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Department of Planning & Zoning

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Zoning Evaluation Division

PROFFER STATEMENT

PCA 91-P-027
March 3, 2010

Pursuant to Section 2-2301(a) Code of Virginia, 1950 as amended, and subject to the Board of Supervisors approval of the requested Proffer Condition Amendment (PCA), on property identified as Tax Map 49-2((1)) Lot 93, Applicants and Owners for themselves, their successors and assigns proffer that the development of the property shall be subject to proffers associated with RZ 91-P-027 dated May 4, 1991, which shall be superseded. In the event this application is denied, these proffers shall be null and void immediately, and of no further force and effect and the previous Proffers shall remain in effect.

1. Proffer Condition Amendment plan and Special Exception plat. Lot 93 shall be developed in conformance with the General Development Plan and Special Exception (SE) plat prepared by *christopher consultants, Ltd.* consisting of 8 sheets, dated June 29, 2009, revised through November 30, 2009.

2. Minor Modifications. Minor modifications from what is shown on the GDP/SE plan/plat and these proffers due to the final site design or engineering may be permitted pursuant to Section 16-403 (4) of the Zoning Ordinance. The building footprint may be adjusted within the proposed building envelope as shown on the GDP/SE plan/plat so long as the minimum open space identified on the GDP/SE plan/plat tabulations and the minimum dimensions to the lot lines are not diminished and access is provided as shown.

3. Maximum Intensity. The square footage and FAR shall not exceed a maximum 5,650 square feet with a maximum FAR of 0.27.

4. Architectural Compliance. The design of the building shall be in substantial conformance with the elevations shown on Sheet 8 of the GDP/SE plan and will be of a design complementary to the shopping center /plat. Modifications may be made to the final architectural designs if in substantial conformance with the elevations shown on the GDP/SE plans/plats and Exhibit A of these Proffers. The building materials shall consist of a brick façade along the front and sides of the building. The back of the proposed building along the eastern lot line shall be brick and shall consist of articulated vertical elements to break the solid brick mass and shall be generally consistent with Exhibit A attached to these Proffers. The building façade and/or roof may be modified from that shown on the elevations in the GDP/SE plans and Exhibit A attached to these Proffers if the applicant decides to incorporate a clerestory feature. Windows will be placed along the frontage of the building fronting Lee Highway. The service area's bay doors shall open on the side facing the shopping center.

5. Uses. The following uses are permitted: Offices, repair service establishments, retail sales establishments, telecommunication facilities, and vehicle light service establishment.

6. Signs. The sign identifying the use of Lot 93 will be a monument sign and/or building mounted sign with a complementary design to that of the shopping center. The sign(s) shall be in accordance with Article 12 of the Zoning Ordinance.

7. Lighting. Lighting shall meet the requirements of Part 9 of Article 14 of the Zoning Ordinance.

8. Energy Conservation/Green Building. The Applicant shall utilize green building practices including the following strategies but shall not limited to those listed:

(a) Consult a LEED accredited professional in the design of the BUILDING.
(b) Provide space for storage of recyclables, including but not limited to, fluorescent light bulbs, paper, cardboard, aluminum, plastic, and glass, and for collection of recyclables within each building.
(c) Prohibit smoking in the interior public areas of the building and provision of designated smoking areas away from entries and operable windows; or, prohibit all smoking on the property.
(d) Use insulated low e glass, or equivalent functioning glass on the windows facing the service drive.
(e) Utilize Energy Star (or equivalent) appliances, such as soft drink machines, to the extent possible.
(f) Provide the Environmental Development Review Branch (EDRB) of the Department of Planning and Zoning evidence of satisfaction of the above five requirement(s) prior to issuance of building permits for the proposed building.
(g) Use thermoplastic polyolefin membrane (TPO) roofing material with a Solar Reflectance Index (SRI) of greater than 0.50 which is the Energy Star Standard.
(h) Low Impact Development (LID) features shall be incorporated into the site design. Examples include, but are not limited to the use of pervious pavers, pervious asphalt, pervious concrete, Filterras.

