

Original Proffers X
Amendment

PROFFER STATEMENT

ZMA No. 2019-4

Tax Map and Parcel Number(s): 09400-00-00-001A0, 09400-00-00-00500, 09400-00-00-00600, 09400-00-00-00800, 09400-00-00-008A0, 09400-00-00-04800, 09400-00-00-048A0, and 09400-00-00-008C0 (portion)

Owner(s) of Record: BREEZY HILL AT KESWICK LLC; KIMCO LC; CARROLL CREEK PROPERTIES LLC; and HAWKINS CLARENCE M OR BEATRICE B

Date of Proffer Signature: August 7, 2020

84+/- acres to be rezoned from RA to R-4

Breezy Hill at Keswick LLC, Kimco LC, Lupos, LC, and Clarence M or Beatrice B Hawkins are the owners of (the "Owner" or "Owners") of Tax Map and Parcel Numbers 09400-00-00-001A0, 09400-00-00-00500, 09400-00-00-00600, 09400-00-00-00800, 09400-00-00-008A0, 09400-00-00-04800, 09400-00-00-048A0, and 09400-00-00-008C0 (portion) (the "Property") which is the subject of rezoning application ZMA No. **2019-4**, a project known as "Breezy Hill" (the "Project").

Pursuant to Section 33.22 of the Albemarle County Zoning Ordinance, the Owner hereby voluntarily proffers the conditions listed below which shall be applied to the Property if it is rezoned to the zoning district identified above. The owner and applicant specifically deem the following proffers reasonable and appropriate, as conclusively evidenced by the signature(s) below.

1. **Concept Plan:**

The Property shall be developed in general accord with the plans titled "Breezy Hill Rezoning Concept Plan (the "Concept Plan"), prepared by Roudabush Gale & Associates, dated April 23, 2019, and last revised July 31, 2020, and shall reflect the following major elements as shown and noted on the plans:

- a) Primary vehicular connection point at Route 250;
- b) Secondary vehicular access point at Running Deer Drive is to be installed prior to the issuance of the 31st building permit. The vehicular access at Running Deer Drive shall emergency access only unless a full vehicular connection is required by VDOT.
- c) During development, construction traffic shall be prohibited from using the Running Deer Drive entrance;
- d) Future vehicular and/or pedestrian connection points to the west toward Carroll Creek;
- e) Road typical sections on sheet 1;
- f) Approximate delineations between blocks and housing typologies assigned to each block;
- g) Approximate trail, multi-use path, and pedestrian network locations and typical sections on sheet 1;
- h) Approximate locations and sizes of Blocks, Open Space, stream buffer, and Conservation Areas;
- i) Maximum density of 1.9 units per acre gross density, or a maximum of 160 residential lots, whichever is less.

2. **Transportation/Transit:**

Intersection Improvements: Prior to issuance of the first (1st) Certificate of Occupancy the Owner shall design and install, with input and approval from VDOT, signal timing and coordination improvements to the Route 250 corridor that improve the flow of traffic on Route 250 at its intersections

with Route 729 (N. Milton Rd) and Route 22 (Louisa Rd). The Owner shall upgrade the signals to the ASTPM platform using the existing signal equipment at each intersection, as well as new radio communications, controllers, and equipment as necessary to achieve optimal performance.

3. **Cash Proffer for Transportation and/or Schools:**

Prior to the issuance of the tenth (10th) Certificate of Occupancy in Breezy Hill the Owner shall contribute Five Hundred Thousand Dollars (\$500,000) to the County of Albemarle to be used for transportation, transit, or school capital projects that the County determines will directly benefit the residents of the Village of Rivanna.

4. **Affordable Housing:**

The Owner shall provide affordable housing equal to fifteen percent (15%) of the total residential units constructed on the Property as provided under Proffer 4a, 4b, or 4c:

- a. Cash Proffer: In lieu of constructing affordable dwelling units “Affordable Units” for fifteen percent (15%) of the total number of Units, the Owner has the option to make a cash contribution to Albemarle County, Piedmont Housing Alliance, Habitat for Humanity, or another local non-profit affordable housing provider in the amount of Twenty One Thousand One Hundred Twenty Five Dollars (\$21,125.00) (the “Affordable Housing Cash Proffer”) for each such cash-in-lieu-of-construction unit prior to the issuance of a Certificate of Occupancy for that Unit. The Owners total cash contribution will be between \$0 Dollars (if all proffered Affordable Units are constructed within the Project) and \$507,000 (if zero Affordable Units are constructed within the Project), subject to cost indexing under Proffer 5.
- b. For-sale Units: The Owner maintains the right to construct and sell all or a portion of the Affordable Units within the Property.
 - i. Affordability; Credit Thresholds: For the purposes of this Proffer 4(b), “affordable housing” shall mean units affordable to households with incomes less than eighty percent (80%) of the area median income (as determined from time to time by the Virginia Housing Development Authority) such that housing costs consisting of principal, interest, real estate taxes, and homeowners insurance (PITI) do not exceed thirty percent (30%) of the gross household income.
 - ii. Sale of Affordable Units: All purchasers of the for-sale affordable units are subject to approval by Albemarle County. If the Owner has not identified a purchaser and received approval for sale of the Unit to such purchaser from the Community Development Department, the Owner shall provide the Community Development Department a period of 180 days to identify and approve an eligible purchaser for such affordable unit. The 180-day qualification period shall commence upon written notice from the Owner to the Community Development Department of the approximate date the unit is expected to receive a Certificate of Occupancy from the County (the “Notice”). Such Notice shall be given no more than 180 days prior to the expected issuance of the Certificate of Occupancy. Nothing in this Proffer shall prohibit the Owner from identifying an eligible purchaser during the 180-day qualification period. If, during the 180-day qualification period, (i) the Community Development Departments fails to approve a qualified purchaser, or (ii) a qualified purchaser fails to execute a purchase contract for an Affordable Unit, then, in either case, the Owner shall have the right to sell the unit without any restriction on sales price or income of the purchaser, and such unit shall be counted toward the satisfaction of this Proffer 4(b).

This Proffer 4(b) shall only apply to the first sale of each of the for-sale affordable units.

- c. For Rent Units: The Owner maintains the right to construct and rent all or a portion of the Affordable Units within the Property.
 - i. Affordability; Credit Thresholds: For the purposes of this Proffer 4(c), “affordable housing” shall mean units affordable for rent by households with incomes less than eighty percent (80%) of the area median income (as determined from time to time by the Virginia Housing Development Authority) such that rent payments do not exceed thirty percent (30%) of the gross household income.
 - ii. Rental of Affordable Units: All renters of the for-rent affordable units are subject to approval by Albemarle County. Maximum rental amounts to be charged shall be set such that they satisfy Proffer 4(c)(i), and shall be adjusted annually to account for changes in the area median income.
 - d. Tracking: Each subdivision plat and site plan for land within the Property shall designate lots or units, as applicable, that will, subject to the terms and conditions of this Proffer 4, satisfy the requirements of this Proffer 4. Such subdivision plat(s) or site plan(s) shall not be required to identify the method by which this Proffer 4 will be satisfied (i.e. 4(a), 4(b), or 4(c)). The aggregate number of such lots or units designated for affordable units within each subdivision plat or site plan shall constitute a minimum of fifteen percent (15%) of the lots or units in such subdivision plat or site plan. The Owner, at the Owner’s option, may accelerate the provision of affordable units ahead of the minimum 15% minimum requirement and shall be entitled to receive credit on future subdivision plat(s) or site plan(s) for any such units provided beyond the 15% minimum requirement.
5. **Cost Index**: Beginning January 1, 2023, the amount of each cash contribution required by Proffer 4 shall be adjusted annually until paid, to reflect any increase or decrease for the proceeding calendar year in the Marshall and Swift Building Cost Index (“MSI”). The annual adjustment shall be made by multiplying the proffered cash contribution amount due for the preceding year by a fraction, the numerator of which shall be the MSI as of December 1 in the preceding calendar year, the denominator of which shall be the MSI as of December 1 in the year preceding the calendar year most recently ended (the “Annual Percentage Change”⁰). By way of example, the first annual adjustment shall be $\$21,125 \times \frac{2022 \text{ MSI}}{2021 \text{ MSI}}$. Each annual adjustment shall be based on the amount of the proffered cash contribution due for the immediately preceding year based on the formula contained in this Proffer 5 (the amount derived from such formula shall be referred to hereinafter as the “Cash Contribution Due”). For any cash contribution that is being paid in increments, the incremental payments shall be correspondingly adjusted each year.
6. **Counterparts**: This Proffer Statement may be executed in any number of counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

OWNERS

Owner signatures to be provided, after blanks are completed, after County Attorney review, and prior to Public Hearing by the Board of Supervisors.

Kimco, LC
Kimco, LC

OWNER

Kimberly Cosner Lilley
By: **Kim Lilley**
Title: **Manager**

OWNERS



BREEZY HILL AT KESWICK, LLC

By: **Charlie Armstrong**

Title: **Authorized Agent**



CARROLL CREEK PROPERTIES, LLC

By: **Charlie Armstrong**

Title: **Authorized Agent**

RECEIVED
JUL 1 2014
COMMUNITY
DEVELOPMENT