currently developed with three (3) existing office buildings which contain approximately 847,680 combined square feet of gross floor area (GFA) and a 4 level parking structure (collectively, the “Existing Development”). For the purposes of these proffer conditions, Sheet C-06 of the CDPA/FDPA will constitute an FDPA for the purposes of the existing development and improvements. The existing building’s existing office uses and any permitted ground floor uses may remain in operation until the issuance of the building permit for the conversion of each respective building on the Property, and the Applicant may make modifications to

the Existing Development provided the modifications are in substantial conformance with the CDPA/FDPA. The existing development must continue to meet the required parking for each respective building and associated uses per Article 11 of the Zoning Ordinance and any previously approved parking reduction or other prior parking agreement on the Property until such time that the each respective building is redeveloped.

DENSITY, USE, AND HEIGHT

7. **Proposed Development.** Development on the Property may include up to 847,680 square feet of GFA generally contained in the three existing buildings. Use of the Property will be permitted as follows:
 - a) Individual non-age restricted units may be utilized as offices, dwellings, live/work (i.e. residential and office) space, or any combination of those uses, at all times, including any accessory uses, accessory service uses, and home occupations as permitted by Article 10 of the Zoning Ordinance, herein defined as “Live/Work Units”. Up to 720 individual Live/Work Units are permitted. The Applicant may construct fewer units without the need for a PCA, CDPA, FDPA, or proffer interpretation. The proposed Live/Work Units may require potential code modifications and any such approved code modifications will be deemed to be in substantial conformance with this zoning approval.
 - b) Up to one building on the Property (maximum of 240 units) may consist partially or entirely of age restricted live/work units, as defined by the Housing for Older Persons Act of 1995 (HOPA). Such age restricted live/work units may also include programs and services appropriate to an aging population to include but not be limited to meals, recreation, entertainment, and supportive care. Any age restricted live/work units must not be rented solely as offices but must instead offer a home occupancy license, or the equivalent, herein defined as “Age Restricted Live/Work Units”. The residential tenant of any Age Restricted Live/Work Unit may, in addition to living in the unit, conduct any other uses permitted by subparagraph (a) above.
 - c) Upon each building’s conversion, the Applicant must provide amenity space on the lower levels of each building to include a minimum 10,000 square feet of space for permitted principal and secondary uses that may include, but not be limited to, building amenity, leasing and operations functions, building common space, business service and supply service establishments, retail, restaurants, offices, personal service establishments, small-scale production uses, makerspace, artist workshop and gallery space, food incubator space, public uses, or any combination of those or similar uses,

including all uses in the PDC District, pursuant to Sections 6-202, 6-203, 6-204 and 6-205 of the Zoning Ordinance, or as may otherwise be permitted in the PDC District, subject to any Use Restrictions in the Zoning Ordinance. The following PDC uses are excluded from this proffer:

- i. Automobile-oriented uses;
- ii. Golf courses, country clubs;
- iii. Golf driving ranges;
- iv. Marinas, docks and boating facilities;
- v. Service stations;
- vi. Vehicle light service establishments;
- vii. Vehicle sale, rental and ancillary service establishments;
- viii. Indoor firing ranges, archery ranges;
- ix. Transportation facilities;

Such permitted uses may be owned and operated by the Applicant or by others. The Applicant must provide at a minimum one ground floor principal or secondary use that is accessible to the public and not restricted wholly as a building amenity for residents or subscription holders.

- d) Up to 12,200 square feet of child care center use is permitted on the Property. The Applicant reserves the right to retain or relocate the outdoor play area as shown on the CDPA/FDPA for the child care center use provided the play area is not relocated within or otherwise reduces the amount of publicly accessible urban park space.
- e) Telecommunication facilities are permitted in accordance with Par. 1 of Sect. 2-514 of the Zoning Ordinance, provided such facilities are either in existing locations, flush mounted, or otherwise designed to be visually unobtrusive.
- f) The Applicant, or its designee, will be permitted to provide temporary uses on the subject Property, including but not limited to, festivals, fairs, farmers' markets and food vendors including food trucks, outdoor movies, block parties, arts performances, and other similar activities, without the need for issuance or approval of a "Temporary Special Permit" in accordance with the following provisions:
 - i. May be provided with or without admission or other fees;
 - ii. Sponsored by the Applicant, or its designee, a civic organization, public entity including the Fairfax County Park Authority ("FCPA"), local chamber of commerce, charitable organization, service club, non-profit, or similar entity;
 - iii. Complies with all Health Department regulations.