9. Tree Preservation Plan - Comprehensive - The Applicant shall take the following steps to preserve two trees located on Lot 92A as shown on the GDP/SE plans/plats. In addition, the Applicant and Merrifalls Shopping Center shall enter into an Agreement wherein Merrifalls Shopping Center agrees to maintain these two trees that are proposed to be saved.

a. The Applicant shall submit a Tree Preservation Plan and Narrative as part of the first and all subsequent site plan submissions. The preservation plan shall be prepared by a Certified Arborist or Registered Consulting Arborist and shall be subject to the review and approval of Urban Forest Management Division, DPWES.
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 25 feet to either side of the limits of clearing and grading shown on the SE/PCA plat 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 SE/PCA 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 any tree identified to be preserved, such as: crown pruning, root pruning, mulching, fertilization, and others as necessary, shall be included in the plan."

b. The use of motorized equipment in tree preservation areas will be limited to hand-operated equipment such as chainsaws, wheel barrows, rakes, and shovels. Except as stated in No. 4 below, 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 Division, DPWES.

c. Root Pruning and Mulching. The Applicants shall 1) root prune and 2) mulch. as needed to comply with the tree preservation requirements of these proffers. All treatments shall be clearly identified, labeled, and detailed on the erosion and sediment control sheets and demolition plan sheets of the site 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:

(1) Prior to root pruning operations and installation of tree protection fence, an UFM representative shall meet with the contractor performing these operations to ensure that root pruning and tree protection fence installation are understood and implemented in conformance with specifications.
(2) Root pruning shall be done with a trencher or vibratory plow to a depth of 18 inches;
(3) Root pruning shall take place prior to any clearing and grading.
(4) Root pruning shall be conducted with the supervision of a certified arborist;

d. Tree Preservation Walk-Through.
The Applicant shall retain the services of a Certified Arborist or Registered Consulting Arborist or Registered Consulting Arborist, and shall have the limits of clearing and grading marked with a continuous line of flagging prior to the walk-through meeting. During the tree-preservation walk-through meeting, the Applicant's Certified Arborist or Registered Consulting Arborist shall walk the limits of clearing and grading with an UFMD, DPWES, representative to determine where adjustments to the clearing limits can be made to increase the area of tree preservation and/or to increase survivability of trees at the edge of the limits of clearing and grading, and such adjustment shall be implemented. Trees that are identified as dead or dying 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.

The Applicants shall conform strictly to the limits of clearing and grading as shown on the GDP.

(e) Tree Protection Fencing
All trees shown to be preserved on the tree preservation plan shall be protected by tree protection fence. Tree protection fencing using four foot high, 14-gauge welded wire attached to six 6-foot steel posts driven 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 & II erosion and sediment control sheets, as may be modified by these Proffers.

All tree protection fencing shall be installed after the tree preservation walk-through meeting and prior to any clearing and grading activities. The installation of tree protection fence shall be performed under the supervision of a Certified Arborist or Registered Consulting Arborist and accomplished in a manner that does not harm existing vegetation that is to be preserved. At least ten (10) days prior to the commencement of any clearing, grading, or demolition activities adjacent to the tree preservation areas, but subsequent to the installation of the tree protection devices, UFM, DPWES, and the Providence District Supervisor shall be notified and given the opportunity to inspect the site to assure that all tree protection devices have been correctly installed and no grading or construction activities shall occur until the fencing is installed correctly, as determined by Urban Forest Management, DPWES.

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, as determined by UFM.

During any clearing or tree/vegetation/structure removal in the tree preservation area a representative of the Applicant shall be present to monitor the process and ensure that the activities are conducted as proffered and as approved by UFMD. The Applicant shall retain the services of a Certified Arborist or Registered Consulting Arborist to monitor all construction work and demolition and tree preservation efforts in order to ensure conformance with all tree preservation proffers and UFMD approvals. The monitoring schedule shall be described and detailed in the landscaping and/or tree preservation plan and reviewed and approved by Urban Forest Management, DPWES. The Providence District Supervisor shall be notified of the name and contact information of the Applicant's representative responsible for site monitoring at the tree preservation walk-through meeting described above.

f. Bonding

The Applicant shall retain a professional arborist with experience in plant appraisal, to determine the replacement value of all trees that are 8 inches in diameter or greater located on the Application Property and or on the adjacent parcel 92 A (subject to the permission of the off-site owner being granted at no cost to the Applicant) that are located up to 25 feet from the limits of clearing and grading shown on the GDP/SE plan that are shown to be saved on the Tree Preservation Plan. These trees and their value shall be identified on the

Tree Preservation Plan at the time of the first submission of the respective site plan(s). The replacement value shall take into consideration the age, size and condition of these trees and shall be determined by the so-called "Trunk Formula Method" contained in the latest edition of the Guide for Plan Appraisal published by the International Society of Arboriculture, subject to review and approval by UFMD.

