

**DRAFT**  
**For Discussion Purposes Only**

**VOLUNTARY PROFFER STATEMENT**

Applicant: USGGB, LLC  
108 Carroll Circle, Fredericksburg, VA 22405

Owner: W.E.K., L.L.C.

\*\*(Applicant & Owner are hereafter known collectively as the “Applicant”)\*\*

Representative: Charles W. Payne, Jr., Hirschler Fleischer;  
725 Jackson Street, Ste. 200, Fredericksburg, VA 22401;  
Phone: (540) 604-2108; Fax (540) 604-2101;  
Email: cpayne@hirschlerlaw.com

Project Name: “Noah’s Landing”

Property: Spotsylvania County Tax Parcel 24-A-64, with no address assigned,  
consisting of approximately 18.584 acres (the “Property”)

Date: June 20, 2019

GDP: Generalized Development Plan for Rezoning, entitled “Noah’s Landing”,  
prepared by Fairbanks & Franklin, dated February 19, 2019, as last revised  
June 20, 2019, attached hereto as Exhibit A (“GDP”)

Rezoning Request: From R-1 to PDH-8

Rezoning File No.: R19-0003

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**I. General Information**

The Applicant, its successors and assigns, hereby agrees that the development of the Property, subsequent to approval of the rezoning application to which these proffers are attached, will be in conformance with the GDP and the following proffered conditions (“Proffers”) pursuant to Sections 15.2-2303 and 15.2-2303.4, et al. of the Code of Virginia (1950, as amended), and Section 23-4.6.3, et al. of the Zoning Ordinance of Spotsylvania County (1995, as amended). The Proffers are the only conditions offered in this rezoning application, and any prior proffers affecting the Property are hereby superseded by these Proffers. All previous proffers associated with the Property, whether of record or not, are hereby void and of no further

force and effect. The Proffers will be effective only upon Spotsylvania County's ("County") full and final approval of rezoning application R19-0003 submitted by the Applicant to reclassify the Property from R-1 to PDH-8 to allow development of no more than forty-nine (49) single family detached units and fifty-three (53) single family attached units.

## **II. Land Use**

- A. **General Development.** The Property will be developed in conformance with the GDP. Notwithstanding the foregoing, all parcel lines, parcel sizes, building envelopes, building sizes, public road locations, private driveway and travelway locations, utility locations, storm water management facilities, and dimensions of undeveloped areas shown on the GDP may be reasonably adjusted for purposes of the final site or subdivision plans to allow the Applicant to address final development, engineering, and final design requirements, and/or to fulfill compliance with state and federal agency regulations including, but not limited to, DHR, VDOT, DEQ, DCR, Army Corps., etc., and compliance with the requirements of the County's zoning ordinance and design standards manual. Notwithstanding the foregoing, any said adjustments to the GDP shall be subject to the approval of the County's Zoning Administrator, and in no event shall approved adjustments to the GDP relieve the Applicant from providing any of the below Proffers.
- B. **Use.** The Property shall be developed solely for a total of one hundred and two (102) units to include no more than forty-nine (49) single family detached ("SFD") units and fifty-three (53) single family attached ("SFA") units (each individually, a "Unit", and collectively, the "Units") as shown on the GDP, and the Property shall not be developed for any other secondary uses allowed in the PDH-8 district, except for home occupation authorized under said district.

## **III. Transportation**

The Applicant, subject to necessary County and VDOT approvals for the development of the project, agrees to provide the following transportation Proffers:

- A. Construct the following improvements:
- (1) At the intersections of Lafayette Boulevard at Rodes Street / Olde Greenwich Drive restripe the two-way left turn lane (TWLTL) north of the intersection in order to provide additional storage to the existing southbound left turn lane.
  - (2) At the intersections of Lafayette Boulevard at Alliance Way / Hotchkiss Street increase the effective storage of the northbound right turning movement by extending the storage bay in order to reallocate a portion of the existing 140-foot taper whereby the existing 135-foot storage bay with 140' taper would become a 175-foot storage bay with 100' taper.

- (3) At the intersections of Jefferson Davis Highway at Lafayette Boulevard / Courthouse Road adjust the signal timing by approximately one (1) second between the eastbound and westbound approaches.

**IV. Open Space**

As shown on the GDP, approximately 8.99 acres (48.37%) of the Property will be retained as open space for stormwater management facilities, active and passive recreation and natural areas. The open space area shown on the GDP will be owned and maintained by the HOA. In addition, the Applicant shall provide the recreational amenities shown on the GDP prior to the issuance of the certificate of occupancy for the 51<sup>st</sup> Unit.