TRANSPORTATION

8. Right-of-way Dedication. Prior to the first RUP or Non-RUP, the Applicant must dedicate in fee simple to Fairfax County (+/-) six (6) feet of right-of-way (ROW), as may be required, along Wheeler Avenue at Seminary Road, as shown on the CDPA/FDPA, for a future on-road bike lane to be constructed by others.
9. Wheeler Avenue Sidewalk. Prior to the release of any bonds and/or escrows held as surety, and subject to VDOT approval, the Applicant must install a sidewalk along Wheeler Avenue as shown on the CDPA/FDPA. Approval of the sidewalk connection must not be a condition precedent to receiving building permit approval or occupancy of the buildings. If the sidewalk connection to the existing Seminary Road sidewalk is either not approved by VDOT, requires any ROW or other property acquisition to complete, or costs in excess of \$25,000 to complete, the Applicant must instead escrow the cost of such improvement with FCDOT, not to exceed \$25,000, and this proffer condition will be considered fulfilled.
10. Seminary Road Crosswalk. Prior to the release of any bonds and/or escrows held as surety, and subject to VDOT approval, the Applicant must install a pedestrian crosswalk across Seminary Road at Wheeler Avenue as shown on the CDPA/FDPA. Installation of the pedestrian crosswalk will be limited solely to the restriping of the existing pavement to provide a standard pedestrian crosswalk and will not include any additional road or other improvements, or require any additional ROW or other property acquisition to complete. Approval of the crosswalk will not be a condition precedent to receiving building permit approval or occupancy of the buildings. If the crosswalk is either not approved by VDOT, costs in excess of \$25,000 to complete, and/or any other conditions precedent for the installation of the crosswalk are not able to be met, the Applicant must instead make a financial contribution to Fairfax County toward improvements in the area, not to exceed \$25,000, and this proffer condition will be considered fulfilled.
11. South George Mason Drive Entrance Crosswalk. The Applicant agrees to cooperate with the owner of Skyline Building 4 to provide any and all approvals and easements necessary for them to install a pedestrian crosswalk on their property to the entrance of Skyline Drive at South George Mason Drive. The Applicant further agrees to contribute \$25,000 to Fairfax County for pedestrian improvements at this intersection by others prior to the first RUP or Non RUP for the first building completed on site.
12. Zoning Ordinance Parking Requirements. Parking must be provided in accordance with the parking requirements of Article 11 of the Zoning Ordinance and as further qualified by the parking reduction approved with this application (the "Parking Reduction"). The Property must contain a minimum of 1,363 parking spaces per the maximum overall GFA of 847,680 square feet on the Property. Should a lower

maximum overall GFA ultimately be established for the Property, the minimum required parking will be proportionally reduced based on the parking rates listed on Sheet C-03 of the CDPA/FDPA. For the purpose of calculating required parking, the Applicant may utilize the existing parking spaces in their present configuration and location without the need for restriping or other reconfigurations to reflect current PFM requirements.

13. Future Zoning Ordinance Amendments. The Applicant can recalculate parking based on future revisions to the minimum parking requirements contained in the Zoning Ordinance. Any such revisions will not require a PCA or CDPA/FDPA.
14. Future Parking Reductions. The Applicant reserves the right to pursue future parking reductions and shared parking arrangements for the Property as may be permitted by the Fairfax County Zoning Ordinance and/or the Skyline REA without the need for an amendment to these Proffers or the CDPA/FDPA.
15. Bicycle Parking. The Applicant must provide bicycle racks outside and secure bike parking/storage facilities within the buildings or parking structure in a location convenient for the use of building occupants. The bike racks must be inverted U-style or other design approved by FCDOT. The total number of bike parking spaces must be consistent with the Fairfax County Policy and Guidelines for Bicycle Parking, Table 2A “Bicycle Parking Recommendations *excluding* Urban Centers and Transit Station Areas (TSA)”, as of the date of the PCA approval. The final location, quantity, and type of outdoor bicycle racks is to be determined in consultation with the FCDOT bicycle coordinator or his/her designee prior to minor site plan approval and the final location, quantity, and type of secure bike parking/storage facilities within the buildings or parking structure is to be determined in consultation with the FCDOT bicycle parking coordinator or his/her designee prior to building plan approval for each building to be converted on the Property.
16. Transportation Demand Management. This Proffer sets forth the programmatic elements of a transportation demand management (TDM) program that must be implemented by the Applicant, and subsequently, as appropriate, the property owner or condominium owners association, to encourage the use of transit (Metrorail and bus), other high-occupant vehicle commuting modes, walking, biking and teleworking, all in order to further reduce single occupant automobile trips generated by the residential and/or commercial uses on the Property.
 - A. Definitions. For purposes of this Proffer, "Stabilization" must be on a “per building basis” and must be deemed at the later to occur of each building on the property reaching 92% occupancy or one (1) year following issuance of the last initial RUP or Non-RUP for each building. "Pre-stabilization" must be deemed to occur any time prior to Stabilization.
 - B. Transportation Demand Management Plan. The Applicant must be

responsible for submitting the Transportation Demand Management Work Plan (the "TDM Plan") to FCDOT prior to issuance of the first RUP or new Non-RUP for each building. The proffered elements of the TDM Plan must include:

- (1) Dissemination of information regarding Metro rail, Metro bus, ridesharing, and other relevant transit options in tenant move-in packages;
- (2) Making Metro maps, schedules and forms, ridesharing and other relevant transit option information available to tenants in a common area; such as a central lobby, community room, or building management office;
- (3) Provision of a teleworking center wired with high capacity data/network connections available for the use of all tenants;
- (4) Implementation of other strategies found to be effective in reducing the number of single occupant vehicle trips as may be mutually agreed to by the Applicant and FCDOT.

It is the intent of this Proffer that the TDM Plan will adapt over time to respond to the changing transportation related circumstances of the Property, the surrounding community and the region, as well as to technological and/or other improvements, all with the objective of meeting the trip reduction goals as set forth in these Proffers. Accordingly, modifications, revisions, and supplements to the TDM Plan as coordinated with FCDOT can be made without the need for a PCA provided that the modified TDM Plan continues to reflect the proffered elements of the TDM Plan as set forth herein.

C. Trip Reduction Goals. The objective of the TDM Plan must be to reduce the number of weekday peak hour vehicle trips generated by each building on the Property from today's ITE baseline through the use of mass transit, ridesharing, teleworking, and other strategies including but not limited to those outlined in the TDM Plan. In addition, the implementation of enhanced pedestrian and bicycle connections/facilities and mix of uses on site will provide safe and convenient access to nearby bus facilities thereby encouraging commuting options other than the automobile to tenants, employees and visitors to the Property.

