

PROFFERS

9700 FAIRFAX BLVD LLC

**ZONING MAP AMENDMENT
Z-19-00296**

RECEIVED

NOV 22 2019

Community Dev & Planning

November 22, 2019

Pursuant to Section 15.2-2303(a) of the *Code of Virginia*, 1950, as amended, and Section 6.4.10 of the Zoning Ordinance of the City of Fairfax, Virginia (the "Zoning Ordinance"), 9700 Fairfax Blvd LLC, for the owner, and successors and/or assigns (collectively, "the Applicant") in Z-19-00296 filed on property identified on the City of Fairfax tax map 48-3-09-056 (hereinafter referred to as the "Application Property") hereby proffers the following, provided that the Fairfax City Council approves a rezoning of the Application Property from the CR and IH Districts to the CR District in conjunction with a General Development Plan/Special Use Permit Plat (hereinafter the "GDP/SUP Plat") for a grocery store and fuel station. In the event the rezoning is denied by the City Council, these proffers shall immediately be null and void.

1. GENERAL DEVELOPMENT PLAN

Development of the Application Property shall be in substantial conformance with the GDP/SUP Plat prepared by Kimley Horn consisting of ten (10) sheets, dated November 1, 2019. The Applicant shall have the flexibility to make minor modifications to site design and improvements shown on the GDP/SUP Plat based on final engineering and design subject to the approval of the Director of Community Development and Planning.

2. USES

This rezoning is granted for the purpose(s), structure(s) and use(s) indicated on the GDP/SUP Plat, which include an approximately 6,049 square foot grocery store and a fuel station consisting of six (6) pumping stations and a total of twelve (12) fuel pumps. In the event that the grocery store and fuel station are not developed, or if such uses should cease to operate in the future, the Application Property may be developed with uses permitted in the CR District, subject to compliance with applicable Zoning Ordinance requirements, without the need for a proffer amendment.

3. TRANSPORTATION

A. Sidewalks. The Applicant shall construct a ten (10) foot sidewalk along the Fairfax Boulevard frontage, a six (6) foot sidewalk along the Spring Street frontage, and an internal network of five (5) foot sidewalks on the Application Property as indicated on the GDP/SUP Plat. The Applicant shall subject any portions of the sidewalks not located within the public right-of-way to a public access easement prior to site plan approval for the Application Property. The Applicant shall be responsible for the maintenance of all sidewalks not located within the right-of-way.

- B. Inter-Parcel Access. The Applicant shall reserve the area identified on the GDP/SUP Plat as “Future Inter-Parcel Access Easement” to permit the connection of a future inter-parcel access to the adjacent property identified as City of Fairfax Tax Map 48-3-10-14A (“Parcel 14A”) in accordance with this Proffer 3.B. At such time as Parcel 14A is redeveloped by others, the Applicant shall either, at its sole discretion, construct at the Applicant’s sole cost and expense the portion of the future inter-parcel access located on the Application Property, or enter into an agreement with the owner and/or developer of Parcel 14A that will allow the entire future inter-parcel access to be constructed by others. In either scenario, the Applicant will provide at no cost the requisite temporary construction easements and/or permissions reasonably necessary to permit construction by others. The Applicant’s obligation shall be limited to that portion of the future inter-parcel access located on the Application Property as identified on the GDP/SUP Plat, and the Applicant shall not be responsible for the costs and/or construction of improvements associated with the future inter-parcel access that extend beyond the property line. At such time as the connection is completed, the Applicant shall enter into an easement agreement with the owner of Parcel 14A to allow inter-parcel vehicular and pedestrian access between Parcel 14A and the Application Property.
- C. Bicycle Racks. The Applicant shall install a minimum of three (3) inverted-U or similar style bicycle racks on the Application Property. Notwithstanding the location indicated on the GDP/SUP Plat, the final location of the bicycle racks may be adjusted at the time of site plan.
- D. Electric Vehicle Charging Stations. The Applicant may, at its sole discretion, partner with a third-party to install electric vehicle charging stations on the Application Property as identified on the GDP/SUP Plat. Notwithstanding the number of potential electric vehicle charging stations identified on the GDP/SUP Plat, the Applicant reserves the right to increase or decrease the number of electric vehicle charging stations provided, subject to compliance with all applicable ordinances, codes and regulations.
- E. Bus Station Seating. The existing bus stop along the Fairfax Boulevard frontage of the Application Property shall remain. The Applicant shall install a minimum of one (1) bench in the vicinity of the bus stop to serve as a seating area for bus patrons. Notwithstanding what is shown on the GDP/SUP Plat, the final location of the bench may be adjusted in coordination with the City at the time of site plan.
- F. Draper Drive Turn Lane. Prior to the issuance of a Zoning Permit for Commercial Use and Occupancy (“Zoning Permit”) for the Application Property, the Applicant shall extend the existing westbound left turn lane at the intersection of Fairfax Boulevard and Draper Drive to accommodate stacking for at least two (2) additional vehicles. The extended turn lane shall be generally consistent with the Turn Lane Exhibit on Sheet 10 of the GDP/SUP Plat, but may be modified in coordination with the Department of Public Works and the Department of Community Development and Planning at the time of site plan.

