

## **PROFFERS**

**BO HWAN SUK, SUN OK SUK, and FAIRFAX COUNTY PARK AUTHORITY**

**RZ 2007-SU-014**

**JUNE 20, 2008**

Pursuant to Section 15.2-2303 (A), Code of Virginia, 1950 as amended, and subject to the Board of Supervisors ("Board") approving a rezoning to the C-3 & R-5 Districts for property identified as Fairfax County Tax Map 54-4 ((1))- 81 and 82 and 1.07253-acre part of the property identified as Fairfax County Tax Map 54-4 ((8))-6-K, (hereinafter referred to as the "Application Property"), the undersigned Applicant and Owners in RZ 2007-SU-014 proffer for themselves and their successors and assigns (hereinafter referred to as the "Applicant"), the following conditions (for clarification purposes, it is understood that references to "the County" in these proffers do not pertain to the Fairfax County Park Authority):

### **1. GENERALIZED DEVELOPMENT PLAN**

- a. Subject to the provisions of Section 18-404 of the Fairfax County Zoning Ordinance (hereinafter sometimes referred to as the "Zoning Ordinance"), development of the Application Property shall be in substantial conformance with the Generalized Development Plan (GDP), prepared by Christopher Consultants, Ltd., dated November 1, 2006, as revised through April 23, 2008.
- b. The office building shall be designed in a manner (style, materials, and color) which is reflective of and compatible with, the adjacent multi-family structures on Tax Map 54-4 ((20))-A, Old Centreville Townes, and 54-4 ((1)) 83B, The Elms, as determined by the Department of Public Works and Environmental Services (DPWES) in consultation with the Department of Planning and Zoning (DPZ).

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The elevations of the office building, as shown on the GDP, are provided to illustrate the design of the building. The building elevations shall be consistent in terms of character and quality with the illustration. The specific features such as exact location of windows, doors, and roofline and other architectural details are subject to minor modification with final engineering and architectural design.

- c. The height of the building shall not exceed Forty Seven and One-Half feet (47.5') per the definition in the Zoning Ordinance.

- d. The architectural treatment of the building will consist of brick materials on all four sides and include trim and glass elements with a shingled roof. The color will be reddish or brown.

## 2. TRANSPORTATION

- a. At time of site plan approval, or upon demand, whichever occurs first, the Applicant shall dedicate and convey in fee simple to the Board right-of-way along the Application Property's Old Centreville Road frontage as shown on the GDP.
- b. The Applicant shall construct the road improvements and sidewalk along the Application Property's Old Centreville Road frontage, the applicable adjacent land area to the southeast, Tax Map 65-2 ((3)) 16-U1 and the applicable adjacent area to the northeast, Tax Map 54-4 ((1)) 83B, as noted below:
  - i. The Applicant shall construct, or cause to be constructed, a four lane divided roadway, to include frontage along Tax Map 65-2 ((3))-16-U1 across the frontage of Tax Map 65-2 ((3))-16-U1 to the townhouse entrance, and across Tax Map 54-4 ((1)) 83B as shown on the GDP, subject to dedication of necessary right-of-way and easements by Little Rocky Run Homeowners Association [Tax Map 65-2 ((3))-16-U1], and The Elms [Tax Map 54-4 ((1)) 83B], if necessary.
  - ii. In the event the Applicant is unable to obtain the necessary right-of-way or easements required to construct the improvements described in Proffer 2.b.(i), the Applicant shall proceed as follows:

The Applicant shall request the County to acquire the right-of-way or easements by means of its condemnation powers, at the Applicant's expense. It is understood that the Applicant's request will not be considered until it has forwarded, in writing, to the appropriate County agency accompanied by: (1) plans and profiles showing the necessary right-of-way or easements to be acquired, including all associated details of the proposed transportation improvements to be located on said property; (2) an independent appraisal of the value of the right-of-way or easements to be acquired and of all damages and benefits to the residue of the affected property; (3) a sixty (60) year title search certificate of the right-of-way or easements to be acquired; and (4) a Letter of Credit in an amount equal to the appraised value of the right-of-way or easements to be acquired and of all damages to the residue, which letter of Credit can be drawn upon by the County.

It is also understood that in the event the property owner of the right-of-way or easements to be acquired is awarded more than the appraised value of same and of the damages to the residue in a

condemnation suit, the amount of the award in excess of the Letter of Credit amount shall be paid to the County by the Applicant within fifteen (15) days of said award. It is further understood that all other costs incurred by the County in acquiring the right-of-way shall be paid to the County by the Applicant on demand.

It is expressly understood that in the event the County does not acquire the aforesaid right-of-way or easements by means of its condemnation powers, the Applicant shall be required to seek a proffered condition amendment. It is further understood that in the event the Applicant is required to implement the provisions of this proffer in order to obtain necessary right-of-way or easements, then the timing requirements of these proffers as they relate to the improvements that necessitate such right-of-way or easements may be adjusted to reflect the delays incurred by such proceedings, as determined appropriate by the Zoning Administrator, but in any event such improvements shall be completed prior to final bond release for the project.

