

JAN 12 2016

Zoning Evaluation Division

**PROFFER STATEMENT**

**December 30, 2015**  
**The Townes at Burke Lake Crossing**  
**RZ 2015 – SP-003**  
**The Townes at Burke Lake Crossing, LLC**  
**Christopher Land, LLC**

Pursuant to Section 15.2-2303(A), Code of Virginia, 1950 as amended, the undersigned Owner/Applicant, in this rezoning proffers that the development of the parcel under consideration and shown on the Fairfax County Tax Map as Tax Map Reference 78-3 ((1)) 2 (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 R-8 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that these Proffered Conditions shall be binding on the future development of the Property unless modified, waived or rescinded in the future by the Board of Supervisors of Fairfax County, Virginia, in accordance with applicable County and State statutory procedures.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 18 of the Fairfax County Zoning Ordinance (hereinafter referred to as the "Zoning Ordinance"), development of the Property shall be in substantial conformance with the Generalized Development Plan (GDP) titled "The Townes at Burke Lake Crossing" prepared by Charles P. Johnson & Associates, Inc. consisting of 15 sheets, dated September 8, 2015.
  - A. Notwithstanding the sheets shown in the GDP, the applicant shall develop the property in accordance with the site design shown on Sheet 4 or Sheet 5. The applicant shall not implement the site design shown on Sheet 5A.
2. Minor Modifications. Minor modifications from what is shown on the GDP 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 18-204 of the Zoning Ordinance. Additionally, except as may be further qualified by these proffered conditions, minor modifications to the building envelopes including footprints, lot areas, dimensions, utility layouts and house location may be permitted in accordance with Section 18-204 of the Zoning Ordinance as long as such changes do not materially decrease the amount of open space or tree save.



3. Architectural Design. The primary building materials shall be a combination of brick, stone and siding supplemented with trim and detail features; modifications may be made with final architectural designs provided such modifications are in substantial conformance with the illustrative elevations shown on Sheet 15 of the GDP. Bay windows, patios, chimneys, areaways, stairs, mechanical equipment and other similar appurtenances may encroach into the minimum yards as permitted by Section 2-412 and Article 10 of the Zoning Ordinance.
  - Universal Design. Dwelling units shall offer optional features designed with a selection of Universal Design features as determined by the Applicant which may include, but not be limited to, grab bars in the bathrooms, a seat in the Master Bath shower where possible, emphasis on lighting in stairs and entrances, lever door hardware, slip resistant flooring, optional hand-held shower heads at tubs and showers, and optional front-loading washers and dryers.
4. Noise Study. Prior to issuance of the first building permit, the applicant shall provide a noise study for the lots along Burke Lake Road to Environmental Development Review Branch (EDRB) of the Department of Planning and Zoning (DPZ) for review. Based on the findings of the report, the Applicant shall identify lots on the subdivision plan that are anticipated to be impacted by noise greater than 65dBA Ldn and shall provide noise attenuation measures designed to reduce interior noise to no greater than 45 dBA Ldn and reduce exterior rear yard noise to 65 dBA Ldn for the lots identified in the report. Based on the findings of the report, the Applicant shall take measures to reduce the rear yard noise to 65 dBA.

## II. RECREATION FACILITIES

5. Off-Site Recreation. The Applicant shall contribute \$32,148.00 to the Fairfax County Park Authority (FCPA) for the cross county trail that is proposed on the adjacent Park Authority Property. If the adjacent trail is not needed as determined by FCPA, then the money shall be used for park and recreation improvements in Springfield District, as determined by FCPA in consultation with the Springfield District Supervisor. This contributions shall be made prior to the issuance of the first Residential Use Permit (RUP).

## III. SCHOOLS

6. Contribution. Prior to issuance of the first RUP the Applicant shall contribute \$58,745.00 to Fairfax County and to transfer to the Fairfax County School Board to be utilized for capital improvements or capacity enhancements to schools within the pyramid which serves the Property. Following approval of this Application and prior to the Applicant's payment of the amount set forth in this Proffer, if Fairfax County should increase the ratio of students per unit or the amount of contribution per student, the Applicant shall increase the amount of the

contribution for that phase of development to reflect the then-current ratio, notwithstanding the amount of increase shall not exceed Five Percent (5%) of the original amount.

