

PROFFER STATEMENT

July 11, 2011

RZ 2010-MA-017

UPIA, LLC

Pursuant to Section 15.2-2303(A), Code of Virginia, 1950 as amended, the undersigned Owner/Applicant, in this rezoning proffer that the development of the parcel under consideration and shown on the Fairfax County Tax Map as Tax Map Reference 71-1 ((1)) 125 and 126 and 71-1 ((40)) 1, 2, 3, 4, 5, 6 and A (hereinafter referred to as the "Property") will be in accordance with the following conditions (the "Proffered Conditions"), if and only if, said rezoning request for the PDH-5 Zoning District is granted. In the event said rezoning request is denied, these Proffered Conditions shall be null and void. The Owner/Applicant, for themselves, their successors and assigns hereby agree that these Proffered Conditions shall be binding on the future development of the Property unless modified, waived or rescinded in the future by the Board of Supervisors of Fairfax County, Virginia, in accordance with applicable County and State statutory procedures. The Proffered Conditions are:

I GENERAL

1. Substantial Conformance. Subject to the provisions of Article 16 of the Fairfax County Zoning Ordinance (hereinafter referred to as the "Zoning Ordinance"), development of the Property shall be in substantial conformance with the Conceptual Development Plan/Final Development Plan (CDP/FDP) titled "Backlick Road Property", prepared by Charles P. Johnson & Associates, Inc. consisting of eight (8) sheets, dated June 23, 2011.
2. Minor Modifications. Minor modifications from what is shown on the CDP/FDP and these Proffers, which may become occasioned as a part of final architectural and/or engineering design, may be permitted as determined by the Zoning Administrator in accordance with the provisions set forth in Section 16-403 of the Zoning Ordinance. Additionally, except as may be further qualified by these proffered conditions, minor modifications to the building envelopes including house location and sizes may be permitted in accordance with Section 16-403 of the Zoning Ordinance as long as such changes do not materially decrease the amount of open space, the building set backs outlined on the CDP/FDP are honored, and the limits of clearing and grading are adhered to.

II. RECREATION FACILITIES

- 3 Recreation Contribution. Pursuant to Sect. 6-409 of the Zoning Ordinance regarding developed recreational facilities, the Applicant shall provide recreational facilities to serve the property as shown on the CDP/FDP. Per Sect. 6-409, recreational facilities such as tot lots, gazebos, trails and sitting area, and similar features may be used to fulfill this requirement. The siting and installation of such features shall not interfere with tree save areas. In the event it is demonstrated that the proposed facilities do not have sufficient value, at the time of the issuance of the first Residential Use Permit, the Applicant shall contribute funds in the amount needed to achieve the overall proffered amount of \$1,600 per unit for the nine (9) new dwelling units to be built on the Property. The excess funds shall be used for the construction of recreational amenities in the Mason District.

III. SCHOOLS

- 4 Contribution. Prior to the issuance of each Residential Use Permit, a contribution of \$4,168 per unit for the nine (9) new dwelling units to be built on the Property shall be made to the public schools serving the Property. Said contribution shall be deposited with DPWES for transfer to Fairfax County School Board.

IV. ESCALATION

5. Escalation. All monetary contributions required by these proffers shall be adjusted upward or downward based on the percentage change in the annual rate of inflation as calculated by referring to the Consumer Price Index (CPI) (not seasonally adjusted) as reported by the United States Department of Labor, Bureau of Labor Statistics occurring subsequent to the date of final site plan approval and up to the date of payment. In no event shall an adjustment increase exceed the annual rate of inflation as calculated by the CPI.

V. ENERGY CONSERVATION

6. Energy Conservation. All new dwelling units shall be designed and constructed as ENERGY STAR qualified homes. The major features of an ENERGY STAR homes include: Effective Insulation, High-Performance Windows, Tight Construction and Ducts, Efficient Heating and Cooling Equipment, Efficient Products, and Third Party Verification (Home Energy Rater.) Within thirty (30) days of issuance of the Residential Use Permit (RUP) for each dwelling unit, documentation shall be submitted to the Environment and Development Review Branch of the Department of Planning and Zoning (DPZ) from a home energy rater certified through the Residential Energy Services network (RESNET) program that demonstrates that the

dwelling unit has attained the ENERGY STAR for homes qualification, as described in these conditions.