**V. Cash Proffers**

- A. The Applicant will provide the following cash Proffers to mitigate the project’s impacts. For the purpose of calculating these cash Proffers, the number of Units has been reduced from 102 to 90 to reflect the 12 by-right Units that could be developed under the existing R-1 zoning. Cash Proffers are applicable to all Units and will be paid on a per Unit basis of \$173.74 (\$8,513.26 divided by 49 SFD Units = \$173.74 per SFD Unit) and \$137.99 (\$7,313.47 divided by 53 SFA Units = \$137.99 per SFA Unit) (“Cash Contributions”) after the final inspection and before the County’s approval of any certificate of occupancy for each Unit.

<b>CASH AND IN-KIND PROFFERS</b>					
	<b>SF Detached</b>	<b>SF Attached</b>	<b>Multi-Family</b>	<b>Age-Restricted</b>	<b>TOTAL</b>
<b>Per Unit Cash Proffer</b>	<i>\$230.09 x 37</i>	<i>\$137.99 x 53</i>	<i>\$0 x 0</i>	<i>\$0 x 0</i>	
<b>TOTAL</b>	<i>\$8,513.26</i>	<i>\$7,313.47</i>	<i>\$0</i>	<i>\$0</i>	<i>\$15,826.73</i>
<b>LUMP SUM AND IN-KIND CONTRIBUTIONS</b>					
<b>PUBLIC FACILITY CATEGORY</b>					<b>TOTAL VALUE</b>
Schools	\$0.00 cash per Unit to Schools				\$0.00
Public Safety	\$111.70 cash per SFD Unit to Public Safety \$66.99 cash per SFA Unit to Public Safety				\$7,683.08
Transportation	\$0.00 cash per Unit to Transportation				\$0.00

Parks & Rec.	\$118.39 cash per SFD Unit to Parks & Rec. \$71.00 cash per SFA Unit to Parks & Rec.	\$8,143.65
<b>TOTAL CASH &amp; IN KIND PROFFER VALUE</b>		<i>\$15,826.73</i>

<b>PROFFERED PHASING AND TIMING</b>	
<b>Phase or Contribution/Dedication</b>	<b>Timing</b>
<i>Cash Contributions to Public Safety</i>	After the final inspection and before the County's approval of any certificate of occupancy for each Unit
<i>Cash Contributions to Parks &amp; Rec.</i>	After the final inspection and before the County's approval of any certificate of occupancy for each Unit

- B. Escalation/De-Escalation Clause. Commencing five (5) years after the approval of this rezoning application, the cash Proffers for each single family residential Unit shall be adjusted annually on January 1 to reflect any increase or decrease for the preceding year in the Consumer Price Index, U.S. City Average, All Urban Consumers (the "CPI-U") prepared and reported monthly by the U.S. Bureau of Labor Statistics of the United States Department of Labor. The adjustment shall be made by multiplying the Cash Contributions for the preceding year by the CPI-U as of December 1st in the preceding year. If the CPI-U is discontinued by the United States Department of Labor, the Marshall and Swift Building Cost Index formula shall be used as defined by Section 15.2.2303.3b of the Code of Virginia.

[AUTHORIZED SIGNATURES TO FOLLOW]

The Applicant makes these Proffers voluntarily, in support of their rezoning application.

WITNESS the following signatures:

**APPLICANT:**

**USGGB, LLC**, a  
Virginia limited liability company

By: \_\_\_\_\_  
Douglas G. Janney, Jr., Manager

Date: \_\_\_\_\_

COMMONWEALTH OF VIRGINIA  
CITY/COUNTY OF \_\_\_\_\_

The foregoing was subscribed, sworn to and acknowledged before me this \_\_\_ day of \_\_\_\_\_, 2019, by Douglas G. Janney, Jr., Manager of USGGB, LLC, a Virginia limited liability company, on behalf of said company.

\_\_\_\_\_  
Notary Public

Print Name: \_\_\_\_\_

My Commission Expires: \_\_\_\_\_

Registration No. \_\_\_\_\_

[SEAL]

**OWNER:**

**W.E.K., L.L.C.**, a  
Virginia limited liability company

By: \_\_\_\_\_  
Douglas G. Janney, Jr., Manager

Date: \_\_\_\_\_

COMMONWEALTH OF VIRGINIA  
CITY/COUNTY OF \_\_\_\_\_

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\_\_\_\_\_  
Notary Public

Print Name: \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_  
Registration No. \_\_\_\_\_  
[SEAL]

**EXHIBIT A**

Generalized Development Plan

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