#### IV. ESCALATION

7. Escalation. All monetary contributions required by these proffers, with the exception of the Schools Contribution, shall escalate on a yearly basis, from the base month of June 2016, and change effective each January 1 thereafter, by a percentage equal to the annual rate of inflation, as calculated by referring to the Consumer Price Index for all urban consumers (CPI-U), 1982-198=100 (not seasonally adjusted) as reported by the United States Department of Labor, Bureau of Labor Statistics or the Marshall and Swift Building Cost Index, whichever is lesser, as permitted by VA Code Ann. Section 15.2-2303.3(B).

#### V. CONSTRUCTION HOURS

8. Construction Hours. Construction shall occur between the hours of 7:00 a.m. until 7:00 p.m. Monday through Friday, 9:00 a.m. until 6:00 p.m. on Saturday and Sunday. Construction activities shall not occur on the holidays of New Year's Day, Easter, Memorial Day, Independence Day, Labor Day, Thanksgiving, and Christmas. The construction hours shall be posted on the property. The allowable hours of construction as specified in this proffer shall be listed within any contract with future sub-contractors associated with construction on the site. Construction hours do not apply to any work related to Virginia Department of Transportation (VDOT).

#### VI. ENERGY CONSERVATION

9. Energy Conservation. The dwelling units shall be constructed to achieve one of the following:
  - A. Certification in accordance with the 2012 National Green Building Standard (NGBS) using the ENERGY STAR® (version 3.0) Qualified Homes path for energy performance, as demonstrated through a preliminary report submitted to the Environment and Development review Branch of the Department of Planning and Zoning prior to the issuance of the Residential Use Permit for each dwelling from a home energy rater certified through the Home Innovation Research Labs that demonstrates that each dwelling unit has attained the certification and the final report submitted to DPZ within Thirty (30) Days after the issuance of the RUP of each dwelling ; or
  - B. Certification in accordance with the Earth Craft House Program, as demonstrated through documentation provided to the department of Public Works and Environmental Services (DPWES) and DPZ prior to the issuance of the RUP for each dwelling. Certification testing shall be accomplished prior to

the issuance of a RUP for each dwelling. The Certification testing requirement shall be met by emailing the building inspector, the preliminary inspection report of the third party inspector prior to the issuance of the RUP. Prior to Bond Release, the Applicant shall show proof to DPWES that all units met either condition A or B.

#### VIII. GARAGE CONVERSION

10. Garage Conversion. Any conversion of garages that will preclude the parking of vehicles within the garage shall be prohibited. A covenant setting forth this restriction 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 HOA and the Board of Supervisors. This restriction shall also be disclosed in the HOA documents. Prospective purchasers shall be advised of this use restriction, in writing, prior to entering into a contract of sale. The driveway provided for each unit shall be a minimum of seventeen (17) feet in width and twenty (20) feet in length from the garage door to the sidewalk. Garages shall be designed to accommodate two (2) vehicles.

#### IX. HOME OWNERS ASSOCIATION

11. Establishment of HOA. 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. The HOA shall be responsible for the maintenance of the common areas and the enforcement of the restrictions on the Property. Maintenance responsibilities shall include, but not limited to, snow removal, private access ways, the private streets, storm water management facilities and common area maintenance. Initial and subsequent homeowners shall be made aware of these maintenance responsibilities in the HOA documents. Prior to the last RUP issued for the Property the Applicant shall contribute \$10,000 to the HOA for the following; \$5,500 to establish a reserve fund for the maintenance of the private street and \$4,500 for maintenance of the storm water management facilities on the Property. If the adjacent property (Tax Map 78-3-((1)) 3) request to become a member of the HOA, then the HOA shall allow it.
12. Dedication to HOA. At the time of Record Plat recordation, open space, common areas, fencing, and amenities not otherwise conveyed or dedicated to the County shall be dedicated to the HOA and maintained by the same. The HOA reserves the right to grant easements for any purpose on the common areas as the HOA deems necessary, provided that any easements are consistent with the GDP.