- c. Adequate sight distance shall be provided from the entrance onto the Application Property as determined by VDOT.
- d. At the time of site plan approval, the Applicant shall contribute to the Centreville Road Fund in conformance with the policy of the Board of Supervisors. All monetary contributions required by this proffer shall be adjusted for inflation from the date of the Board of Supervisors' approval of the rezoning, in conformance with Code of Virginia regulations. These contributions are subject to credit for the off site road improvements including those listed in Section 2.b. hereinabove.

Prior to the issuance of the first Non Residential Use Permit (Non-RUP), proffered improvements to Old Centreville Road shall be open and operating, but not necessarily accepted into the Virginia Department of Transportation (VDOT) system.

However, upon demonstration by the Applicant that, despite diligent efforts, the ~~road improvements have been delayed, either due to the time necessary for~~ potential condemnation as described in Section 2.b. hereinabove, or other VDOT engineering/construction related issues, the Zoning Administrator may agree to a later date for the completion of the improvements.

### **3. LIMITS OF CLEARING AND GRADING**

The limits of clearing and grading (LOC) as shown on the GDP shall be strictly adhered to, subject to the installation of utilities and/or trails as determined necessary by the Director of DPWES. If it is determined necessary to install utilities and/or trails within of the limits of clearing and grading as shown on the

GDP, they shall be located in the least disruptive manner necessary as determined by Urban Forest Management Branch (UFM). A replanting plan shall be developed and implemented, subject to approval by UFM, for any areas protected by the limits of clearing and grading that must be disturbed.

#### **4. TREE PROTECTION FENCING**

- a. Two linden trees along the northeastern property boundary and other tree save areas on the northern boundary as depicted on the GDP shall be protected by tree protection fencing. Tree protection fencing consisting of four foot high, 14-gauge welded wire attached to 6-foot steel posts driven 18 inches into the ground and placed no further than 10-feet apart, shall be erected as shown on the GDP along the northern and northeastern property boundary.
- b. All tree protection fencing shall be installed prior to any clearing and grading activities, including the demolition of any existing structures. The tree protection fencing shall be made clearly visible to all construction personnel. The installation of 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 days prior to the commencement of any clearing, grading, or demolition activities, but subsequent to the installation of the tree protection devices, UFM, DPWES, and the District Supervisor shall be notified and given the opportunity to inspect the site to assure 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 UFM and DPWES.

#### **5. TREE PRESERVATION PLAN**

- a. A note shall be added to the site plan that prohibits grading, driving and storing of construction machinery or materials under tree canopy areas of trees to be preserved. At the time of site plan submission, the applicant shall submit a Tree Preservation Plan which has been prepared by a certified arborist, for the review and approval of UFM. The tree preservation plan shall consist of a tree survey which includes the trunk location, species, size, crown spread and condition analysis rating percentage for all trees 10 inches or greater in diameter to be preserved within the area which is 20 feet on either side of the proposed limits of clearing and grading. The condition analysis shall be prepared using methods outlined in the latest edition of the Guide for Plant Appraisal. Specific tree preservation activities designed to maximize the survivability of trees designated for preservation on site and off site shall be provided and implemented. Activities may include, but are not limited to, crown pruning, root pruning, mulching, and fertilization. With the permission of the affected landowner, the applicant shall be required to prune, as

- b. There shall not be more than one freestanding monument-style sign, which shall be comparable in style, materials and color with the proposed building, and the sign shall not exceed four (4) feet in height. All mounted lighting fixtures shall be in conformance with Part 9 of Article 14.
- c. No pole-mounted signs shall be permitted.
- d. Banners, pennants, inflatable signs and neon signs shall be prohibited.
- e. No temporary signs (including "popsicle" style paper or cardboard signs) which are prohibited by Article 12 of the Zoning Ordinance, and no signs prohibited by Chapter 7 of Title 33.1 or Chapter 8 of Title 46.2 of the Code of Virginia, shall be placed on or off-site of the Application Property. Furthermore, lessees, agents and employees involved in the marketing of office units and/or services on the Application Property shall be directed to adhere to this policy.
- f. Architectural lighting or lit building mounted signage shall be prohibited.

## **10. STORMWATER MANAGEMENT**

The Applicant shall provide SWM and BMP in a location as generally shown on the GDP and in accordance with the requirements of the PFM and Chesapeake Bay Preservation Ordinance, unless modified or waived by DPWES. In order to restore a natural appearance to the proposed extended detention dry stormwater management pond, located south of the office development on the newly created Park Authority parcel, a landscape plan shall be submitted as part of the first submission of the site plan. The plan shall show the restrictive planting easement for the pond, and extensive landscaping in all areas outside of that restrictive planting easement, in accordance with the planting policies of Fairfax County. The regular maintenance of, and trash removal from, the stormwater management facilities shall be the responsibility of the Applicant and its successors.