- (1) Baseline. The baseline number of weekday per hour vehicle trips for each building on the Property against which the TDM Goal (as defined in subparagraph c.ii) will be measured must be derived upon the total gross floor area in each existing office building using the

trip generation rates/equations applicable to such office uses as set forth in the Institute of Transportation Engineers, Trip Generation, 8th Edition for Land Use Code = 710.

- (2) TDM Goal. Consistent with prior live/work approvals, The TDM strategies must be employed in order to reduce A.M. and P.M. peak hour vehicular trips from the Baseline by a minimum of seventeen percent (17%) for each building on the Property.
- D. Process of Implementation. The TDM Plan must be implemented as follows, provided that modifications, revisions, and supplements to the implementation process as set forth herein as coordinated with FCDOT can be made without requiring a PCA.
- (1) TDM Program Manager. The applicant must appoint and employ, or cause to be employed, a TDM Program Manager (TPM) for the Property (or each building if individually owned and managed). If not previously appointed, the TPM must be appointed by no later than five (5) days after the issuance of the first RUP or new Non-RUP for each building on the Property. The TPM duties may be part of other duties associated with the appointee. The TPM must notify FCDOT in writing within 10 days of the appointment of the TPM. The Applicant reserves the right to replace the TPM at any time at their sole and absolute discretion.
 - (2) Annual Report and TDM Budget. For the first two years after Stabilization, and no later than May 15 each year, the TPM must submit an Annual Report and TDM budget, based on a report template provided by FCDOT. Any changes to the TDM Plan must be highlighted in this report. The TDM Budget is a budget for each expenditure related to the TDM Program. The TDM Budget is not required to exceed the funds available in the TDM Account. The Annual Report and TDM Budget must be reviewed by FCDOT. If FCDOT has not responded with any comments within sixty (60) days after submission, then the Annual Report and TDM Budget is deemed approved and the program elements must be implemented. If FCDOT responds with comments on the Annual Report and TDM Budget, then the TPM must meet with FCDOT staff within thirty (30) days of receipt of the County's comments. Thereafter, but in any event, no later than thirty (30) days after the meeting, the TPM must submit such revisions to the program and TDM Budget as may be agreed to by the Applicant and FCDOT and begin implementation of the approved program.
 - (3) TDM Account. The TPM must establish a separate interest bearing account with a bank or other financial institution qualified to do

business in Virginia (the "TDM Account") within 30 days after approval of the TDM Plan. All interest earned on the principal must remain in the TDM Account and must be used by the TPM for TDM purposes. The Applicant, through the TPM, must deposit contributions into the TDM Account to fund a multimodal incentive program for initial purchasers/lessees. Such contributions must be made one time at the rate of \$0.01 per gross square foot of gross floor area of the building and provided prior to the issuance of the first RUP or new Non-RUP. In addition to providing transit incentives, such contributions may also be used for enhancing/providing multimodal facilities within and proximate to the Property.

- (4) Monitoring. In connection with the Annual Reports, the TPM must verify that the proffered trip reduction goals are being met through the completion of Vehicular Traffic Counts or other such methods as may be reviewed and approved by FCDOT. The results of such Vehicular Traffic Counts must be provided to FCDOT as part of the Annual Reporting process. Vehicular Traffic Counts must be conducted for each building on the Subject Property beginning one year following Stabilization and continuing annually until each building on the Property demonstrates achievement of the 17% reduction as outlined above or 10 years after stabilization, whichever is sooner.
- E. Additional Trip Counts. If an Annual Report calls into question whether the applicable vehicle trip reduction goals will be met, or that the vehicle trip reduction goals are not being met, then the TPM must meet with FCDOT to review the TDM strategies in place and to develop modifications to the TDM Plan to address the surplus of trips.
- F. Continuing Implementation. The Applicant must bear responsibility for continuing implementation of the TDM Plan and compliance with this Proffer during the term of the TDM. The TPM must continue to administer the TDM Plan in the ordinary course in accordance with this Proffer including submission of Annual Reports for the duration of the TDM program.
- G. Notice to Owners. All owners of the Subject Property must be advised of the TDM Plan set forth in this Proffer for the duration of this TDM program. If not completed earlier, the provisions of this proffer must expire 10 years after Stabilization.