VI. TREE PRESERVATION

- 7 Tree Preservation Plan. The applicant shall submit a Tree Preservation Plan and Narrative as part of the first and all subsequent site plan submissions. The preservation plan and narrative shall be prepared by a Certified Arborist or a Registered Consulting Arborist, and shall be subject to the review and approval of the Urban Forest Management Division, DPWES.

The tree preservation plan shall include a tree inventory that identifies the location, species, critical root zone, size, crown spread and condition analysis percentage rating for all individual trees to be preserved, as well as all on and off-site trees, living or dead with trunks 8 inches in diameter and greater (measured at 4 ½ -feet from the base of the trunk or as otherwise allowed in the latest edition of the Guide for Plant Appraisal published by the International Society of Arboriculture, located with 25 feet of either side of the limits of clearing and grading. 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 CDP/FDP and those additional areas in which trees can be preserved as a result of final engineering. The tree preservation plan and narrative shall include all items specified in PFM 12-0506 and 12-0509. 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.

- 8 Tree Preservation Walk-Through. The applicant shall retain the services of a Certified 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 landscape architect shall walk the limits of clearing a 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 the 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 adjacent trees and associate understory vegetation and soil conditions.

- 9 Limits of Clearing and Grading. The Applicant shall generally conform to the limits of clearing and grading as shown on the CDP/FDP, subject to allowances specified in these development conditions and for the installation of utilities and/or trails as determined necessary by the Director of DPWES, as described herein. If it is determined necessary to install utilities and/or trails in areas protected by the limits of clearing and grading as shown on the CDP/FDP, they shall be located in the least disruptive manner necessary as determined by the UFMD, DPWES. A replanting plan shall be developed and implemented, subject to approval by the UFMD, DPWES, for any area protected by the limits of clearing and grading that must be disturbed for such utilities.
- 10 Tree Preservation Fencing. 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 & II erosion and sediment control sheets, as may be modified by the "Root Pruning" proffer below.

All tree protection fencing shall be installed after the tree preservation walk-through meeting but prior to any clearing and grading activities, including the demolition of any existing structures. The installation of all 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 (3) days prior to the commencement of any clearing, grading or demolition activities, but subsequent to the installation of the tree protection devices, the UFMD, DPWES, shall be notified and given the opportunity to inspect the site to ensure 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 UFMD, DPWES.

- 11 Root Pruning. The Applicant shall root prune as needed to comply with the tree preservation requirements of these proffered conditions. All treatments shall be clearly identified, labeled, and detailed on the erosion and sediment control sheets of the subdivision plan submission. The details for these treatments shall be reviewed and approved by the UFMD, 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.
- An UFMD, DPWES, representative shall be informed when all root pruning and tree protection fence installation is complete.

12 Monitoring. During any clearing or tree/vegetation/structure removal on the Applicant Property, 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 the UFMD. The Applicant shall retain the services of a certified arborist or Registered Consulting Arborist to monitor all construction and demolition work and tree preservation efforts in order to ensure conformance with all tree preservation proffer, development conditions, and UFMD approvals. The monitoring schedule shall be described and detailed in the Landscaping and Tree Preservation Plan, and reviewed and approved by the UFMD, DPWES.

VII. NOISE MITIGATION

13. The Applicant will use building materials, screening or fencing, which ensure that noise in interior areas of homes on Lots 7, 8 and 9 do not exceed approximately 45 dBA Ldn and the rear yards do not exceed approximately 65 dBA Ldn.. The Applicant may pursue other methods of mitigating transportation generated noise if it can be demonstrated through an independent noise study for review and approval by the Department of Public Works and Environmental Services (DPWES) in consultation with the Department of Planning and Zoning, that these methods will be effective in reducing interior noise levels to 45 dBA Ldn or less and the rear yards to approximately 65 dBA Ldn.

