

PROFFERS
NEVZAT KANSU and HACER K. KANSU
PCA 79-P-038-02
January 28, 2010

Pursuant to Section 15.1-2203 (A), Code of Virginia, 1950, as amended, the undersigned Applicant and property owner, for themselves and for their successors and assigns (hereinafter "Applicant"), file for a Proffer Condition Amendment ("PCA") to permit an Alternate Interim Plan utilizing the existing improvements and to allow certain uses as set forth herein, for property identified as Tax Map 49-2 ((5)) 5 (hereinafter referred to as "Application Property"), and hereby agree to the following proffers which supersede all previous proffers and proffer condition amendments accepted for the Property, provided that the "Board of Supervisors" (hereinafter referred to as "Board") approves this PCA.

1. DEVELOPMENT PLAN:

Redevelopment of the Application Property shall be in substantial conformance with the "NEKA Property, Generalized Development Plan Amendment and Proffer Condition Amendment," (GDP), prepared by Bowman Consulting Group, Ltd., dated July 2009, provided, however, that (i) prior to redevelopment, the existing building may be used for those uses set forth herein, as permitted in the I-5 zoning district (the Alternate Interim Plan), as shown on page 2A of the GDP, and (ii) minor modifications may be permitted when necessitated by sound engineering or which may become necessary as determined by the Department of Public Works and Environmental Services (DPWES) in accordance with the provisions set forth in Section 18-204 of the Zoning Ordinance, if in conformance with the approved GDP and proffers. Upon redevelopment the site layout shall be developed in accordance with the proffers and with the interim GDP depicted on Sheet 2 (Interim Development) until the Board of Supervisors requests removal of the parking within the right-of-way, whereupon the site layout shall be developed in accordance with the ultimate GDP shown on Sheet 4 (Ultimate Development).

2. ON JUNIPER STREET:

- a. Prior to Site Plan Approval for redevelopment or upon demand by the County, whichever occurs first, the owners hereby agree to dedicate a right-of-way to 38 feet from center line in fee simple to the Board.
- b. Prior to issuance of the Non Residential Use Permit (NON-RUP) for the Interim or Ultimate Development, whichever is first, the Applicant shall construct road improvements along the Property's Juniper Street frontage with face of curb set 22 feet from centerline, a 6-foot wide sidewalk and streetscape as shown on the GDP. Applicant shall be responsible for maintenance of landscaping within dedicated right-of-way along the Property's Juniper Street frontage.
- c. Prior to issuance of the Non Residential Use Permit (NON-RUP) for any use associated with the Interim or Ultimate Development, the Applicant shall construct road improvements along the Property's Juniper Street frontage.
- d. Upon demand by the Fairfax County Department of Transportation ("FCDOT") the Applicant shall dedicate to the County ancillary easements along Juniper

Street. Such dedication shall be at no cost to the County.

3. ON PLANNED CONNECTOR ROAD:

- a. Prior to site plan approval for the Interim or Ultimate Development, whichever is first, the owners hereby agree to dedicate a right-of-way to 30 feet from centerline in fee simple to the Board.
- b. Prior to issuance of the Non-RUP for the Interim or Ultimate Development, the Applicant shall install the landscaping. The Applicant may use escrow funds in an amount to be determined by DPWES to install the landscaping shown on the GDP along the connector road frontage.
- c. Applicant shall be responsible for maintenance of landscaping within dedicated right-of-way along the connector road frontage.
- d. Upon demand by the FCDOT the Applicant shall dedicate to the County any ancillary easements along the connector road frontage, as such road is shown on the GDP, Sheet 3. Such dedication shall be at no cost to the County.