At the time of the respective site plan approvals, the Applicant shall post a cash bond or a letter of credit payable to the County of Fairfax to ensure preservation and/or replacement of the trees for which a tree value has been determined that die or are dying due to unauthorized construction activities. The letter of credit or cash deposit shall be equal to 50% of the replacement value of the Bonded Trees. At any time prior to final bond release for the improvements on the Application Property constructed adjacent to the respective tree save areas, should any Bonded Trees die, be removed, or are determined to be dying by UFMD due to unauthorized construction activities, the Applicant shall replace such trees at its expense. The replacement trees shall be of equivalent size (at full growth), species and/or canopy cover as approved by UFMD. In addition to this replacement obligation, the Applicant shall also make a payment equal to the value of any Bonded Tree that is dead or dying or improperly removed due to unauthorized construction activity. This payment shall be made to a fund established by the County for furtherance of tree preservation objectives in the Providence District. Upon release of the bond for the improvements on the Application Property constructed adjacent to the respective tree save areas, any amount remaining in the tree bonds required by this proffer shall be returned/released to the Applicant.

10. Streetscape and Landscaping. Site Plan submissions shall include streetscape/landscape plans in substantial conformance with the GDP/SE plans/plats, Sheet 6.

11. Pedestrian Crosswalk. A pedestrian crosswalk shall be provided as shown on the GDP/SE plans/plats, Sheet 5.

12. Interparcel Connection. A stub access driveway shall be constructed up to the property line as shown on the GDP/SE plat and an access easement shall be provided that allows the Merrifield Plaza shopping center to connect and access at such time as the Plaza redevelops.

Pedestrian Interparcel Access. The Applicant/Owner of Lot 93 shall construct pedestrian access from Lot 93 to Lot 92A in substantial conformance with the location as shown on the GDP/SE plan/plat.

13. Limits of Clearing and Grading shall be adhered to as shown on the GDP/SE plans/plats to protect the off-site trees with minor modifications should the County determine necessary at the time of the in-the-field inspection as outlined under the Proffer Tree Preservation.

14. Stormwater Management/Water Quality Low Impact Development. The storm water management system shall be reviewed for compliance with the Public Facilities Manual by DPWES at the time of site plan review; if any inadequacies are identified, appropriate corrective measures shall be employed to the satisfaction of DPWES prior to site plan approval. Bioretention facilities shall be designed to treat runoff from the roof of the

building and shall meet PFM requirements or a waiver approved by the Director, DPWES. The SWM and BMP facilities shall be maintained by the owner of Lot 93.

The Applicant of Lot 93 shall provide hydrocarbon removal measures for the parking areas in order to reduce hydrocarbon concentrations in runoff from the site. Possible hydrocarbon removal methods include the use of vegetated filter strips, infiltration trenches and other methods that promote infiltration, and oil/grit separators. Where oil grit separators are provided, they shall be designed in conformance with the methods recommended in Chapter 8 of the Metropolitan Washington Council of Governments (COG) document entitled Controlling Urban Runoff or with other methods approved by the Department of Public Works & Environmental Services (DPWES). The oil grit separator(s) shall be cleaned via vacuum pumping at least four times per year. The qualifications of the maintenance operator shall be reviewed and approved by the appropriate Fairfax County agency as determined by DPWES. Oil grit separator maintenance records shall be kept on-site and shall be made available to County officials upon request.

15. Transportation Demand Management Program (TDM).

The applicant shall implement the following methods to encourage the use of transit, high occupant vehicle commuting modes, walking, and biking to reduce auto trips generated by the employees and customers of the property.
a. Appoint an individual Program Manager (PM) to be responsible for the TDM strategies. These duties may be part of other duties assigned to the individual(s).
b. The PM shall coordinate with FCPD employer service program.
c. Make Metrorail and bus maps, schedules and forms, and other relevant transit option information available to employees and customers.
d. The Applicant may provide Shuttle Service to and from the Metro Station.
e. One "inverted style" bicycle rack (or the equivalent, as determined by FCDOT) shall be installed in a location and manner to be coordinated with and approved by FCDOT at the time of site plan review.

16. Fence between Lot 92A and Jefferson Park Townhouse Subdivision

If permission is granted from the Jefferson Park Homeowners Association, the Applicant shall provide a 6' high, black vinyl chain link fence along the Merrifalls Plaza Shopping Center's northern lot line shared with the Jefferson Park Subdivision. This fence shall connect to the brick wall behind the townhouses on Coors Park Court and run approximately 402 linear feet connecting with the existing fence along the eastern lot line. If the fence along the eastern lot line is not on the shared lot line with Lot 92A and 93, then the fence shall continue along the eastern lot line of Lot 92A and 93 connecting with the proposed building on Lot 93. The exact location of the fence shall be determined by the Urban Forest Management Division during a walk-through with the goal of providing a fence in a location which will require the removal of the least number of trees. The goal of the fence is to deter cut-through pedestrian traffic between the shopping center property and Jefferson Park Townhouse Subdivision. In addition, berberis thunbergii or approved equivalent as determined by the Urban Forester shall be planted in the areas along the northern lot line between the easternmost corner of the building and the eastern lot line in the areas to be

determined by the Urban Forester to further deter pedestrian cut-through traffic from persons who might climb over the proposed fence referenced above.

