

PROFFERS

4203 Buckman LLC

PCA 94-L-004

July 16, 2015

Pursuant to Section 15.2-2303 (A) of the Code of Virginia (1950, as amended), 4203 Buckman LLC, for itself and its successors and/or assigns (hereinafter referred to as the "Applicant"), hereby proffers that the development of the property identified as Fairfax County 2015 tax map reference 101-3 ((1)) 15B (the "Application Property") shall be in accordance with the following conditions if, and only if, the Board of Supervisors (the "Board") approves this proffered condition amendment application. These proffers shall replace and supersede all previous proffers approved on the Application Property.

1. DEVELOPMENT PLAN –

- a. Development of the Application Property shall be in substantial conformance with the Generalized Development Plan entitled "Buckman Road Townhouses" consisting of eight (8) sheets prepared by R.C. Fields & Associates, Inc., dated December 8, 2014, as revised through June 12, 2015 (the "GDP").
- b. Pursuant to Paragraph 5 of Section 18-204 of the Fairfax County Zoning Ordinance (the "Zoning Ordinance"), minor modifications from the GDP may be permitted as determined by the Zoning Administrator. The Applicant reserves the right to make minor adjustments to the layout, internal lot lines, and lot sizes of the proposed townhomes at time of site plan submission based on final building footprints, utility locations and final engineering design, provided that such do not materially decrease the amount and location of open space below the minimum required by the Zoning Ordinance, tree save areas, tree planting, distance to peripheral lot lines below the minimum required by the Zoning Ordinance, or typical lot setbacks as shown on the GDP.

2. TRANSPORTATION –

- a. Subject to Virginia Department of Transportation (VDOT) approval, the Applicant shall dedicate at no cost and convey in fee simple to the Board (i) right-of-way up to a width of forty-three and a half (43.5) feet as measured from the centerline along the Application Property's Buckman Road frontage; and (ii) thirty-five (35) square feet along the Application Property's Main Street frontage, as shown on the GDP. Dedication shall be made at time of site plan or upon demand of either Fairfax County or VDOT, whichever should first occur.

- b. Subject to VDOT approval, and prior to the issuance of the first Residential Use Permit ("RUP") for the Application Property, the Applicant shall construct frontage improvements within the dedicated right-of-way to Buckman Road and to Main Street as shown on the GDP. Frontage improvements shall consist of curb, gutter, sidewalk, pedestrian curb ramp with detectable warning surface, and pavement required to tie into existing improvements in accordance with VDOT standards.
- c. Prior to site plan approval, the Applicant shall obtain a sight distance easement from that property identified as Fairfax County tax map reference 101-3 ((1)) 15A. If the Applicant is unable to obtain the sight distance easement, modifications to the site entrance will be necessary to the GDP, which may require the approval of a proffered condition amendment.
- d. Subject to VDOT approval, the Applicant shall construct a pedestrian curb ramp with detectable warning surface at the northwest intersection of Buckman Road and Aspen Drive as shown on the GDP. Said improvement shall be constructed prior to the issuance of the first RUP for the Application Property.
- e. The on-site private street shall be constructed in conformance with the Public Facilities Manual ("PFM"), including materials and depth of pavement consistent with the PFM, subject to any design modifications as to pavement and easement width and use of curb that are approved by the Director of DPWES at site plan. The homeowners' association established for the community (the "HOA") shall be responsible for the maintenance of the on-site private streets. All prospective purchasers shall be advised of this maintenance obligation prior to entering into a contract of sale and said obligation shall be disclosed in the HOA documents.

3. LANDSCAPING AND OPEN SPACE –

- a. The Applicant shall provide landscaping on the Application Property as generally shown on Sheet 3 of the GDP. As part of the site plan submission, the Applicant shall submit to the Urban Forest Management Division ("UFMD") a detailed landscape plan for review and approval that shall be generally consistent with the quality and quantity of plantings and materials shown on the GDP. The landscape plan shall be designed to ensure adequate planting space for all trees based on the requirements in the Public Facilities Manual ("PFM"). Plantings shall include only non-invasive species and, to the extent practical, native species. At time of site plan, adjustments to the type and location of vegetation and the design of landscaped areas from that shown on the GDP shall be permitted as approved by UFMD. The Applicant shall provide no less than 3,800 square feet of tree canopy, with no less than 2,900 square feet of that tree canopy being provided without the use of a tree canopy multiplier.

