

PROFFERS

Pohanka Virginia Properties, LLC

RZ 2018-SU-023

January 29, 2019

Pursuant to Section 15.2-2303(a) of the Code of Virginia (1950, as amended) and Section 18-204 of the Zoning Ordinance of Fairfax County (1978, as amended) (“Zoning Ordinance”), the title owner and the applicant for themselves and their successors and/or assigns (hereinafter collectively referred to as “Applicant”) hereby proffer that development of the parcels under consideration and shown on the Fairfax County Tax Map as Tax Map 34-4((1))51 and 53 (collectively, the “Property”) will be in accordance with the following proffered conditions (“Proffers”), if, and only if, rezoning application RZ 2018-SU-023 (“Application”) is granted by the Board of Supervisors (“Board”). Upon approval, the Proffers will supersede any and all previously approved proffers associated with rezoning applications RZ 90-S-010 (Parcel 51) and RZ 94-Y-018 (Parcel 53), as they apply to the Property. If this Application is denied, these Proffers will be immediately null and void and of no further force or effect on the Property.

A. GENERAL

1. Generalized Development Plan. Development of the Property will be in substantial conformance with the combined Generalized Development Plan and Special Exception Amendment Plat (collectively, “GDP”), prepared by Walter L. Phillips, Incorporated, entitled “Generalized Development Plan – Special Exception Amendment Plat” and consisting of a total of 23 sheets, dated August 17, 2018, as revised through January 17, 2019.
2. Minor Modifications. Subject to the provisions of Section 18-204 of the Zoning Ordinance, minor modifications to the Proffers and the GDP may be allowed when the Zoning Administrator determines that they substantially conform to the proffered conditions and do not materially alter the character of the approved development.
3. Density Credit. Advance density credit is and will be reserved as may be permitted by the provisions of the Zoning Ordinance for all eligible dedications described herein or as may be required by Fairfax County Department of Transportation (“FCDOT”) or the Virginia Department of Transportation (“VDOT”) pursuant to the Public Facilities Manual (“PFM”), at or prior to time of subdivision and/or site plan approval.
4. Use Limitations. The following uses will be prohibited on the Property: free standing fast food restaurants, free standing quick-service food stores, free-standing drive-in financial institutions, and alternative lending institutions (as defined below). The following uses will require special exception approval on the Property: churches, chapels,

temples, synagogues and other places of worship, private schools of general education, private schools of special education, health clubs, and theatres. All other uses in the C-8 Zoning District will either be permitted by right, or, after the applicable zoning review process and approval, by special exception or special permit. For purposes of this Proffer No. 4, an alternative lending institution is defined as an establishment providing short term loans to individuals, to include, but not be limited to, pay day lenders, as regulated by Chapter 18, Title 6.2, Code of Virginia, and/or motor vehicle title lenders, as regulated by Chapter 22, Title 6.2, Code of Virginia. Further, for purposes of this Proffer No. 4, an alternative lending institution shall not be deemed to include an office, pawnshop, drive-in financial institution, financial institution, or any other state or federally chartered bank, savings and loan institution, or credit union. Users that provide consumer or personal loans or non-purchase money loans shall be insured and/or regulated by the Federal Deposit Insurance Corporation (FDIC), Consumer Financial Protection Bureau (CFPB) or the National Credit Union Share Insurance Fund (NCUSIF).

B. MISCELLANEOUS

1. Future Applications. Any portion of the Property may be the subject of a rezoning, special exception, special permit, variance, or other zoning action without the joinder and/or consent of the Applicant of the other land area(s), provided that such application complies with Section 18-204(6) of the Zoning Ordinance and Section 15.2-2302 of the Code of Virginia, as applicable. Previously approved proffered conditions or development conditions applicable to a particular portion of the Property that are not the subject of such an application will remain in full force and effect.

2. Successors and Assigns. These Proffers will bind and inure to the benefit of the Applicant and its successors and assigns. Each reference to "Applicant" in this proffer statement will include within its meaning and will be binding upon Applicant's successor(s) in interest and/or developer(s) of the Property or any portion of the Property.

3. Counterparts. These Proffers may be executed in one or more counterparts, each of which when so executed and delivered will be deemed an original, and all of which taken together will constitute but one and the same instrument.

[SIGNATURES ON THE FOLLOWING PAGE]

TITLE OWNER of TM 34-4 ((1) 51 and 53

CARS-DB4 LP

By: CARS-DBSPE4, INC., its General Partner

By: 
Name: _____
Its: STEPHANIE ROCHEL
VP & SECRETARY

APPLICANT

Pohanka Virginia Properties, LLC

By: _____
Name:
Its:

[SIGNATURES END]

TITLE OWNER of TM 34-4 ((1) 51 and 53

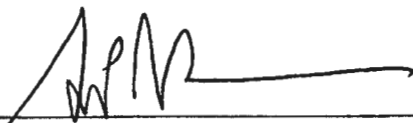
CARS-DB4 LP

By: CARS-DBSPE4, INC., its General Partner

By: _____
Name:
Its:

APPLICANT

Pohanka Virginia Properties, LLC

By:  _____
Name:
Its:

[SIGNATURES END]