

PROFFERS

**Lot 13, Section 2, Franconia Hills**  
**RZ 2004-LE-042**

February 17, 2009

Pursuant to Section 15.2-2303(a) of the 1950 Code of Virginia, as amended, and Section 18-203 of the Zoning Ordinance of Fairfax County (1978), the property owners and Kingdom, LLC (the applicant) for themselves, their successors or assigns proffer as follows:

1. **Generalized Development Plan (GDP)**  
Development of the property that is subject to this rezoning (the "Property") shall be in substantial conformance with the plan entitled "*Generalized Development Plan, Lot 13, Section 2, Franconia Hills*" (GDP) consisting of five sheets, dated July 23, 2004 (revised through October 8, 2008), and prepared by R.C. Fields, Jr. & Associates, P.C.
2. **Minor Modifications**  
Pursuant to Par. 5 of Section 18-204 of the Zoning Ordinance, minor modifications from the GDP may be permitted as determined by the Zoning Administrator provided that such modifications are in substantial conformance with the GDP and still meet all the provisions of the C-5 Zoning District.
3. **Floor Area Ratio**  
The Floor Area Ratio (FAR) for the site will be limited to a maximum of 0.25.
4. **Shopping Center Use**  
The proposed shopping center building shall be utilized by a minimum of two (2) commercial retail uses. Typical uses to include, but are not limited to, retail sales establishments, eating establishments, fast food restaurants, financial institutions, personal service establishments, etc. The proposed building shall be designed to accommodate as many as nine (9) individual commercial uses. No single retail use may occupy more than six thousand (6,000) square feet of the available Floor Area in the proposed building. No fast food establishment shall occupy more than thirty five (35) percent of the available floor area. No drive-thru uses will be permitted on the site unless revisions are made to the GDP through the appropriate process with Fairfax County. No adult book stores; video/DVD stores primarily dealing with the sale, rental, or exhibition of adult oriented material; tattoo parlor/piercing establishments; psychic readers/fortune tellers; topless or

nude dancing/stripping establishments; adult mini-motion picture theaters, movie or "peep show" establishments.

5. **Grovedale Drive Dedication and Frontage Improvements**

Subject to DPWES approval, the applicant, shall dedicate and convey in fee simple to the Board of Supervisors right-of-way up to a width of thirty-five (35) feet from the existing centerline of Grovedale Drive. Such dedication shall be made upon demand by Fairfax County or at the time of Site Plan review, whichever occurs first. All density related to such dedication is hereby reserved pursuant to Par. 5 of Section 2-308 of the Zoning Ordinance. At the time of dedication plat approval, the applicant shall construct full frontage improvements to twenty-six (26) feet from centerline with applicable VDOT transitions to existing adjacent properties along Grovedale Drive to include curb, gutter and a five foot (5') wide sidewalk, subject to DPWES and VDOT approval.

6. **Archaeological Site Assessment**

Prior to any land disturbing activities, the Applicant shall conduct and complete a Phase I archaeological survey of the site to identify potential historic resources on-site. Within 30 days of completion of said survey, the Applicant shall submit said survey to the Cultural Resource Management and Protection Section of the Fairfax County Park Authority ("CRMPS") for review and approval. The Applicant shall also conduct and complete any Phase II or Phase III surveys on only those areas of the site identified for further study by CRMPS if determined necessary by CRMPS prior to any land disturbance activities. The studies shall be conducted by a qualified Archaeological professional approved by CRMPS and shall be reviewed and approved by CRMPS.

7. **Stormwater Detention**

Stormwater detention in accordance with the requirements of the Public Facilities Manual shall be provided on-site as determined by DPWES. A waiver of stormwater management detention may be sought at the time of final site plan review. If the detention waiver is approved by DPWES, the final site plan will be modified to delete the underground stormwater detention system depicted on the GDP. If a detention waiver is not applied for or is denied, a stormwater detention system will be provided on-site to the requirements of DPWES. Any stormwater management facilities will be privately owned and owner maintained. A maintenance agreement shall be executed at the time of site plan approval.