- b. Prior to bond release, the Applicant shall install a four (4) foot high fence along the northern edge of the private street behind the townhomes as shown on Sheet 3 of the GDP. The fence shall be constructed of wood panels with brick columns.
- c. In addition to the vegetation shown on Sheet 3 of the GDP, the Applicant shall install four (4) category II (2.0 inch caliper) deciduous understory trees on Parcel A. These trees shall be planted so that their projected 10-year canopies do not significantly overlap the canopies of existing trees located on property identified as Fairfax County tax map reference 101-3 ((22)) D.

4. TREE PRESERVATION –

- a. For the purposes of maximizing the preservation of trees located on adjacent properties, the Applicant shall prepare a Tree Preservation Plan. The Applicant shall contract with a certified arborist or registered consulting arborist (the “Project Arborist”) to prepare a Tree Preservation Plan to be included as part of the site plan submission. The Tree Preservation Plan shall be reviewed and approved by UFMD. The Tree Preservation Plan shall seek to preserve the trees identified on the GDP for preservation. 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 shall be incorporated into the Tree Preservation Plan. Activities should include, but are not limited to, crown pruning, root pruning, mulching, and fertilization.
- b. Clearing, grading, and construction shall conform to the limits of clearing and grading as shown on the GDP, subject to the installation of necessary utility lines and other required site improvements, all of which shall be installed in the least disruptive manner possible, considering cost and engineering, as determined in accordance with the approved plans.
- c. The Applicant 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 Project Arborist shall walk the limits of clearing and grading with a UFMD 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. The Applicant shall also work with UFMD to identify areas adjacent to the limits of clearing and grading where a mix of understory plantings and shrubs may be provided, 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 associated understory vegetation and soil conditions.

- d. All trees shown to be preserved on the Tree Preservation Plan shall be protected by tree protection fencing. Tree protection fencing, consisting of four (4) foot high, 14 gauge welded wire attached to six (6) foot steel posts driven eighteen (18) inches into the ground and placed no farther 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 placed at the limits of clearing and grading. The tree protection fencing shall be installed after the tree preservation walk-through meeting but prior to the performance of any clearing and grading activities on the site. Prior to the commencement of any clearing or grading on the site, the Project Arborist shall verify in writing that the tree protection fencing has been properly installed.
- e. The Applicant shall (1) prune roots one inch in diameter or larger of trees to be preserved that may be damaged during clearing, demolition, grading, utility installation and/or the installation of retaining walls; and (2) mulch to a minimum depth of three (3) inches within the areas to be left undisturbed where soil conditions are poor, lacking leaf litter or prone to soil erosion. Areas that will be root pruned and mulched shall be clearly identified on the Tree Preservation Plan. All treatments for such trees and vegetation shall be clearly specified, labeled, and detailed on the erosion and sediment control sheets of the subdivision plan submission. The details for these treatments shall be included in the Tree Preservation Plan and shall be subject to the review and approval of UFMD.

All root pruning and mulching work shall be performed in a manner that protects adjacent trees and vegetation that are required to be preserved and may include, but not be limited to, the following:

- i. Root pruning shall be done with a trencher or vibratory plow to a depth of eighteen (18) inches, or as specified by UFMD at the pre-construction meeting.
- ii. Root pruning shall take place prior to installation of tree protection fencing.
- iii. Root pruning shall not sever or significantly damage structural or compression roots in a manner that may compromise the structural integrity of trees or the ability of the root system to provide anchorage for the above ground portions of the trees.
- iv. Root pruning shall be conducted with the on-site supervision of the Project Arborist.
- v. Tree protection fencing 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.

