

PROFFER STATEMENT

REZONING: Fairfax County RZ 2007-SU-006
I-3 to I-5
PROPERTY: Tax Map 0332 ((1)) 0003
RECORD OWNER: Vahid K. Amin
PROJECT NAME: Red Fox Plaza
DATE: June 21, 2007

Pursuant to Section 15.2-2303(A) of the Code of Virginia, 1950 as amended, Vahid K. Amin, (hereinafter referred to as the “Applicant”) for the owners, themselves, successors and assigns in RZ 2007-SU-006, filed for the property identified as Tax Map 0332 ((1)) 0003 (hereinafter referred to as the “Property”), proffers that the use and development of the Property, as described above, shall be in strict conformance with the following conditions. In the event the above referenced rezoning is not granted, these proffers shall be deemed withdrawn and shall be null and void. The headings of the proffers set forth below have been prepared for convenience for reference only and shall not control or affect the meaning or be taken as an interpretation of any provision of the proffers. The improvements proffered herein shall be provided at the time of development of that portion of the Property including the improvement or other proffered requirement, unless otherwise specified herein. The term “Generalized Development Plan” shall refer to the plan entitled “Generalized Development Plan, Red Fox Plaza,” prepared by Civiland, LLC, dated October 2006, as revised through June 11, 2007, consisting of five sheets (“GDP”).

1. LAND USE:

- 1.1. Conformance with Development Plan. Subject to the provisions of Section 18-204 of the Zoning Ordinance, the Property shall be developed to the I-5 district and in substantial conformance with the GDP, subject to minor modifications.
- 1.2. Floor Area Ratio (FAR). The FAR shall not exceed 0.171.
- 1.3. Allowed Uses. The following uses shall be permitted on the Property:
 - Contractor's offices and shops with no outside storage.
 - Establishments for printing, production, processing, assembly, manufacturing, compounding, preparation, cleaning, servicing, testing, repair or storage of materials, goods or products, and associated retail sales; except bulk storage of flammable materials for resale, and those particular heavy industrial uses set forth in Par. 13 of Sect. 9-501 of the Zoning Ordinance.
 - Establishments for scientific research, development and training.
 - Veterinary hospitals with no associated boarding or kennels.

- Warehousing and associated retail establishments, excluding an adult book store and related uses as defined in Part 3 of Article 20 of the Fairfax County Zoning Ordinance.
- Wholesale trade establishments, excluding an adult book store and related uses as defined in Part 3 of Article 20 of the Fairfax County Zoning Ordinance.

If more than one user is proposed for this site, the second and all subsequent users must submit a parking tabulation prior to the issuance of a Non-Residential Use Permit (Non-RUP). Prior to issuance of any Non-RUP, it shall be demonstrated to DPWES that adequate parking is provided in accordance with these conditions and to serve all uses on the site. Should adequate parking not be available, the proposed uses shall be reduced in size or uses eliminated to meet the minimum parking requirements.

- 1.4. Maximum Height. The height of proposed building shall not exceed twenty four (24) feet. The height limitation shall not apply to flagpoles, chimneys, cupolas, and domes not used for human occupancy, sky lights, solar energy devices, ventilator, and other necessary mechanical equipment usually located on a roof, including parapets that serve the function of screening rooftop mechanical equipment.

2. COMMUNITY DESIGN

- 2.1. Building Orientation. Proposed building frontage shall be oriented to face the internal road (Dulles South Ct.).
- 2.2. Architecture. The proposed building will be developed in substantial accordance with the attached architecture renderings prepared by Samaha Associates, P.C., dated May 14, 2007, as revised through June 4, 2007, subject to minor modifications (see Attachment 1).
- 2.3. Lighting. The height of exterior parking lot lighting will not exceed 24 feet to the top of fixtures from the finished grade, and will be in compliance with the provisions of Paragraph 9 of Article 14 of the Zoning Ordinance.
- 2.4. Landscaping. The Applicant shall provide landscaping as shown on the GDP and in accordance with the County landscaping guidelines and requirements. The landscape materials shall be of indigenous species as determined to be appropriate by UFM.

3. WATER & SEWER.

- 3.1. Connection to public utilities. The Applicant shall plan, design, and construct all on-site and off-site water and sanitary sewer utility improvements as shown on the GDP necessary to develop the Property in accordance with applicable Fairfax County and State requirements, standards and regulations.

4. ENVIRONMENT.

- 4.1. Removal of Existing Paved Surface. Existing paved surface on the Property as shown on Sheet C-1 of the GDP shall be removed at the time of site development. The areas outside the limits of clearing and grading shall be seeded and vegetated as approved by DPWES.
- 4.2. Stormwater Management Facility and Best Management Practice (BMP). Water quality and quantity control requirements shall be met on-site through Bio-Retention Filter as shown on the GDP, subject to approval by DPWES. If it is determined that adequate water quantity and/or quality cannot be provided in substantial conformance with the GDP, the owner shall have an option to reduce the impervious surface, such as but not limited to reduction in the building footprint and paved areas in order to meet the stormwater management facility and BMP requirements without a Proffer Condition Amendment (PCA).
- 4.3. RPA Protection. The RPA shall be as delineated on the GDP and, except as qualified herein, shall remain undisturbed open space. In the RPA areas, except as otherwise provided herein, there shall be no clearing of any vegetation, except for invasive, dead or dying trees or shrubs per the recommendations of the Urban Forest Management (UFM), and removal of demolition debris located along the creek bank. Any additional disturbance areas which are determined by DPWES to be necessary shall be re-vegetated with indigenous species, subject to the approval of the Urban Forester as provided herein.
- 4.4. Water Quality Impact Study (WQIS). A WQIS shall be submitted to and approved by DPWES prior to site plan approval.
- 4.5. Tree Protection Fencing.
- a. The RPA shall be protected by tree protection fence. Tree protection fencing using four foot high, 14-gauge welded wire attached to 6-foot steel posts driven 18 inches into the ground and placed no further than 10-feet apart, shall be erected as shown on the GDP along the southern boundary of the RPA.