SITE DESIGN AND AMENITIES

17. Publicly Accessible Parks and Recreational Facilities. The Applicant must provide a minimum of 1.10 acres of park space on the Property that must be open and accessible to the public as depicted on the CDPA/FDPA, herein defined as “Publicly Accessible Park Space”. The varieties and quantity of recreational facilities and amenities provided in the Publicly Accessible Park Space must generally follow that shown on the CDPA/FDPA, and may include but not be limited to the following:
- a) Green Wrapper Linear Park. Consistent with the Phasing Plan shown on Sheet S-02 of the CDPA/FDPA, the Applicant must construct a linear park as generally shown on Sheet L1.01 of the CDPA/FDPA. The park must include but not be limited to amenities such as open seating, benches, ergonomically formed and climbable/interactive seating, walking paths, landscaping, active and passive zones, and lighting. The Green Wrapper Linear Park must contain approximately 0.55 acres of the total 1.10 acres of required Publicly Accessible Park Space.
 - b) Pocket Parks. Consistent with the Phasing Plan shown on Sheet S-02 of the CDPA/FDPA, the Applicant must construct pocket parks and other open spaces as generally shown on Sheet L1.01 of the CDPA/FDPA. These pocket parks and open spaces must contain the remaining amount of the required 1.10 acres of Publicly Accessible Park Space that is not located within the Green Wrapper Linear Park. The final locations of the Publicly Accessible Park Spaces within the Pocket Parks will be determined at the time of final design in consultation with the Fairfax County Park Authority (FCPA) and the DPD Community Revitalization Section, must include the areas identified on Sheet L1.01 of the CDPA/FDPA as the “sport greens” and “interactive shade/swing structure”, and must also include, at a minimum, amenities such as open seating, benches or ergonomically formed seating, walking paths, landscaping, lighting, and active and passive zones, which may include but not be limited to climbable art, cooling misters, gaming areas, plantings, and either real or synthetic turf flex zones.
 - c) Public Access Easement. The Applicant must record a public access easement over the publicly accessible open space prior to the issuance of the first RUP or Non-RUP for each building completed onsite relative to the proposed improvements associated with each project phase as outlined in the Phasing Plan. The Applicant must retain the areas in fee simple, record public access easement(s) ensuring that the park spaces are open to the public for reasonable periods of time, and provide for perpetual private maintenance. The Applicant further retains the right to reasonably restrict access prior to the completion of initial construction of the proposed improvements and for limited times thereafter for safety, private events, security, maintenance, repairs, and may exercise such other reasonable controls over such areas to prevent the general public from acquiring rights of access that are inconsistent with the status of the Property as private

property. All public access easements must further conform to all existing Skyline inter-property agreements, as may be amended.

- d) Trash Receptacles. Trash receptacles must be provided onsite and must be regularly monitored and maintained in open spaces throughout the Property.
18. Private Park Spaces. All park, open spaces, landscape and hardscaped areas located on site that are not considered “Publicly Accessible Park Spaces” will be considered “Private Park Spaces” for the use of the owners and tenants of the buildings and their guests and assigns. The designs of the Private Park Spaces may be revised at final site design provided the type, quality, and quantity of the amenities included on the CDPA/FDPA are provided. Construction of the Private Park Spaces must be consistent with the Phasing Plan shown on Sheet S-02 of the CDPA/FDPA.
19. Top Level Garage and Plaza Space Improvements. Publicly Accessible Park Space, Private Park Spaces and other landscape and hardscape improvements and plantings, including streetscape and sidewalks to be constructed upon the top level of the existing garage and within the existing plaza areas, and not including certain improvements defined herein requiring installation prior to the release of any bonds and/or escrows held as surety, must be provided as generally shown on the Phasing Plan on Sheet S-02 of the CDPA/FDPA. Notwithstanding the foregoing, the Applicant reserves the right, in consultation with LDS, to shift the location of trees in the above defined areas to accommodate structural considerations, final architectural design, utilities and layout considerations, and sight distance requirements so long as such modifications are in substantial conformance with the quantity and quality of trees shown on the CDPA/FDPA.
20. Amenities and Facilities for Tenants. Pursuant to Paragraph 2 of Section 6-409 of the Zoning Ordinance, the Applicant must provide on-site recreational facilities for the future tenants of the Property. Amenities to be provided, which may be creditable toward fulfilling this requirement may include, but are not limited to all building amenity spaces, an outdoor living room, fitness areas, community social kitchen, dog washing area, conference rooms, music practice/production rooms as well as any on-site Publicly Accessible Park Space, Private Park Spaces or other amenities. In the event it is demonstrated that the creditable facilities, pursuant to Article 6 of the Zoning Ordinance, do not have sufficient value, at the time of the issuance of the last RUP for each building converted on site relative to the improvements associated with that building’s specific project phase as outlined within the Phasing Plan, the Applicant must contribute funds in the amount needed to achieve the overall proffered amount of \$1,900 per Live/Work Unit, for that specific project phase, to FCPA for off-site recreational facilities intended to serve the future tenants, as determined by the Supervisor for the Mason District in consultation with FCPA. No additional contribution is required for the last project phase should the totality of per unit on-site recreational facilities constructed in any combination of phases be greater than the total number of units constructed in all three phases multiplied by \$1,900.

21. Recreation Contribution. Prior to issuance of building permits for each building on the Property, the Applicant must contribute \$782 per each Live/Work Unit in the proposed building permit application to FCPA for park and recreation improvements in the service area of the subject property, as determined by FCPA in consultation with the Mason District Supervisor.
22. Architecture. The architectural design and renovations to the existing buildings and parking structure must be in general conformance with the illustrative elevations shown on Sheets A.01 – A.04 of the CDPA/FDPA, but may be modified by the Applicant in consultation with the DPD Community Revitalization Section as part of final engineering and building design, including but not limited to window design, the location of windows, exterior building materials, and building entry locations, provided that such modifications provide a similar quality of design.
23. Parking Garage Super Graphic. Should the Applicant choose to install a super graphic on top of the parking garage per Sheet L1.00 of the CDPA/FDPA, the Applicant must consult Arts Fairfax, the Mason District Office, and the DPD, Community Revitalization Section (CRS) about ideas for public input opportunities on the potential super graphic, and the Applicant must provide documentation that community consultation was conducted prior to any super graphic being applied to the parking structure. Following installation, the super graphic applied to the top of the parking garage must be regularly maintained and kept in good repair until such time as it may be changed or removed by the Owner.
24. Universal Design. The Applicant must provide a minimum of two percent (2%) of the total number of Live/Work Units constructed on the Property with universal design features to include, but not be limited to, the following:
 - All in-unit doors and plumbing fixtures must have lever type handles;
 - The location of controls for ranges and cook-tops must not require reaching over the burners;
 - Refrigerators must contain a side-by-side door configuration;
 - All cabinetry must have “D-type: pull handles”;
 - Thermostats must be rotary style and designed for the visually impaired with large numbers and audible clicks and must be located in accessible locations;
 - Light switches, electrical outlets, and other environmental controls must be located in accessible locations;
 - Reinforcements in bathroom walls to allow for the installation of grab bars;
 - Toilets must be elevated style (comfort height);

In addition, The Applicant must provide Accessible common hall bathrooms accessed via common building corridors on all building floor levels that contain Live/Work units.