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## **11. ARCHAEOLOGY**

Prior to any land disturbing activities, the Applicant shall conduct a Phase I archaeological study of the Application Property, and provide the results of such studies to the Cultural Resource Management and Protection (CRMP) section of the Fairfax County Park Authority. If deemed necessary by CRMP, the Applicant shall perform a Phase II and/or Phase III archaeological study on only those areas of the Application Property identified for further study by CRMP. The studies shall be conducted by a qualified archaeological professional approved by CRMP, and shall be reviewed and approved by CRMP. The studies shall be completed prior to site plan approval.

## **12. GREEN BUILDING DESIGN CONSIDERATIONS**

- a. The Applicant shall utilize interior sun shades or equivalent light control for energy conservation.
- b. The Applicant shall use higher than the minimum exterior wall and roof insulation rate. The Applicant will use the latest high performance insulation materials to achieve approximately 5% to 10% efficiency rate.
- c. The Applicant shall use water efficient fixtures that reduce the water use. The efficiency rate will be 5% to 10% better than typical office building.

## **13. BLASTING**

If blasting is required, and before any blasting occurs on the Application Property, the Applicant or its successors will ensure that blasting is done per Fairfax County Fire Code and all permit conditions required by the Fire Marshal shall be implemented. In addition, the Applicant or its successors shall:

- a. A pre-blast survey shall be performed on each structure located within one hundred fifty (150) feet and any well located within 250 feet of the blast site; written confirmation that the pre-blast survey has been done will be maintained by the blasting contractor. Documentation consisting of a written acknowledgement that the survey has been performed (or declined by the property owner) and a map depicting the above referenced 150 and 250 feet radius, shall be provided to the Site Inspector and the District Supervisor's Office at the time of the pre-construction meeting. Additional Fairfax County agencies requesting copies of the survey shall be directed to the Fire Marshal's Office.
- b. Requests for access to structures for pre-blast surveys shall be made by certified mail to the last known address of the owner(s) of any structures located within the aforesaid ranges. If permitted by owner, said surveys shall be conducted to determine the pre-blast conditions of these structures. A minimum of fourteen (14) days notice shall be provided for the scheduling of the pre-blast survey.
- c. Calibrated seismographic instruments shall be placed prior to all blasts to monitor the blast effects. Fairfax County agencies requesting seismographic records shall be directed to the Fire Marshal.

- d. All structures within 300 feet of the blast site shall be notified of the upcoming blasting ten (10) days prior to blasting and no blasting shall occur until such notice has been given.
- e. Upon receipt of a claim of actual damage resulting from said blasting, the blasting contractor shall respond immediately by notifying the Fire Marshal. The Fire Marshal will respond by initiating an investigation, the results of which will be available to all involved parties.
- f. Blasting subcontractors shall be required to maintain required liability insurance as specified in the Fairfax County Fire Code to cover the costs of repairing any damages that are directly attributable to the blasting activity. Failure to maintain required insurance may result in suspension or revocation of Blasting Company and/or Blasting Site permits.
- g. An appropriate and qualified consultant shall be required to provide an analysis of the potential for fume migration from the blast site to adjoining properties or other nearby structures. This analysis shall be provided to the Fire Marshal for review and validation prior to the commencement of any blasting. The analysis shall include recommendations for the appropriate notifications and mitigation. All such recommendations shall be implemented upon approval of the Fire Marshal.

#### **14. MISCELLANEOUS**

- a. Permitted uses shall be limited to office uses and accessory service uses permitted under Article 10 of the Fairfax County Zoning Ordinance.
- b. For reference purposes, responsibility for completion of these proffers is set forth in that certain Memorandum of Agreement dated March 13, 2007, by and between Bo Hwan Suk and Sun Ok Suk and Fairfax County Park Authority.

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#### **15. SUCCESSORS AND ASSIGNS**

These proffers will bind and inure to the benefit of the Applicant and his or her successors and assigns.

## **16. COUNTERPARTS**

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

## **17. SEVERABILITY**

Any of the sections/building within the Application Property may be subject to a Proffered Condition Amendment without joinder or consent of the other sections, so long as it does not affect the ability of the remainder of the Property to fulfill the preferred commitments.

APPLICANT/TITLE OWNER  
Of Tax Map 54-4 ((1)) Parcels 81 and 82

  
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Bo Hwan Suk

  
\_\_\_\_\_  
Sun Ok Suk

APPLICANT/TITLE OWNER  
Of Tax Map 54-4 ((8)) 6 Parcel K

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Fairfax County Park Authority  
By: John W. Dargle, Jr., Director

retrans/suk-bo-hwan/proffers v.11-06-20-08

APPLICANT/TITLE OWNER  
Of Tax Map 54-4 ((1)) Parcels 81 and 82

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Bo Hwan Suk

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Sun Ok Suk

APPLICANT/TITLE OWNER  
Of Tax Map 54-4 ((8)) 6 Parcel K



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