VIII. EXISTING DEGROFF COURT COMMUNITY

14. The Applicant shall install two street lights within the existing DeGroff Court community as shown on the CDP/FDP. The street lights shall be the same as those installed by the Applicant for lots 7 through 15.
15. The Applicant shall mill and crown the existing portions of DeGroff Court to help mitigate current storm drainage issues of the existing DeGroff Court community.
16. The Applicant shall either resurface or seal the driveways and pipestem driveways of the existing DeGroff Court community.

17. The Applicant shall regrade the rear yards of lots 1, 2 and 3 and the side yard of lot 4 from the existing decks or patios to the rear property line as shown on the final site plan to help mitigate current storm drainage issues.
18. The Applicant shall install a "No Left Turn" sign on existing DeGroff Court at its intersection with Backlick Rd.

VIX. EXISITNG HERITAGE VILLAGE COMMUNITY

19. The Applicant shall install, subject to the permission of the Heritage Village Homeowners Association and / or any individual property owners, a private drainage system as generally shown on the CDP/FDP. In the event the Heritage Village Homeowners Association and any individual property owners have not agreed in writing to enter into an easement and maintenance agreement prior to final site plan approval, then this proffer shall be considered null and void and of no further effect.
20. The Applicant agrees to install, subject to the permission of the Heritage Village Homeowners Association and the owner of lot 1, a yard inlet and pipe as generally shown on the CDP/FDP. The yard inlet and pipe will be maintained by the Heritage Village Homeowners Association. In the event the Heritage Village Homeowners Association and / or the owner of lot 1 has not agreed in writing to enter into an easement and maintenance agreement prior to final site plan approval, then this proffer shall be considered null and void and of no further effect.

X HOME OWNERS ASSOCIATION

21. Establishment of HOA. Prior to record plat approval, the Applicant shall establish a Homeowners Association (HOA) in accordance with Sect. 2-700 of the Zoning Ordinance for the purpose of, among other things, establishing the necessary residential covenants governing the design and operation of the approved development and to provide a mechanism for ensuring the ability to complete the maintenance obligations and other provisions noted in these proffer conditions. Alternatively, the Applicant shall have the option to file and pursue an application for incorporation of lots 7 through 15 into the existing DeGroff Court Homeowners Association.
22. Dedication to HOA. At the time of subdivision plat recordation, open space, common areas, private streets, fencing, and amenities not otherwise conveyed or dedicated to the County shall be dedicated to the HOA and maintained by the same.

23. Disclosure. Prior to entering into a contract of sale, prospective purchasers shall be notified in writing by the Applicant of the maintenance responsibility for the streets, storm water management facilities, common area landscaping and any other open space amenities and shall acknowledge receipt of this information in writing. The homeowner association covenants shall contain clear language delineating the tree save areas as shown on the CDP/FDP. The covenants shall prohibit the removal of the trees except those trees which are dead, diseased, noxious or hazardous and shall outline the maintenance responsibility of the homeowners association and individual homeowners. The initial deeds of conveyance and HOA governing documents shall expressly contain these disclosures. The HOA documents shall stipulate that a reserve fund to be held by the HOA be established for the private street maintenance. The Applicant shall be responsible for placing the sum of \$10,000 in such reserve fund prior to the issuance of the last Residential Use Permit (the "RUP") for the proposed single family dwelling units.
24. Public Access Easement. A public access easement in a form approved by the County Attorney shall be placed on the private streets, sidewalks and trails within the approved development. The requirements of this proffer condition shall be disclosed in the HOA documents.

XI. SWM/BMP FACILITY

25. SWM/BMP Facility. The Applicant shall provide infiltration in the bottom of the proposed SWM/BMP facility unless it is determined that the soils are unsuitable for infiltration or there is not sufficient separation between rock layer and seasonal groundwater as determined by a qualified geotechnical engineer and subject to final site plan approval by Fairfax County.

XII. DESIGN

26. Design. It shall be understood that the various illustrative architectural representations contained on page 8 of the CDP/FDP are not final architectural plans to be used for construction purposes. As a result, the final architectural design of all buildings shall be in substantial conformance with the general type, quality and proportion of materials as depicted on the illustrative elevations shown on the CDP/FDP. Exterior materials used on the facade shall include brick, stone, or similar masonry type materials, wood siding, vinyl siding, standing seam metal, cementitious siding (i.e. "Hardi Plank" or similar) or materials of comparable type and quality.