ENVIRONMENT

25. Green Building. Prior to Building Permit issuance, the Applicant must notify the Environment and Development Review Branch (EDRB) of DPD and LDS which of the following certifications will be pursued for the project. Final certification documentation by a green building specialist or accredited professional must be provided to EDRB and LDS prior to the issuance of the last RUP for each building to be converted on the Property.

A. NGBS (formerly NAHB)

The Applicant must include, as part of the building plan submission, a checklist that demonstrates that the proposed improvements will qualify for Certification in accordance with the National Green Building Standard (NGBS) for residential use. A green building specialist or accredited professional must provide certification statements at both the time of building plan approval and again prior to the last RUP for each building to the EDRB that each converted building will meet the requirements for the NGBS for residential use. Upon submission of proof that each converted building has achieved the desired green building certification, this proffer will be considered met and will expire.

B. Alternative Rating System

Where the Applicant has provided evidence sufficient for EDRB to find that an alternative green building program that is administered by an independent third party or a proprietary program that has demonstrated equivalence to LEED or another independent third party rating system, other than the foregoing programs, will ensure that equivalent environmental and energy efficiency will be achieved in the project, the Zoning Administrator may approve the use of such alternative program, subject to such conditions as may be reasonably necessary to ensure that the alternative program will achieve the goals of this proffer.

26. Electric Vehicle Charging. The Applicant must provide a minimum of one percent (1%) of the total minimum required parking spaces in the parking garage or surface parking lot on the Property as fully functional electric vehicle (EV) charging spaces. EV charging spaces must be universal type that is not specific for particular vehicle type and must be dispersed between the buildings on the Property in accordance with and proportional to each project phase. The provision of EV charging parking spaces will not affect the ability of the development to meet the minimum required parking as defined in these Proffers.
27. Landscape Plan. The CDPA/FDPA includes a conceptual landscape plan for the

Property and detail sheets illustrating the plantings and other features to be provided. As part of each landscape plan submission, the Applicant must submit to UFMD for review and approval a detailed landscape plan (the "Landscape Plan"), which at a minimum must provide an equivalent quantity and quality of plantings shown on the CDPA/FDPA. Adjustments to the type and location of vegetation and the design of landscaped areas and streetscape improvements/plantings are permitted provided there is no diminution in quality or quantity of plantings from the CDPA/FDPA plan and provided that all proposed plants are considered non-invasive. Any artificial turf must be of high quality and must be supplemented by stormwater measures as described in Proffer 41.

28. Erosion & Sedimentation Controls. To ensure off-site properties are not impacted by silt or associated run-off, the Applicant must design and implement siltation control mechanisms that must include "super silt" fencing or similar procedures as determined by LDS for any "ground disturbing" activity and that are structurally feasible. The functioning and integrity of all erosion and sedimentation controls (E&S controls) required by LDS must be inspected by the Applicant or their designated representative no later than the next business day following each storm event during the period of construction on-site.
29. Tree Inventory Condition. Analysis: The Applicant must submit a Tree Inventory and Condition Analysis as part of the first and all subsequent building plan submissions. The Tree Inventory and Condition Analysis must be prepared by a Certified Arborist or Registered Consulting Arborist and must include elements of PFM 12-0307 deemed appropriate to the project site as determined by the Applicant's arborist and UFMD.
30. Tree Preservation. The improvements associated with the PCA have minor land disturbing activities that present a minor threat to existing tree resources and will be pursued in a manner that supports the protection and restoration of tree canopy. All existing tree preservation material counted in the tree preservation computations that meet the minimum soil volume requirements may be counted toward any applicable tree preservation and 10 year tree canopy cover requirements of the PFM. Other existing trees that met the applicable requirements at the time of their planting but that do not meet the current soil volume and/or soil area requirements and other PFM requirements for tree preservation and 10 year tree canopy must be tabulated, and will not be used for meeting any applicable 10 year tree canopy cover requirements. In the event that, based on the methodology outlined in this proffer and the requirements further contained in the PFM, the existing and proposed trees collectively do not fully meet the applicable 10 year tree canopy requirement, and unless modified by the Director, independently, and/or at the direction of the Board, the Applicant must then make a contribution to the Tree Preservation and Planting Fund to account for any deficit relative to the applicable requirement. Such contribution will be calculated in accordance with the published UFMD methodology for the same. Upon the payment of this contribution, the applicable 10 year tree canopy obligations will be deemed fulfilled.

The Applicant must submit a Tree Preservation Plan and Narrative as part of the first and all subsequent building plan submissions. The Tree Preservation Plan and Narrative must be prepared by a Certified Arborist or Registered Consulting Arborist, and must include elements of PFM 12-0309 deemed appropriate to the project site as determined by the Applicant's arborist and UFMD. Tree preservation measures must be clearly identified, labeled, and detailed on the Erosion and Sediment Control Plan sheets and Tree Preservation Plan. Specifications must be provided on the plan detailing how preservation measures will be implemented. Tree preservation activities must be completed during implementation of Phase 1 of the Erosion and Sediment Control Plan.