13. Best Management Practice ("BMP") Maintenance. After establishing the HOA, the Applicant shall provide the HOA with written materials describing proper maintenance of the approved BMP facilities.
14. Disclosure. As part of the contract of sale, prospective purchaser shall be notified in writing by the Applicant of the maintenance responsibility for the storm water management facilities, common area landscaping, any other open space amenities and the obligations. In addition, the prospective purchaser shall be notified in writing that parking on the emergency turn-around shown on the GDP is prohibited. The homeowner association covenants shall contain clear language delineating the tree save areas as shown on the GDP. The covenants shall prohibit the removal of the trees except those trees which are dead, diseased, noxious or hazardous as determined by the Urban Forest Management Division (UFMD) 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 maintenance of common facilities and areas.

#### X. STORMWATER MANAGEMENT

15. Storm water Management and Best Management Practices.

The Applicant shall implement storm water management techniques to control the quantity and quality of storm water runoff from the Property in accordance with the current County Storm water Ordinances and Fairfax County Public Facilities Manual as reviewed and approved by DPWES. Notwithstanding the facilities shown on the GDP, the storm water management techniques may include but not limited to the following: rain gardens, dry ponds, filtera systems, infiltration ditches, bay filters, storm tech chambers and drainage swales. The Applicant reserves the right to pursue additional or alternative storm water management measures provided those measures are in substantial conformance with the GDP.

#### XI. LANDSCAPING

16. Landscape Plan: As part of the site plan submission, the Applicant shall submit to UFMD for review and approval a detailed landscape and tree cover plan which shall, at a minimum, 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, plant species native to Fairfax County. Adjustments to the type and location of vegetation and the design of landscaped areas and streetscape improvements/plantings shall be permitted as approved by UFMD.

- A. Notwithstanding the sheets shown in the GDP, the applicant shall submit a landscape plan in accordance with either Sheet 6 or Sheet 6A as part of the site plan submission. The applicant shall not implement the landscape plan shown on Sheet 6B.

## XII. TREE PRESERVATION

17. Tree Preservation Plan. The applicant shall submit a Tree Preservation Plan and Narrative as part of the first and all subsequent subdivision 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 UFMD, Department of Public Works and Environmental Services ("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 individual trees to be preserved, on and off-site trees, living or dead with trunks 12 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 25 feet outside the limits of clearing and grading and 10 feet inside of the limits of clearing and grading. The tree preservation plan and narrative shall include all applicable items specified in PFM 12-0506 and 12-0508. Specific tree preservation activities designed to 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.

18. Tree Preservation Walk-Through. 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 Applicant's appointed representative and a Certified Arborist (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.

Trees that are identified as dead or dying within the tree preservation area 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.

19. Limits of Clearing and Grading. The Applicant shall conform strictly to the limits of clearing and grading as shown on the GDP, 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 GDP, they shall be located in the least disruptive manner necessary as determined by UFMD. A replanting plan shall be developed and implemented, subject to approval by UFMD for any area protected by the limits of clearing and grading that must be disturbed for such utilities.

20. Tree Preservation Fencing. All trees shown to be preserved on the tree preservation plan shall be protected by tree protection fencing. Tree protection fencing in the form of four (4) foot high, fourteen (14) gauge welded wire attached to six (6) foot tall 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. Root pruning and the installation of all tree protection fencing shall be performed under the supervision of the Project 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, UFMD shall be notified and given the opportunity to inspect the site to ensure that all tree protection devices have been correctly installed. No grading or construction activities shall occur until the fencing is installed correctly, as determined by UFMD.

21. Root Pruning. The Applicant shall root prune as needed to comply with the tree preservation requirements below. 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 UFMD 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 minimum depth of 18 inches.
- Root pruning shall take place prior to any clearing and grading, or demolition of structures.
- An UFMD representative shall be informed when all root pruning and tree protection fence installation is complete.

22. Monitoring. During any clearing or tree/vegetation/structure removal on the Applicant's 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 UFMD. The Project Arborist should be present on site and monitor clearing and demolition work during Phase I Erosion and Sediment (E&S) Control Plan implementation. Subsequent to approval of Phase I E&S implementation, the Project Arborist shall visit the site on a weekly basis to ensure conformance with all tree preservation proffers, and UFMD approvals. During the implementation of Phase II Erosion and Sediment Control and throughout the construction phase of the project, monitoring visits to the site shall be made at least monthly. The monitoring schedule shall be described and detailed in the Landscaping and Tree Preservation Plan, and reviewed and approved by UFMD.