JSH Enterprise, LLC

Seung W. Hong, Managing Member and Authorized Agent and Signatory for JSH Enterprise, LLC, Contract Purchaser, TM Ref. 49-2 ((1)) 93

Jeong A. Hong, Managing Member and Authorized Agent and Signatory for JSH Enterprise, LLC, Contract Purchaser, TM Ref. 49-2((1)) 93

Reese Merrifalls Two, LLC

Janice Yun, Member, and Authorized Agent for Reese Merrifalls Two, LLC, Property Owner,
TM Ref. 49-2 ((1)) 93
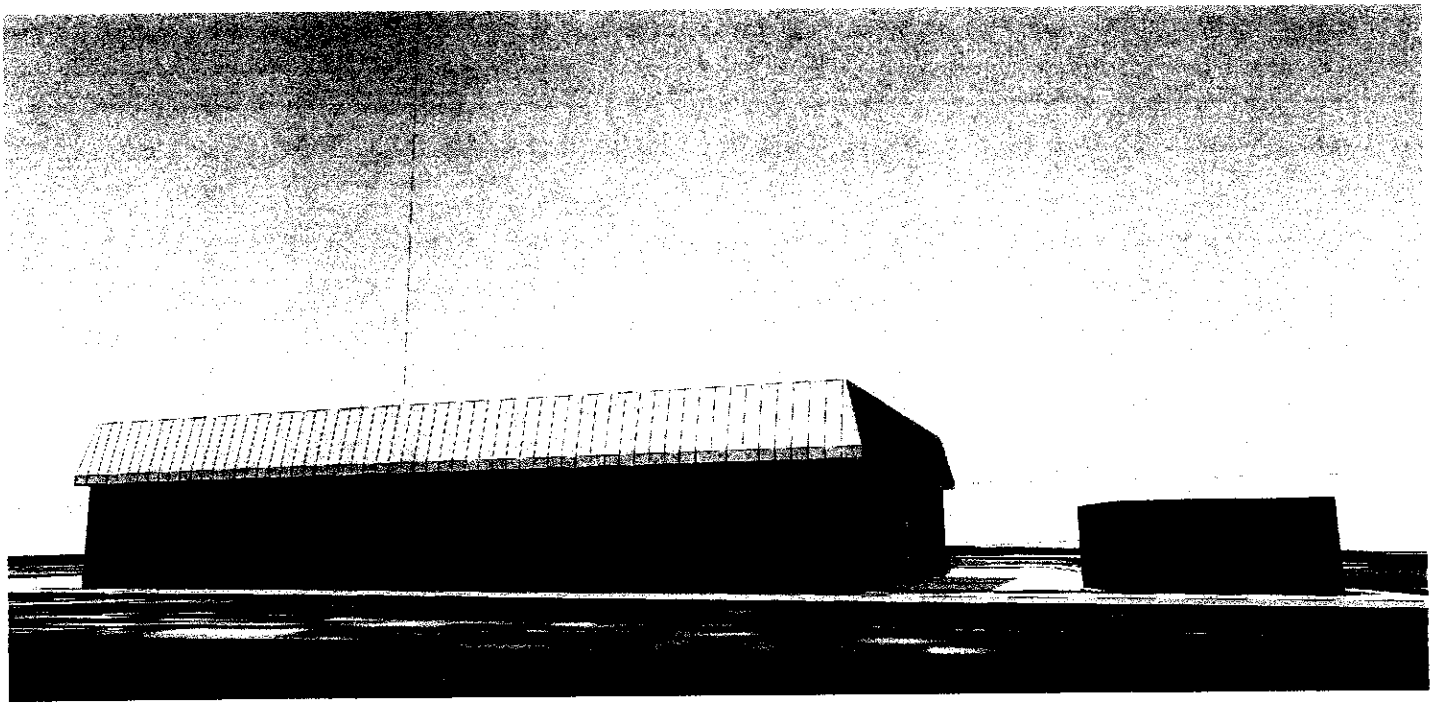
EXHIBIT A