4. LANDSCAPING:

- a. Landscaping shall be consistent with the quality, quantity and general locations shown on the Landscape Plan sheet of the GDP for each development option; however, landscaping shown on the GDP for the Alternate Interim stage of development shall be supplemented with perennials and other ground cover along Juniper Street and landscaping at the Interim stage of development shall be supplemented as required to be in conformity with the tree canopy calculations applicable at the time of site plan submission for the Interim development. Additionally, at the time of planting, the minimum caliper for deciduous trees shall be two and one-half (2-1/2) inches and the minimum height for evergreen trees shall be six (6) feet. Actual types and species of vegetation shall be determined pursuant to more detailed landscape plans approved by the Urban Forester at the time of final site plan approval. Such landscape plans shall provide tree coverage and species diversity consistent with the Public Facilities Manual (PFM) criteria, as determined by the Urban Forester. The Applicant shall work with the Urban Forester to incorporate any measures to achieve off-site vegetation preservation.
- b. The Applicant shall provide six-foot tall board-on-board fencing facing Juniper Street as shown on sheet 3 of the GDP, and shall continue the six-foot board-on-board fencing along the north Property line to the western property line, as shown on the GDP.

5. USES:

- a. The building proposed for the Interim and Ultimate Developments shall be used for warehousing.

- b. There shall be no outside processing or storage of materials upon completion of the Interim or Ultimate Developments.
- c. The existing building shown as the Alternate Interim Plan may be used for the following by-right uses, all as permitted in the I-5 zoning district:
 - 1) Contractor's offices and shops
 - 2) Establishments for scientific research, development and training
 - 3) Establishments for printing, production, processing, assembly, preparing, cleaning, servicing, testing, repair or storage of materials, goods or products, and associated retail sales (no bulk storage of flammable materials for resale or heavy industrial uses set forth in Par. 13 of Sect. 9-501.
 - 4) Financial institutions (no drive-through)
 - 5) Vehicle sale, rental and service establishments
 - 6) Motor vehicle storage and impoundment yards
 - 7) New vehicle storage
 - 8) Offices
 - 9) Public uses
 - 10) Truck rental establishments
 - 11) Warehousing and associated retail establishments
 - 12) Wholesale trade establishment;
- d. The Property may be used for commercial off-street parking as permitted in the I-5 zoning district and upon approval of a Special Exception Application by the Board of Supervisors.
- e. The right to the uses permitted herein for the Alternate Interim use shall terminate ten (10) years from the date of this proffer condition amendment, unless the Board of Supervisors approves the continuation of the Alternate Interim use pursuant to a future proffer condition amendment.
- f. Notwithstanding the above referenced termination the right to the Alternate Interim use shall terminate, without further action by the County, upon the County's approval of a site plan associated with any approved rezoning application for the Property. The Applicant shall include this proffer in any lease executed for the Property.

6. BUILDING FACADE:

The building facade on all four sides of the proposed building for the Interim and Ultimate Developments shall be in substantial conformance with elevations on sheet 7 of the GDP. Lighting shall be full cut off and focused downward in accordance with Part 9 of Article 14 of the Zoning Ordinance.

- a. Regardless of the notes, a Barrier D, E or F shall be provided along the western boundary.

7. PARK CONTRIBUTION:

Prior to issuance of a Non-RUP, the applicant shall contribute Two Thousand One Hundred Fifty Dollars (\$2,150.00) to the Park Authority for the acquisition of park land or facilities within the Merrifield Suburban Center.

8. FIRE AND RESCUE:

Prior to the issuance of a Non-RUP, the applicant shall contribute Five Hundred Dollars (\$500.00) to Dunn Loring Volunteer Fire and Rescue Department for the purchase of Fire and Rescue equipment.

9. STORMWATER MANAGEMENT

At the time of site plan approval associated with the Interim and Ultimate Plans the Applicant will provide stormwater detention/BMP systems approved by DPWES, generally as depicted on the GDP.

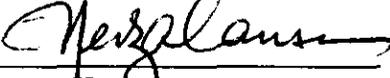
10. ESCALATION

All monetary contributions required by these proffers shall be adjusted upward or downward on changes to the Consumer Price Index (CPI) occurring subsequent to the date of PCA approval and up to the date of payment.

11. SUCCESSORS AND ASSIGNS

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

Applicant/Title Owners:

By: 
Nevzat Kansu


Hacer K. Kansu