XIII. LANDSCAPING

27. Landscaping. The Applicant reserves the right to make minor modifications to such landscaping to reasonably accommodate utilities, drainage, and other design consideration factors, provided such relocated landscaping shall retain an equivalent number of plantings as shown on the approved CDP/FDP.

XIV. AFFORDABLE HOUSING

28. Housing Trust Fund. At the time of issuance of each building permit, the Applicant shall contribute to Habitat for Humanity of Northern Virginia ("Habitat") or to the Fairfax County Housing Trust Fund, the sum equal to one half of one percent (1/2%) of the projected sales price for each new dwelling unit on the subject property. The funds, if contributed to Habitat, will be directed to Habitat projects in Fairfax County. The projected sales price shall be based upon the aggregate sales price of all the units, as if those units were sold at the time of the issuance of the first building permit and is estimated through comparable sales of similar type units. This sales price information shall be provided to and approved by the Fairfax County Department of Housing and Community Development (HCD).

XV. ACCESS MANAGEMENT EXCEPTION

29. Access Management Exception. If determined to be needed during subdivision plan review, the Applicant shall apply to the Virginia Department of Transportation ("VDOT") for an access management exception for the new entrance to be located at the southern portion of the site. However, in the event the access management exception is not granted by VDOT, the Applicant agrees to work with VDOT and the Fairfax County office of Transportation ("OT") to develop an entrance design acceptable to VDOT and OT without the need for a proffer interpretation, proffer condition amendment or development amendment.

XVI. DRIVEWAYS

30. Driveways. The driveway provided for each home on Lots 9-15 shall be a minimum of eighteen (18) feet in length and sixteen (16) feet in width to permit the parking of vehicles without overhanging into the sidewalk.

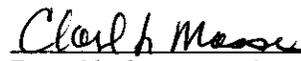
XVII. SUCCESSORS AND ASSIGNS

31. Successors and Assigns. These proffers shall bind and inure to the benefit of the Applicant and his/her successors and assigns.

SIGNATURES BEGIN ON THE FOLLOWING PAGE

TITLE OWNER OF TAX MAP
71-1 ((1)) 125 and 126

UPIA, LLC



By: Clark L. Massie
Its: Member

TITLE OWNER OF TAX MAP
71-1 ((40)) 1



By: Yung Yun Boung



By: SE Hun Boung

Argentina Lazo
By: Argentina Lazo

Lusmila Janneth Ary
By: Lusmila Janneth Ary

TITLE OWNER OF TAX MAP
71-1 ((40)) 3

A handwritten signature in cursive script, appearing to read "Robert E. Sands", written above a horizontal line.

By: Robert E. Sands

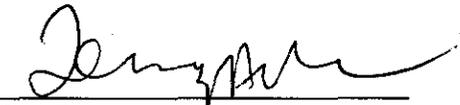
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By: Oanh P. Lam

TITLE OWNER OF TAX MAP
71-1 ((40)) 4

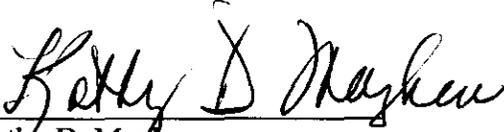
A handwritten signature in cursive script, appearing to read "Nuru Yimam", written over a horizontal line.

By: Nuru Yimam

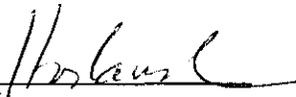
A handwritten signature in cursive script, appearing to read "Zemzem Adem", written over a horizontal line.

By: Zemzem Adem

TITLE OWNER OF TAX MAP
71-1 ((40)) 5


Kathy D. Maynew

TITLE OWNER OF TAX MAP
71-1 ((40)) 6


By: David Ho

TITLE OWNER OF TAX MAP
71-1 ((40)) A

DeGroof Court Homeowners Association


By: Jina Hwang
Its: President

Jina Hwang

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Department of Planning & Zoning

SEP 12 2011

Zoning Evaluation Department