- vi. Mulch shall be applied at a depth of three (3) inches within designated areas. Mulch may be placed within tree preservation areas at points designated by the Project Arborist to minimize impacts to existing vegetation. Motorized equipment may be used to reach over tree protection fence to place mulch at designated points. Mulch shall be spread by hand within tree preservation areas.
 - vii. Mulch shall consist of wood chips or pine bark mulch. Hay or straw mulch shall not be used within tree preservation areas.
 - viii. UFMD shall be informed in writing when all root pruning and tree protection fence installation is complete.
- f. During the installation of tree protection fencing, performance of root pruning, and/or any clearing or removal of trees, vegetation, or structures, or other activities in or adjacent to tree conservation areas on the Application Property, the Project Arborist, as a representative of the Applicant, shall be present to monitor the process and ensure that the activities are conducted in accordance with the proffers and as approved by the UFMD. Inappropriate activities such as storage of construction materials, dumping of construction debris, and traffic by construction personnel shall not occur within these areas. Damage to understory plant materials, leaf litter and soil conditions resulting from activities not approved in writing by UFMD shall be restored to the satisfaction of UFMD.

5. **PARKS AND RECREATION –**

The Applicant shall propose to the property owner an agreement to install improvements on the adjacent property identified as Fairfax County tax map reference 101-3 ((22)) D ("Parcel D"), which is unimproved open space for the Chateauneuf townhouse community. The agreement shall address maintenance and liability responsibilities associated with the improvements. Improvements to be installed by the Applicant may include, but not be limited to, benches, landscaping and children's play equipment. Said improvements shall not exceed the cost of Seven Thousand Five Hundred Dollars (\$7,500.00) and shall be installed subject to receipt of written permission from the owner of Parcel D at no cost to the Applicant. Said improvements and their installation on Parcel D shall be provided at no cost to the owner of Parcel D. This written permission shall allow the residents of the Application Property the right to enter and use Parcel D for recreational use. Said improvements shall be installed prior to the issuance of the last RUP on the Application Property. At the time of site plan approval, if an agreement has not been reached with the owner of Parcel D, or if permission has not been granted to install the improvements, the Applicant shall contribute the sum of Seven Thousand Five Hundred Dollars (\$7,500.00) to the Fairfax County Park Authority for improvements in proximity to the Application Property and this proffer shall be deemed satisfied. Said contribution shall be made prior to the issuance of the last RUP on the Application Property.

6. STORMWATER MANAGEMENT –

- a. Subject to review and approval by DPWES, stormwater management (“SWM”) and Best Management Practice (“BMP”) measures for the Application Property shall be provided in a bioretention filter as depicted on Sheets 3, 5, 6 and 7 of the GDP. The SWM and BMP measures shall be developed in accordance with the PFM, unless waived or modified by DPWES.
- b. The HOA shall be responsible for implementing the maintenance contract and funding mechanism to maintain the proposed stormwater facilities. The maintenance responsibilities and funding mechanisms will be outlined in the HOA documents as well as disclosed to all prospective purchasers prior to entering into a contract of sale.
- c. The Applicant shall provide written materials to the HOA describing proper maintenance of the stormwater facilities in accordance with the PFM and County guidelines.
- d. Prior to bond release, the Applicant shall contribute the sum of Seven Thousand Dollars (\$7,000.00) to the HOA for maintenance of the proposed stormwater management facility and/or the private street.

7. GREEN BUILDING PRACTICES –

Dwelling units on the Application Property shall be constructed to achieve one of the following programs, or an alternative third-party certification as approved by the Environmental and Development Review Branch of the Department of Planning and Zoning (“DPZ”). Selection of one of the following certification methods, or an alternative, shall be within the Applicant's sole discretion at time of site plan submission:

- a. Certification in accordance with the Earth Craft House Program as demonstrated through documentation provided to DPWES and DPZ prior to the issuance of a RUP;
or
- b. Certification in accordance with the 2012 National Green Building Standard (NGBS) using the ENERGY STAR® Qualified Homes path for energy performance as demonstrated through documentation submitted to DPWES and DPZ from a home energy rater certified through Home Innovation Research Labs that demonstrates that the dwelling unit has attained the certification prior to issuance of a RUP.