8. **Stormwater Quality (Best Management Practices, "BMP's")**

BMP's in accordance with the requirements of the Public Facilities Manual shall be provided on-site as determined by DPWES. The BMP requirements may be met, in whole or in part, by the stormwater filtration system depicted on the GDP. Alternative methods of providing BMP's may be provided to meet Fairfax County standards if they can be adequately implemented within the framework of the approved GDP. Other BMP methods include, but are not limited to, rain gardens, bio-retention basins, bio-retention filters, vegetated swales, or other low impact

development (LID) techniques that are acceptable to the Fairfax County DPWES. The alternative methods of providing BMP's shall be in substantial conformance with the proffered GDP; if the alternative methods are not in substantial conformance with the proffered GDP, the applicant recognizes that approval of a proffered condition amendment may be required. Soils testing shall be performed on site to determine if the subsurface soils can accommodate an infiltration facility. If soils are found to be suitable, an alternative stormwater management facility will be provided that will enhance groundwater recharge.

9. **Architectural Details**

Prior to Site Plan approval, the Applicant shall submit architectural details of the building to the Lee District Planning Commissioner for review and administrative approval to determine whether the designs meet the character of the existing neighborhood.

10. **Landscaping and Tree Preservation Plan**

A tree save area will be established on the site as depicted on the GDP. The site will be assessed to see if any additional existing indigenous hardwood trees can be saved and incorporated into the final design. The applicant shall prepare a tree survey and, if applicable, tree preservation plan as part of the final site development plans. The preservation plan shall be prepared by a professional with experience in the preparation of tree preservation plans, such as a certified arborist or landscape architect, and shall be subject to the review and approval of the Urban Forest Management (UFM), DPWES. Any potential save trees and tree save areas will be coordinated with, and evaluated by Urban Forestry.

The proposed parking layout depicted on the GDP may be modified or re-worked to accommodate trees that are deemed worthy of retention and can be reasonably worked into the proposed design. The total number of parking spaces provided on the final site plans may be less than shown on the GDP in order to accommodate any additional tree save areas. However, the total number of parking spaces provided for the proposed shopping center use shall never be less than the minimum required by the Zoning Ordinance of Fairfax County.

The tree preservation plan shall consist of a tree survey that includes the location, species, size, crown spread and condition rating percentage of all trees 10 inches in diameter and greater, and 20 feet to either side of the limits of clearing and grading shown on the GDP for the entire site. The tree preservation plan shall provide for the preservation of those areas shown for tree preservation, those areas outside of the limits of clearing and grading shown on the GDP, and those additional areas in which trees can be preserved as a result of final engineering. The condition analysis ratings shall be prepared using methods outlined in the latest edition of the Guide for Plant Appraisal published by the International Society of Arboriculture. Specific tree preservation activities that will maximize the survivability of trees identified to be preserved, such as: crown pruning, root pruning, mulching, fertilization, and others as necessary, shall be included in the

plan. The use of motorized equipment in the forested portion of Outlot B shall be limited to hand-operated equipment such as chainsaws, wheel barrows, rakes, and shovels. Any work that requires the use of motorized equipment, such as tree transplanting spades, skid loaders, tractors, trucks, stump grinders, etc. or any accessory or attachment connected to this type of equipment shall not occur unless previously approved by Urban Forestry Management.

#### Protection of Existing Understory Vegetation and Soil Conditions in Tree Preservation Areas

1. All tree preservation-related work occurring in or adjacent to tree preservation areas shall be accomplished in a manner that minimizes damage to vegetation to be preserved including any woody, herbaceous or vine plant species that occurs in the lower canopy environment, and to the existing top soil and leaf litter layers that provide nourishment and protection to that vegetation. Any removal of any vegetation or soil disturbance in tree preservation areas including the removal of plant species that may be perceived as noxious or invasive, such as poison ivy, greenbrier, multi-floral rose, etc. shall be subject to the review and approval of Urban Forest Management, DPWES.
2. The use of motorized equipment in tree preservation areas will be limited to hand-operated equipment such as chainsaws, wheel barrows, rake and shovels. Any work that requires the use of motorized equipment, such as tree transplanting spades, skid loaders, tractors, trucks, stump-grinders, etc., or any accessory or attachment connected to this type of equipment shall not occur unless pre-approved by Urban Forest Management, DPWES.

#### Root Pruning and Mulching

1. The applicant shall 1) root prune, 2) mulch, and 3) provide tree protection fencing in the form 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, or other forms of tree protection fencing approved by Urban Forest Management, DPWES for all tree preservation areas. All treatments shall be clearly identified, labeled, and detailed on the erosion and sediment control sheets and demolition plan sheets of the subdivision plan submission. The details for these treatments shall be reviewed and approved by Urban Forest Management, DPWES, accomplished in a manner that protects affected and adjacent vegetation to be preserved, and may include, but not be limited to the following:
  - Root pruning shall be done with a trencher or vibratory plow to a depth of 18 inches.
  - Root pruning shall take place prior to any clearing and grading, or demolition of structures.
  - Root pruning shall be conducted with the supervision of a certified arborist.