23. Tree Protection Signage. The Applicant shall provide signs that identify and help protect all areas to be left undisturbed. These signs will be highly visible, posted as generally shown on the GDP along the limits of clearing and grading, and attached to the tree protection fencing throughout the duration of construction. Under no circumstances will the signs be nailed or in any manner attached to the trees or vegetation within the areas to be left undisturbed.

### XIII TRANSPORTATION

24. Right-of-Way Dedication. As a part of the Record Plat recording or upon demand by Fairfax County or the Virginia Department of Transportation ("VDOT"), whichever occurs first, the Applicant shall dedicate and convey, without encumbrances and in fee simple, to the Board of Supervisors, right-of-way along the Burke Lake Road (Rt. 645) frontage, such that the half-section, as measured from the centerline, shall be approximately 59.5 feet from centerline as shown on the GDP.
25. Future Interparcel Access. The Applicant shall grant an interparcel access easement to parcel 78-3((1)) 3 as depicted on Sheets 4 or 5. If prior to Final Site Plan Approval, parcel 78-3((1)) 3 has not granted the applicant a sight distance easement or sight distance waiver has not been obtained from VDOT, then the GDP shall be adjusted as shown on Sheet 5 of the GDP as determined by the Applicant in consultation with the County and VDOT. The Applicant reserves the right to make minor modifications to site design in accordance with Sect. 18-204 of the Zoning Ordinance.
  - A. Prior to Bond Release, the applicant shall post an escrow to be drawn upon by either the HOA or Fairfax County in the amount of \$12,000 which is equivalent to 50% of the construction costs of a future interparcel connection to fund the future construction of the interparcel connection between the

Property and the adjacent parcel to the southwest (Tax Map 78-3((1)) 3), as well as the relocation of the site's access point on Burke Lake Road as generally depicted in the GDP. The relocated access point shall be generally aligned with Burke View Avenue.

- B. At the time of recording the Record Plat, the applicant shall grant an interparcel access easement to the property owner of Tax Map 78-3((1)) 3 as shown on Sheet 4 of the GDP to provide access via a future internal private roadway to the Property.
- C. The applicant shall install a sign at the terminus of the future interparcel connection on the property signifying that an interparcel connection shall be made in the future. The sign shall be subject to the review and approval of VDOT.
- D. As part of the sales contract to purchaser, a notice in writing by the Applicant of the future interparcel connection and realignment/relocation of the Property's access point on Burke Lake Road.

- 26. Maintenance Access. The applicant shall provide a maintenance access to the storm water management facility as generally as shown on the GDP.
- 27. Left Turn Lane. The applicant shall submit, concurrent with the second submission for site plan review, a left turn capacity analysis for review by VDOT. The need for any modifications to the left-turn lane on Burke Lake Road shall be
- 28. determined by the capacity analysis prior to final site plan approval. The clearing limits may be modified to accommodate any left-turn extension necessary.

#### XIV. AFFORDABLE HOUSING

- 29. Affordable Dwelling Units. At the time each residential lot is issued a building permit, the Applicant shall contribute to Habitat for Humanity of Northern Virginia or the Fairfax County Housing Trust Fund, at the direction of the Springfield District Supervisor, the sum of three thousand dollars (\$3,000.00) (equal to \$36,000 for the (12) new dwelling units), which is equal to one half of one percent (1/2%) of the projected sale price for the new dwelling unit on the residential lot subject to the building permit. At the time of transfer to an initial third party purchaser, the Applicant shall contribute an amount equal to one half of one percent (1/2%) of that portion of the actual sale price over \$600,000 (i.e. if the sale price is \$650,000, the 1/2% of \$50,000) to Habitat for Humanity of Northern Virginia or the Fairfax County Housing Trust Fund, at the direction of the Springfield District Supervisor.

XV. SIGNS

30. Signs. Any sign installed by the Applicant shall be in conformance with Article 12 of the Zoning Ordinance.

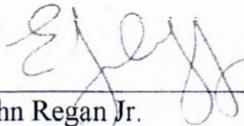
XVI. SUCCESSORS AND ASSIGNS

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**

APPLICANT/TITLE OWNER OF TAX MAP  
78-3 ((1)) 2

THE TOWNES at BURKE LAKE CROSSING, LLC



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E. John Regan Jr.  
Executive Vice President of  
Christopher Management, Inc., Manager of  
The Townes at Burke Lake Crossing, LLC