- b. All tree protection fencing shall be installed prior to any clearing and grading activities, including the demolition of any existing structures. The installation of tree protection fence 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 days prior to the commencement of any clearing, grading, or demolition activities, but subsequent to the installation of the tree protection devices, UFM, DPWES, and the District Supervisor shall be notified and given the opportunity to inspect the site to assure 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 UFM and DPWES.

4.6 RPA Reforestation. A reforestation plan for the RPA located in the northern portion of the Property shall be submitted concurrently with the first and all subsequent site plan submissions for review and approval by Urban Forest Management, DPWES, and shall be implemented as approved. The plan shall propose an appropriate selection of species based on existing and proposed site conditions to restore the area to a native forest cover type. The reforestation plan shall include, but not be limited to the following:

- plant list detailing species, sizes and stock type of trees and other vegetation to be planted
- soil treatments and amendments if necessary
- mulching specifications
- methods of installation
- maintenance
- mortality threshold
- monitoring
- replacement schedule

4.7 Adherence to Limits of Clearing and Grading. The limits of clearing and grading as shown on the GDP shall be strictly adhered to, subject to minor modifications due to final site engineering and grading. The site plan shall clearly identify these areas as shown on the GDP. As part of the site plan, the Applicant shall provide management practices for the protection of understory plant materials, leaf litter and soil conditions found in areas to be left undisturbed, subject to the approval of the Urban Forest Management Division. The Applicant shall actively monitor the site to ensure that inappropriate activities such as the storage of construction materials, dumping of construction debris, and traffic by construction equipment and personnel do not occur within these areas. The Applicant shall restore understory plant materials, leaf litter and soil conditions to the satisfaction of UFM if these are found to be damaged, removed or altered in manner not allowed in writing by the Urban Forest Management Division.

If it becomes necessary to install utilities determined necessary by DPWES within areas to be left undisturbed, they shall be located and installed in the least disruptive manner possible as determined by UFM in coordination with the Environmental and Site Review Division, DPWES. In addition, the Applicant shall develop and implement a replanting plan for the portions of protected areas disturbed for utility installation taking into account planting restrictions imposed by utility easement agreements.

Any work occurring in or adjacent to the areas to be left undisturbed, such as root pruning, installation of tree protection fencing and silt control devices, removal of trash, or plant debris, or extraction of trees designated to be removed shall be performed in a manner that minimizes damage to any tree, shrub, herbaceous, or vine plant species that grows in the lower canopy environment; and minimizes impacts to the existing top soil and leaf litter layers that provide nourishment and protection to that vegetation, all as approved by UFM. The use of power equipment in these areas shall be limited to small hand-operated equipment such as chainsaws. Any work that requires the use of larger motorized equipment such as, but not limited to, tree transplanting spades, skid loaders, tractors, trucks, stump-grinders, or any accessory or attachment connected to such equipment shall not occur unless reviewed and approved in writing by UFM.

- 4.8 Cultural Resources Management and Protection Section (CRMPS). Prior to any land disturbing activities on that Property identified among the Fairfax County tax records as Tax Map #033-2-01-0003, the Applicant shall conduct a Phase I archaeological study of the Application Property, and provide the results of such studies to CRMPS. If deemed necessary by CRMPS, the Applicant shall conduct a Phase II and/or Phase III archaeological study on only those areas of the Application Property identified for further study by CRMPS. The studies shall be conducted by a qualified archaeological professional approved by CRMPS, and shall be reviewed and approved by CRMPS. The studies shall be completed prior to site plat recordation.

5. TRANSPORTATION.

- 5.1. Access. Access to the site shall be provided from Dulles South Court. No direct vehicular access shall be allowed from Route 50.
- 5.2. Right-of-Way Dedication. The Applicant shall dedicate to Fairfax County, in fee simple at no cost to the County for right of way purposes along the Property's frontage on Route 50 as shown on the GDP. Said dedication shall be made at the time of the final site plan approval or on demand, whichever comes first.

- 5.3. Trail. The Applicant shall provide a ten (10) foot-wide trail along the Property's frontage on Route 50, within the dedicated right-of-way pursuant to Proffer 5.1, as shown on the GDP. Such trail shall be constructed as per Public Facilities Manual (PFM) standards.
- 5.4. Interparcel Access. Unrestricted interparcel access shall be provided to the adjacent Property to the east identified as Tax Map 0332 ((1)) 0004 at the location depicted on the GDP. The Applicant shall construct, at no cost to the Adjacent Property Owner, that portion of the interparcel connection on its Property, and shall dedicate an appropriate ancillary and public access easement at the time of final site plan and plat approval.

SIGNATURE APPEARS ON FOLLOWING PAGE

Vahid K. Amin

Applicant