31. Tree Preservation Walk-Through. The Applicant must schedule a walk-through meeting with UFMD prior to any clearing activity that may impact existing trees on site. The Applicant must retain a certified arborist or a Registered Consulting Arborist to flag the limits of clearing and grading prior to the meeting. The Applicant's certified arborist or landscape architect or designated representative must walk the limits of clearing and grading with the UFMD representative to determine where adjustments to the clearing limits could be made to increase the area of tree preservation, and/or where alternative preservation efforts could save more trees or be more effective. Such agreed upon adjustments must be implemented (no change to the clearing plan will be required). Dead or dying trees within tree save areas may be removed without approval.
32. Tree Preservation Fencing. The Applicant must provide appropriate tree protection devices, based on site conditions and proposed construction activities as reviewed and approved by UFMD.
33. Project Arborist/Pre-construction Meeting. Prior to the pre-construction meeting, the Applicant must have the approved project limits flagged with a continuous line of flagging. The Applicant must retain the services of a Certified Arborist or Registered Consulting Arborist (Project Arborist) to attend the pre-construction meeting to review the project limits with an UFMD representative to determine where adjustments to the project limits can be made to increase the area of the tree preservation and/or to increase the survivability of trees at the project limits. Such adjustments must be recorded by the Project Arborist and tree protection fencing must be implemented under the Project Arborist's supervision based on these adjustments.
34. Root Pruning. For any trees not planted on the existing parking structure and that are to be saved at existing site ground level, the Applicant may root prune, as needed to comply with the tree preservation requirements of these proffers. All treatments must be clearly identified, labeled, and detailed on the erosion and sediment control sheets of the site plan submission. The details for these treatments must be reviewed and approved by the UFMD, accomplished in a manner that protects affected and adjacent vegetation to be preserved, and may include, but not be limited to the

following:

- a) Root pruning must be done with a trencher or vibratory plow to a depth of 18-24 inches.
 - b) Root pruning must take place prior to any clearing and grading.
 - c) Root pruning must be conducted with the supervision of the Certified Arborist or Registered Consulting Arborist.
 - d) A UFMD representative must be informed when all root pruning and tree protection fence installation is complete.
35. Site Monitoring. The Applicant's Project Arborist must be present on site during implementation of the Phase 1 Erosion and Sediment Control Plan and monitor any construction activities conducted within or adjacent to areas of trees to be preserved. Construction activities include, but may not be limited to clearing, root pruning, tree protection fence installation, vegetation/tree removal, exterior site demolition activities, and new landscape and hardscape installation within the approximate location of the existing trees. During implementation of the Phase 2 Erosion and Sediment Control Plan, the Project Arborist must visit the site on a regular basis to continue monitoring tree preservation measures and ensure that all activities are conducted as identified in the Tree Preservation Plan and approved by UFMD. Written reports must be submitted to an UFMD and SDID site inspector detailing site visits. A monitoring schedule and Project Arborist reports must be described and detailed in the Tree Preservation Plan.

36. Landscape Planting Pre-installation Meeting. Prior to installation of any plants to meet the requirements of the approved landscape planting plan, the contractor/developer must coordinate a pre-installation meeting on the site with the landscape contractor, UFMD staff, and any additional appropriate parties. Any proposed changes to planting locations, tree/shrub planting sizes, and species substitutions shown on the approved plan must be reviewed and must be approved by UFMD staff prior to planting. The installation of plants not listed on approved County plant and tree lists, and not previously approved by UFMD, may require the submission of a revision to the landscape plan or removal and replacement with approved trees/shrubs prior to bond release.

The Applicant must submit a landscape plan that shows, at a minimum, landscaping as depicted on the CDPA/FDPA, with the first building plan submission, and all subsequent submissions, of the building plan for review and approval by UFMD. All landscaping must be installed prior to the last RUP or Non-RUP for each building converted on site in accordance with the Phasing Plan, or later as may be determined by UFMD, but no later than bond release.

37. Soil Remediation. Soil in planting areas that contain construction debris and rubble, are compacted or are unsuitable for the establishment and long-term survival of landscape plants, must be the subject of remedial action to restore planting areas to satisfy cultural requirements of trees, shrubs, and groundcovers specified in the

landscape planting plan. The Applicant must provide notes and details specifying how the soil will be restored for the establishment and long-term survival of landscape plants for review and approval by UFMD.

38. Landscape Planting Plan. As part of the first and all subsequent building plan submissions, the Applicant must include a landscape planting plan and specifications for review and approval by UFMD. Understanding that one goal of the Applicant is the adaptive reuse and preservation of much of the existing landscape, the landscape planting plan and specifications must incorporate sustainable landscape planting techniques that seek to preserve much of the existing plant material while reducing maintenance requirements; and contributing to a cleaner and healthier environment with improved air quality, stormwater management, and resource conservation capabilities that can be provided by trees and other desirable vegetation. Techniques may include but not be limited to:
- a) Mulched planting beds incorporating groups of trees and other vegetation to provide a root zone environment favorable to trees and other vegetation.
 - b) Providing a diverse selection of native and non-invasive plants to encourage native pollinators and reduce the need for supplemental watering, and the use of chemical fertilizers, herbicides, and chemical control of harmful insects and disease.
 - c) Sustainable landscape planting implemented with the subdivision/site plan potentially made up of groups of trees including larger overstory trees (Category III and IV as listed in PFM Table 12.19) together with smaller understory trees, (Category II) shrubs, and groundcovers. In this application, it is acceptable for the projected canopies of overstory trees to overlap the canopies of understory trees as well as shrubs and groundcovers, as may occur in a multi-layer, wooded environment.