- G. Traffic Signal Contribution. Prior to the issuance of a building permit for the Application Property, the Applicant shall post an escrow in the amount of ninety one thousand eight hundred dollars (\$91,800.00) for the future installation by others of a traffic signal at the intersection of Spring Street and Fairfax Boulevard. Upon demand of the City or one year after the issuance of a Zoning Permit (whichever occurs first), the Applicant shall conduct a traffic signal warrant study in accordance with the Manual on Uniform Traffic Control Devices (MUTCD) guidelines, subject to the review and approval of the Department of Public Works. The traffic signal warrant study will study the then-current traffic conditions and will not include future traffic forecasts. If the traffic signal warrant study shows that a traffic signal is warranted at the intersection of Spring Street and Fairfax Boulevard, and the City awards a contract to construct the signal within five years of the date of escrow, the Applicant shall contribute the escrowed funds towards the construction of the signal, contingent upon the City obligating funds from other sources for the balance of the cost of the signal and associated construction costs. If the traffic signal warrant study shows that a traffic signal is not warranted at the intersection of Spring Street and Fairfax Boulevard, or if it is warranted but the City does not award a contract to construct the signal within five years of the date of escrow, the escrowed funds will be returned to the Applicant and the Applicant will not be financially or otherwise obligated for any other improvements.
- H. Restricted Entry Signs. Prior to the issuance of a Zoning Permit for the Application Property, the Applicant shall install signs on the Application Property and/or within the Fairfax Boulevard right-of-way to restrict left turns into the Fairfax Boulevard access from eastbound traffic on Fairfax Boulevard. Notwithstanding the preliminary location and content of the signs shown on the GDP/SUP Plat, the final number, location and content of such signs shall be coordinated with the Department of Public Works at the time of site plan, provided that the signs are consistent with the guidelines set forth in the MUTCD.

4. TRANSPORTATION DEMAND MANAGEMENT

In an effort to reduce the number of vehicle trips generated by the proposed development, the Applicant shall promote the use of public transit options by displaying information regarding CUE bus routes and time tables, maps of the City's bicycle networks, and other modes of public transportation.

5. STREETSCAPE

- A. Streetscape Elements. Prior to the issuance of a Zoning Permit for the Application Property, the Applicant shall install a streetscape generally consisting of a ten (10) foot wide sidewalk along the Application Property's Fairfax Boulevard Frontage, a six (6) foot wide sidewalk along the Application Property's Spring Street Frontage, and landscaping along both street frontages as shown on the GDP/SUP Plat and in accordance with the City's Public Facilities Manual standards. Adjustments to the streetscape design may be made at the time of site

plan in coordination with the City, subject to approval of the Director of Community Planning and Development.

- B. Utilities. All new utilities serving the proposed grocery store and fuel station shall be installed underground. The existing overhead utilities along the Fairfax Boulevard and Spring Street frontages of the Application Property shall remain until such time as these utilities are undergrounded in the future by others. At such time as the overhead utilities are undergrounded in the future by others, the Applicant shall grant at no cost all easements, permissions and approvals as may be reasonably necessary to allow the undergrounding by others.
- C. Street Lights. The Applicant shall remove the existing street lights along Fairfax Boulevard, and shall install new street lights along the Fairfax Boulevard and Spring Street frontages of the Application Property in accordance with the requirements set forth in the City of Fairfax Public Facilities Manual, up to a maximum of two (2) street lights per street frontage. The specific location of the new street lights shall be determined at the time of site plan in coordination with the Department of Public Works.

6. LANDSCAPING AND OPEN SPACE

- A. General. Landscaping on the Application Property shall be in general conformance with the landscape design shown on the GDP/SUP Plat. Final selection of the type and location of vegetation and the design of landscaped areas and streetscape improvements/plantings shall be made at the time of site plan.
- B. Pedestrian Seating Area. The Applicant shall provide a publicly accessible pedestrian seating area along the Fairfax Boulevard frontage of the Application Property as indicated on the GDP/SUP Plat. This area shall include a minimum of two (2) benches, and may include landscaping and other pedestrian amenities as may be determined at the time of site plan in coordination with the City.

7. CONSTRUCTION MANAGEMENT

- A. Construction Management Plan. Prior to site plan approval, the Applicant shall submit a Construction Management Plan for approval by the City Manager or his designee. The Construction Management Plan shall address items including, but not limited to, the following:
 - (i) Hours of construction;
 - (ii) Truck routes to and from entrances to the Application Property;
 - (iii) Location of parking areas for construction employees;
 - (iv) Truck staging areas;
 - (v) Storage areas;

- (vi) Traffic control measures; and
 - (vii) Fencing details, including specifications for construction fencing with screening and/or wrap that identifies the project and provides contact information for the developer and/or general contractor.
- B. Construction Contact. Prior to commencement of construction, the Applicant shall provide the Department of Community Development and Planning with the name and telephone number of contact who will be available throughout the duration of construction on the Application Property.

8. MISCELLANEOUS

- A. Photographic Documentation. Prior to site plan approval, the Applicant shall submit photographs of the exterior of the existing structures on the Application Property to the Department of Community Development and Planning.
- B. Site Lighting. Consistent with the practices of dark skies initiatives, all parking lot and building mounted security lighting shall include down directed lighting and utilize full cut-off fixtures.
- C. Counterparts. These proffers may be executed in one or more counterparts, each of which when so executed and delivered shall be deemed an original document and all of which when taken together shall constitute but one and the same document.
- D. Successors and Assigns. These proffers will bind and inure to the benefit of the Applicant and its successors and assigns.

[SIGNATURES BEGIN ON NEXT PAGE]

OWNER

OLA INC.

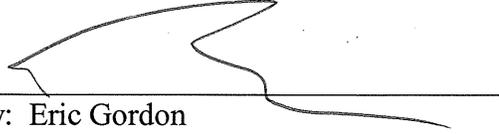


By: Champaklal G. Patel
Its: President

[SIGNATURES CONTINUE]

APPLICANT/CONTRACT PURCHASER

9700 FAIRFAX BLVD LLC

A handwritten signature in black ink, appearing to be 'Eric Gordon', written over a horizontal line.

By: Eric Gordon

Its: Manager

[SIGNATURES END]