8. DESIGN –

- a. Construction of the units shall be of the same quality of architecture, design and materials as the architectural elevations prepared by Kulinski Group Architects, P.C. and attached as Exhibit 1. The final architectural designs for the Application Property shall be selected with the submission of building plans.

- b. The dimensions of each lot's driveway on the Application Property shall be a minimum of eighteen feet (18') wide by eighteen feet (18') deep, as measured from the rear property line to the structure on each lot. The interior dimensions of each unit's garage shall be a minimum of eighteen feet (18') wide by eighteen feet (18') deep to accommodate two vehicles without overhang into the driveway.
- c. A covenant shall be recorded which provides that garages shall only be used for a purpose that will not interfere with the intended purpose of garages (e.g., parking of vehicles). The covenant shall be recorded among the land records of Fairfax County in a form approved by the County Attorney prior to the sale of any lots and shall run to the benefit of the homeowners association established for the community and the Board. Purchasers shall be advised in writing of the use restriction prior to entering into contract of sale.

9. **SCHOOLS CONTRIBUTION –**

- a. The Applicant shall contribute the sum of Eleven Thousand Seven Hundred Forty Nine Dollars (\$11,749.00) to the Fairfax County School Board to offset the student generation anticipated by the development of the Application Property. Said contribution is to be utilized for capital improvements to Fairfax County Public Schools to address impacts on the school district resulting from development of the Application Property. Such contribution shall be made prior to the issuance of the first RUP for the Application Property and shall be based on the actual number of dwelling units constructed. Such contribution shall be directed to schools in the Mount Vernon High School pyramid.
- b. The Applicant shall notify Fairfax County Public Schools when development of the Application Property is likely to occur.
- c. Should Fairfax County modify the ratio of students per unit or the amount of contribution per student prior to payment of the contribution described in Proffer 9.a., the Applicant shall contribute the modified contribution amount.

10. **HERITAGE RESOURCES –**

Prior to commencement of any land disturbing activities, the Applicant shall submit photographic documentation of the current conditions of the dwellings and site features located on the Application Property, and an existing conditions location map showing the footprint of the existing buildings and site conditions with the photographic angle of views and identification of each photograph to the Virginia Room of the Fairfax County Public Library and to the DPZ Historic Preservation planner. The photographic documentation shall include the exteriors of the standing structures, general views of the interiors, and general streetscape views. The format of the documentation will be one set of hard copy documents and one compact disc containing the photographs and map described in this proffer. The

Applicant shall provide written documentation to DPZ that the required documentation has been submitted to the Virginia Room.

11. AFFORDABLE HOUSING -

Prior to the issuance of the first building permit, the Applicant shall contribute to the Fairfax County Housing Trust Fund a sum equal to one-half of one percent (0.5%) of the anticipated sales price of all new units constructed on the Application Property to assist the County in its goal to provide affordable dwellings. The contribution shall be based on the aggregate sales price of all of the units, as if all of the units were sold at the time of the issuance of the first building permit, and on comparable sales of similar type units. The projected sales price shall be as determined by the Applicant in consultation with the Department of Housing and Community Development (HCD).

12. MISCELLANEOUS -

- a. Notwithstanding the fact that signs for the Application Property are not depicted in the GDP, the Applicant reserves the right to install signs on the Application Property that are in accordance with the requirements of Article 12 of the Fairfax County Zoning Ordinance.
- b. Upon demonstration by the Applicant that, despite diligent efforts or due to factors beyond the Applicant's control, the required improvements have been or will be delayed beyond the time set forth in these proffers, the Zoning Administrator may agree to a later date for the completion of such improvements.
- c. These proffers shall bind and inure to the benefit of the Applicant and his or her successors and assigns.

[SIGNATURE ON THE FOLLOWING PAGE]

PCA 94-LE-004

APPLICANT/OWNER:

4203 BUCKMAN, LLC

By: 

Name: Asif Mahmood

Title: Manager

[SIGNATURES END]