Inspection of mulch beds for conformance with the approved landscape plan must be conducted at the time of issuance of the first RUP/Non-RUP for the last building constructed on site. After mulch areas have been accepted, they will become the responsibility of the property owner who will not be precluded from managing or planting these areas according to their preference.

39. Invasive Plant Species Management. Areas containing plant species that are known to be invasive in quantities that threaten the long-term health and survival of the existing vegetation present must be the subject of an invasive plant species management plan. At the time of building plan submission the Applicant must provide a management plan for review and approval by UFMD specifying the common and scientific name of invasive species proposed for management, if any, the target area for management efforts, methods of control and disposal of invasive

plants, timing of treatments and monitoring, duration of the management program, and potential reforestation as needed.

40. Tree Management and Replacement. All existing trees must be monitored and maintained to promote health and longevity. Tree management may include, but not be limited to, root pruning, crown pruning, fertilization, pest management, and watering as appropriate for each given species and in response to current condition. Should any existing tree in poor condition die or show significant signs of decline, the Applicant must replace the tree with a tree of similar species.
41. Low Impact Development. The Applicant must apply Low Impact Development (LID) stormwater strategies on the Property as generally described on Sheet C-11 of the CDPA/FDPA. Techniques must include, but are not limited to, the removal of approximately 16,000 square feet of excess parking areas and other hardscape areas on top of the existing garage and replacing with approximately 16,000 square feet of lawn and/or synthetic turf / or other treatments designed to improve the water quality characteristics and reduce the quantity of runoff through the use of a porous subgrade system utilizing sand or similar filtrating systems.

MISCELLANEOUS

42. Public School Contribution. The Applicant must contribute \$681 per Live/Work Unit for all Live/Work Units to be constructed on site to the Board of Supervisors for transfer to FCPS for capital improvements at those schools within the "pyramid" serving the Property. Such contributions must be made on a per building basis prior to issuance of building permits for each building. The Applicant must notify FCPS when it commences construction of each building.
43. Small Business Marketing. The Applicant must prepare and submit to Fairfax County DPD a marketing program for the Property targeted to small business owners and entrepreneurs having a household income up to 100% of the Area Median Income ("AMI") for the currently defined Washington, D.C. Metropolitan Statistical Area as determined by the U.S. Department of Housing and Urban Development. The marketing program must be submitted to Fairfax County DPD prior to issuance of the first RUP or new Non-RUP. At a minimum, the marketing program must include implementation of online marketing activities targeted toward existing and potential small businesses and attending or hosting at least two (2) events in Fairfax County targeting small businesses. These minimum components must be completed within one (1) year after issuance of the first RUP or new Non-RUP and evidence of the same must be provided to Fairfax County.

In addition, The Applicant must prepare and submit to Fairfax County DPD an annual report on small business marketing activities and tenant recruitment effectiveness upon stabilization. The Applicant must consult with Fairfax County

(DPD) to develop and capture appropriate metrics for the report prior to issuance of the first RUP or new Non-RUP issued.

44. Live/Work Workforce Dwelling Units (“WDUs”). In recognition that Fairfax County WDU Policy does not specifically address the proposed Live/Work use and whereas the proposed Live/Work use provides inherent and significant “whole life cost savings” for tenants, the provision and administration of Live/Work WDUs on the Property must be in accordance with the following:
- A. Six percent (6%) of the total number of units on the Property (inclusive of all Live/Work and/or Age Restricted Live/Work Units) must be designated and administered as Live/Work WDUs in accordance with this proffer and in accordance with the Board of Supervisors’ Workforce Dwelling Unit Administrative Policy Guidelines dated October 15, 2007. In the event that all or a portion of any building is developed with Age Restricted Live Work Units, the corresponding WDU requirements for such Age Restricted Units must either be fulfilled in Age Restricted Units or in non-age restricted components of the project.
 - B. All Live/Work WDUs must be priced to serve households with an income of up to 100% Area Median Income for the Washington Standard Metropolitan Statistical Area (AMI) and in accordance with the corresponding rents established for WDUs by Fairfax County. Notwithstanding the anticipated and periodic adjustments to AMI and corresponding rent, for a period of seven (7) years from the approval date of this PCA, the applicable AMI and corresponding WDU rent must not be below that published and in effect as of January, 2020.
 - C. WDUs will be identified and located based on the Applicant’s discretion. WDUs may be allocated either (1) equally 1/3 between all buildings, or (2) between two of the three non-age restricted buildings so long as (A) the WDUs are equally split between the two buildings that are chosen and (B) that the first building delivered to the market contains at least half of the total required WDUs.
 - D. The Applicant reserves the right to enter into a separate binding written agreement with the appropriate Fairfax County agency as to the terms and conditions of the administration of the Live/Work WDUs following approval of this Application without the need for a PCA. Such an agreement must be on terms mutually acceptable to both the Applicant and Fairfax County and may include terms and conditions that are different than current County WDU policies. Neither the Board of Supervisors nor Fairfax County nor the Applicant will be obligated to execute such an agreement. If such an agreement is executed by all applicable parties, then the Live/Work WDUs must be administered solely in accordance with such an agreement and the provisions of this proffer will become null and void. Such an agreement and any

modification thereto must be recorded in the land records of Fairfax County. The Applicant further reserves the right to opt into any changes to the WDU Policy, or the interpretation of the same, that may occur subsequent to this zoning approval at its sole election. Such an election will not require a PCA.

