

Original Proffers X
Amendment

PROFFER STATEMENT

ZMA No. 2019-4

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, and 09400-00-00-048A0.

Owner(s) of Record: BREEZY HILL AT KESWICK, LLC; KIMCO, LC; and CARROLL CREEK PROPERTIES, LLC

Date of Proffer Signature: January 6, 2021

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

Breezy Hill at Keswick, LLC, Kimco, LC, and Carroll Creek Properties, LLC are the owners (the “Owner” or “Owners”) of 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, and 09400-00-00-048A0 (collectively, the “Property”) which is the subject of rezoning application ZMA No. **2019-4**, a project known as “Breezy Hill” (the “Project”).

Pursuant to Section 18-33.22 of the Albemarle County Code, the Owner hereby voluntarily proffers the conditions listed below, which will apply 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 signatures below.

1. **Concept Plan:**

The Property must 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 November 4, 2020, and must reflect the following major elements as shown and noted on the plans:

- a) The primary vehicular connection must be to Route 250;
- b) A secondary vehicular access to Running Deer Drive must be installed prior to the issuance of the 31st building permit. The vehicular access at Running Deer Drive is for emergency access only, unless a full vehicular connection is required by VDOT.
- c) During development, construction traffic must not use the Running Deer Drive entrance;
- d) Reservations for future vehicular and/or pedestrian connections to the west toward Carroll Creek must be provided;
- e) Road typical sections must be in general accord with the typical sections on the Concept Plan;
- f) Delineations between blocks and housing typologies assigned to each block must be in general accord with the Concept Plan;
- g) Trail, multi-use path, and pedestrian network locations and typical sections must be in general accord with the Concept Plan;
- h) Locations and sizes of Blocks, Open Space, stream buffer, and Conservation Areas must be in general accord with the Concept Plan;
- i) The Project is limited to a maximum of 130 residential dwelling units.
- j) Block 5 is limited to a maximum density of 1 unit per acre net density, after factoring out areas designated for “Parks and Green Systems” on the Future Land Use Plan.
- k) Block 6 is limited to a single dwelling unit via a deed restriction in favor of the Breezy Hill homeowners association recorded in the land records.

2. **Transportation/Transit:**

Intersection Improvements: Prior to issuance of the first (1st) Certificate of Occupancy for the Project the Owner must 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 must upgrade the signals to the ASTPM platform using the existing signal equipment at each intersection, and must install or upgrade any 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 for the Project the Owner must 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 must 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 may 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 Owner’s total cash contribution will be between \$0 Dollars (if all proffered Affordable Units are constructed within the Project) and \$422,500 (if zero Affordable Units are constructed within the Project), subject to cost indexing under Proffer 5.
- b. **For-sale Units:** The Owner may 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” means units affordable to households with incomes of 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 Community Development Department will have a period of 180 days to identify and approve an eligible purchaser for such affordable unit. The 180-day qualification period will 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 will be given no more than 180 days prior to the expected issuance of the Certificate of Occupancy. Nothing in this Proffer will 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 may sell the unit without any restriction on sales price or income of the purchaser, and such unit will be counted toward the satisfaction of this Proffer 4(b). This Proffer 4(b) will apply only to the first sale of each of the for-sale affordable units.

- c. For Rent Units: The Owner may 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” means units affordable for rent by households with incomes of 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 must satisfy Proffer 4(c)(i), and may 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 must designate any 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) need not 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 must be at least 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 will receive credit on future subdivision plat(s) or site plan(s) for any such units provided above the 15% minimum requirement.

5. **Cost Index:**

Beginning January 1, 2024, the amount of each cash contribution required by Proffer 4 will 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 will be made by multiplying the proffered cash contribution amount due for the preceding year by a fraction, the numerator of which will be the MSI as of December 1 in the preceding calendar year, the denominator of which will be the MSI as of December 1 in the year preceding the calendar year most recently ended (the “Annual Percentage Change”. By way of example, the first annual adjustment will be $\$21,125 \times 2023 \text{ MSI} / 2022 \text{ MSI}$. Each annual adjustment will 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 will be referred to hereinafter as the “Cash Contribution Due”). For any cash contribution that is being paid in increments, the incremental payments will be correspondingly adjusted each year.

6. **Climate Action:**

In accordance with the goals of the “Buildings” chapter of Albemarle’s Climate Action Plan, the Owner must install, or cause to be installed, a minimum of 200,000 watts (200 kilowatts) of photo voltaic solar panels in the Project. Upon request by the County, the Owner must provide an accounting of the total wattage of panels that have been installed in the Project at any point in time. A total of at least 100,000

watts of solar panels must be installed in the Project prior to issuance of the 70th building permit. The entire 200,000 watts must be installed in the Project prior to the issuance of the 125th building permit.

7. **Counterparts:** This Proffer Statement may be executed in any number of counterparts, each of which will be an original and all of which will constitute but one and the same instrument.

OWNERS



BREEZY HILL AT KESWICK, LLC

By: **Charlie Armstrong**

Title: **Authorized Agent**

1/6/21
Date

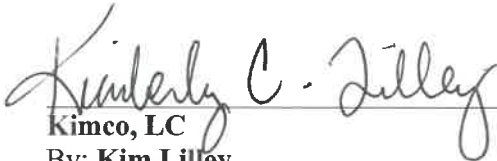


CARROLL CREEK PROPERTIES, LLC

By: **Charlie Armstrong**

Title: **Authorized Agent**

1/6/21
Date



Kimco, LC

By: **Kim Lilley**

Title: **Manager**

1-6-2021
Date