- Tree protection fence shall be installed immediately after root pruning, and shall be positioned directly in the root pruning trench and backfilled for stability, or just outside the trench within the disturbed area.
- Immediately after the phase II E&S activities are complete, mulch shall be applied at a depth of 4 inches extending 10 feet inside the undisturbed area without the use of motorized equipment.
- Mulch shall consist of hardwood mulch or the approved equal.
- An Urban Forest Management, DPWES, representative shall be informed when all root pruning and tree protection fence installation is complete.

#### Tree Preservation Walk-Through

1. The applicant shall retain the services of a certified arborist or landscape architect, and shall have the limits of clearing and grading marked with a continuous line of flagging prior to the pre-construction meeting. Before or during the pre-construction meeting, the applicant's certified arborist or landscape architect shall walk the limits of clearing and grading with an Urban Forest Management, 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 specifically by UFM in writing as dead or dying may be removed as part of the clearing operation. Any tree that is so designated shall be removed using a chain saw and such removal shall be accomplished in a manner that avoids damage to surrounding trees and associated understory vegetation. If a stump must be removed, this shall be done using a stump grinding machine in a manner causing as little disturbance as possible to the adjacent trees and associated understory vegetation and soil conditions.

#### Limits of Clearing and Grading:

1. The Applicant shall conform strictly to the limits of clearing and grading as shown on the GDP, subject to allowances specified in these proffered conditions and for the installation of utilities as determined necessary by the Director of DPWES, as described herein. If it is determined necessary to install utilities in areas protected by the limits of clearing and grading as shown on the GDP, they shall be located in the least disruptive manner necessary as determined by UFM, DPWES. A replanting plan shall be developed and implemented, subject to approval by UFM, DPWES, for any areas protected by the limits of clearing and grading that must be disturbed for such utilities.

#### Tree Protection Fencing

1. All trees shown to be preserved on the tree preservation plan shall be protected by tree protection fence. Tree protection fencing in the form of

four (4) foot high, fourteen (14) gauge welded wire attached to six (6) foot steel posts driven eighteen (18) inches into the ground and placed no further than ten (10) feet apart or, super silt fence to the extent that required trenching for super silt fence does not sever or wound compression roots which can lead to structural failure and/or uprooting of trees shall be erected at the limits of clearing and grading as shown on the demolition, and phase I and II erosion and sediment control sheets.

2. All tree protection fencing shall be installed prior to any clearing and grading activities, including the demolition of any existing structures. The installation of all tree protection fence types 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, Urban Forest Management, DPWES 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 Urban Forest Management, DPWES.

11. **Urban Park**

An Urban Park area will be set aside on the property as depicted on the GDP. Typical amenities provided to include landscaping, a refuse container and a park bench or picnic table. The proposed park area will be maintained by the property owner. If an urban park is not desirable or deemed unnecessary by County review staff, an area will be established to accommodate existing tree save on the site.

12. **Interparcel Access**

In the future, if there is a need to connect the adjoining uses to the subject site, the owner of the property will agree to grant an access easement for interparcel connection. Upon request by Fairfax County, the applicant shall provide a public access easement in a form approved by the County Attorney, to be recorded over access aisles that parallel Grovedale Drive along the frontage of the property. This easement will be for the sole purpose of providing an interparcel access to the adjoining parcels to the North (Tax Map 081-3-005-5A) and the South (Tax Map 081-3-48-03-1 thru 10), if deemed necessary.

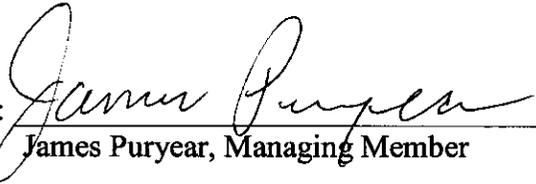
13. **Bicycle Racks**

The Applicant shall provide outdoor bicycle racks on-site for employees and visitors.

**(SIGNATURE PAGE ATTACHED)**

**(PROFFER SIGNATURE PAGE)**

KINGDOM, L.L.C., Title Owner of Tax Map 081-3-1((5)) Parcel 13

By:   
James Puryear, Managing Member

2-17-2009  
Date