- E. Any covenants related to the Live/Work WDUs required by this proffer must be structured such that any WDU obligations are extinguished or reduced should a change in use occur on the Property that is permitted by these proffers or approved through a PCA that would no longer require WDUs. The fifty (50) year control period will begin with the issuance of the first WDU RUP or Non-RUP.
45. Traffic Signal Preemption Devices. Prior to the first building permit approval, the Applicant must contribute \$20,000 to the Capital Projects Fund titled Traffic Light Signals –FRD Proffers in Fund 300-C300700, Public Safety Construction for use in the installation of preemptive signal devices on traffic signals within the Mason District at intersections in close proximity to the property and as determined by the Fire and Rescue Department. The Applicant will have no responsibility for installation or maintenance of the devices.
46. Escalation in Contribution Amounts. All monetary contributions required by these proffers will escalate on a yearly basis, until paid, starting in the year of Board of Supervisor’s approval, and change effective on each subsequent annual anniversary date of that approval 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 (the "CPI"), as permitted by Virginia State Code Section 15.2-2303.3. 3.
47. Advanced Density Credit. Advanced density credit is reserved consistent with the provisions of the Fairfax County Zoning Ordinance for all eligible dedications described herein or as may be required by Fairfax County or VDOT.
48. Zoning Administrator Consideration. Notwithstanding the foregoing, upon demonstration that despite diligent efforts or due to factors beyond the Applicant's control proffered improvements such as, but not limited to, transportation, publicly accessible park areas, off site easements, have been delayed (due to, but not limited to, an inability to secure necessary permission for utility relocations, VDOT approval, necessary easements and/or site plan approval, force majeure events, etc.) beyond the timeframes specified, the Zoning Administrator may agree to a later date for completion of these proffered improvement(s).
49. Successors and Assigns. These Proffers will bind and inure to the benefit of the Applicant and their successors and assigns. Each reference to "Applicant" in this proffer statement must include within its meaning and must be binding upon Applicant's successor(s) in interest and/or developer(s) of the site or any portion of

the site.

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

SIGNATURES TO FOLLOW ON NEXT PAGE

KIW Skyline 1, LLC
Applicant/Owner of 62-3((1))33

BY: _____
Name: H. Curtis Keller
Title: Secretary

KIW Skyline 2, LLC
Applicant/Owner of 62-3((1))30, 45

BY: _____
Name: H. Curtis Keller
Title: Secretary

KIW Skyline 3, LLC
Applicant/Owner of 62-3((1))35, 35A

BY: _____
Name: H. Curtis Keller
Title: Secretary

Waivers and Modifications

**PCA C-052-09/ CDPA C-052-02/ FDPA C-052-15
(KIW Skyline 1, 2, and 3, LLC)**

July 10, 2020

- Modification of Sect. 6-206.5 to allow other secondary uses in PDC to exceed 50% of the principal gross floor area proposed.
- Modification of Sect. 11-102 to permit a parking reduction in favor of that shown on the CDPA/FDPA.
- Waiver of Sect. 11-302 to allow private streets in excess of 600 feet in length as shown on the CDPA/FDPA.
- Waiver of Sect. 11-303 to allow private streets and garage aisles less than 24 feet in width as depicted on the CDPA/FDPA.
- Modification of Sect. 13-300 for transitional screening and barriers within the site and along adjacent property lines in favor of the existing conditions.
- Waiver of Par. 1 of Sect. 13-202 for interior parking lot landscaping in favor of the existing conditions.
- Waiver of Par. 1 & 2 of Sect. 13-203 for peripheral landscaping of above grade parking structures in favor of maintaining the existing conditions.
- Modification of Par. 2 of Sect. 17-201 requiring the construction of trails and walkways in accordance with the general location provided in the Comprehensive Plan in favor of the existing conditions.
- Modification of Par. 4 of Sect. 17-201 requiring further dedication and construction (or widening) of existing roads beyond that indicated.

PROPOSED DEVELOPMENT CONDITIONS**FDPA C-052-15****July 13, 2020**

If it is the intent of the Planning Commission to approve FDPA C-052-15 to allow office repurposing to permit live/work uses located at Tax Map 62-3 ((1)) 30, 33, 35, 35A and 45 staff recommends that the Planning Commission condition the approval by requiring conformance with the following development conditions:

1. Development of the property will be in substantial conformance with the Final Development Plan Amendment entitled "Skyline Center – Buildings 1, 2, and 3" consisting of 43 sheets dated January 21, 2020 as revised through June 19, 2020, and these conditions.
2. This FDPA is subject to the provisions of Article 17 of the Zoning Ordinance, Site Plans, as may be determined by the Director, Department of Public Works and Environmental Services (DPWES). Any site plan submitted pursuant to this FDPA shall be in substantial conformance with the approved FDPA.
3. There shall be a maximum of 847,680 square feet of gross floor area and a maximum of 720 units. The units shall not be converted to permanent residential use whereby the building is managed in a manner which would no longer permit office and live/work uses, without approval of a PCA and FDPA.

The above proposed conditions are staff recommendations and do not reflect the position of the Planning Commission unless and until adopted by that Commission.

This approval, contingent on the above noted conditions, shall not relieve the applicants from compliance with the provisions of any applicable ordinances, regulations or adopted standards.

The applicant shall be responsible for obtaining the required Residential and Non-Residential Use Permits through established procedures.