Proffer Statement

Bristol Herndon Parkway LLC

Development Plan # DP24-01

May 8, 2024
Revised November 22, 2024
Revised May 14, 2025
Revised October 15, 2025

Pursuant to Section 15.2-2303 of the Code of Virginia (1950, as amended) and Section 78-50.8 of the Town of Herndon Zoning Ordinance, as amended, (the "Zoning Ordinance"), Bristol Herndon Parkway, LLC, the owner of the hereafter described property, for itself and its successors and/or assigns (referred to hereafter as the "Applicant",), hereby voluntarily proffers that the development (the "Development") of the parcel that is the subject of this application, which is shown on the Fairfax County 2022 Tax Map as parcel 16-4(10))6A (the "Property" or the "Subject Property") shall be in substantial conformance with the conditions set forth below· ("the "Proffers") if and only if the Property is approved for development by the Town of Herndon (the "Town") as set forth in Applicant's development plan entitled, "575 Herndon Parkway General Development Plan," prepared by VIKA dated May 8, 2024, revised through May 14, 2025 (the "Development Plan"), in the PD-TOC (Planned Development – Transit Oriented Core).

GENERAL

1. Development Plan. The Property shall be developed in substantial conformance with the Development Plan prepared by VIKA and dated May 8, 2024, revised through October 15, 2025 (said Development Plan being attached hereto and made a part hereof as Exhibit A). It is understood by the Applicant that all other applicable regulations and policies governing land development within the Town of Herndon (the "Town") shall apply to the Property and its development, unless specifically modified by the language of this approval and these Proffers. Minor modifications of the development plan may be permitted without the need for an Amendment to this approval when necessitated by final engineering or final site design provided that the Development is in substantial conformance with the Development Plan and these Proffers. Substantial conformity shall be determined as provided in Section 78-155.1(f)(3)(d) of the Zoning Ordinance.

2. Architectural Design Elements. The exterior architecture of the building shall be designed to create a unique sense of place reflective of the Town of Herndon through the use of appropriate massing, colors, textures and materials in substantial conformity with that shown in the Development Plan and the HTOC Urban Design and Architectural Guidelines, as amended from time to time. Architectural plans may be revised subsequent to the final approval of the Development Plan and pursuant to approval by the Town Architectural Review Board (ARB). The overhead doors associated with loading and trash areas shall be constructed with materials and colors that are coordinated with the building architecture as shown on Sheets A14.0 and A15.3 of the Development Plan. The site design

shall include wayfinding signage, art/sculpture, a wall treatment/mural, and interactive elements that are reflective of the Town of Herndon, as generally shown on Sheet A14.1 of the Development Plan.

3. Uses. Any use or combination of uses permitted in the PD-TOC may be established on the Property as long as such use is in substantial conformance with the Development Plan and the following density levels:

   a. The total maximum floor area is limited to 575,130 square feet.

   b. Total residential development, to include residential amenity space, shall not exceed 561,342 square feet;

   c. Non-residential space consisting of office, retail or other commercial shall not be less than 13,788 square feet, of which Retail/Restaurant shall not be less than 8,851 square feet inclusive of the area offered to the Town of Herndon per 4.d.

   d. A maximum of 1,200 square feet of the total non-residential space noted in 4.c. above and as identified on Sheet A-17 of the Development Plan shall be offered in writing to the Town of Herndon rent free, with an initial term of 10 years, as office/administrative space with reasonable business hours. Following conclusion of the initial 10-year lease, the Applicant will offer the Town two-5year lease renewal options at fifty percent (50%) of the then prevailing market rate. If mutually agreed upon lease terms have not been executed within one year of the official offering of the space to the Town, the space may be leased to others and this proffer shall be fulfilled and the Applicant shall have no further obligations to the Town for the space.

4. Easements/Maintenance. The Applicant shall grant public pedestrian access easements and public emergency ingress/egress easements over the at-grade Publicly Accessible Spaces as shown on Sheet C-03A of the Development Plan in a form approved by the Town. These easements will allow the Applicant to restrict access temporarily in these areas for private events or maintenance provided all regulations of the Zoning Ordinance relative to temporary use of the spaces are satisfied. The Applicant shall grant public vehicular access easements as shown on Sheet C-03A of the Development Plan in a form approved by the Town. The Applicant shall maintain all elements within the areas designated as Public Access Easements on the Development Plan, Sheet C-03A. Maintenance commitments include, but are not limited to: landscaping, hardscape, walls, streetscape furnishings, lighting, snow and leaf removal, trash, recycling and litter removal, and drainage facilities. With regard to maintenance, the Applicant shall ensure that overhang of any vegetation shall not hinder truck access to trash and loading areas. The Applicant shall be responsible for obtaining such easements prior to site plan approval.

   The Applicant shall dedicate, at no cost to the Town, any public utility, public access or temporary construction easements necessary to install the traffic signal at the intersection of Herndon Parkway and Road A as shown on Sheet C-03A within sixty (60) days of

request by the Town.

The Applicant shall obtain, defined as signed by Grantor and submitted to Town, any easements for off-site grading and temporary construction which are necessary for the redevelopment of the Property prior to site plan approval.

5. Existing Development. The Property is currently developed with a commercial office building and an associated surface parking lot as shown on Sheet C-02A of the Development Plan (the "Existing Condition"). The Applicant may obtain building permits for internal improvements and obtain Certificates of Occupancy for any non-residential permitted use in the PD-TOC zoning district for the Existing Condition. Provided the required approval is obtained, building permits for internal improvements and Certificates of Occupancy may also be obtained for any uses permitted by special exception in the PD-TOC zoning district for the Existing Condition, provided the required special exception approval is obtained. The provisions of this proffer are voided upon commencement of construction of the building shown on the Development Plan. If portions of the parking lots or landscaping become the property of and are removed by the Town for the construction of Herndon Parkway and its associated streetscape or the Promenade, the Existing Condition shall not be deemed non-conforming with respect to parking ratio, building setback, site lighting, or required landscaping.

6. Interim Development. In the event that the property located at 593 Herndon Parkway does not redevelop prior to the redevelopment of the Subject Property, the Subject Property will be developed pursuant to Sheet C-07A of the Development Plan. In the event that the property located at 555 Herndon Parkway does not redevelop prior to the redevelopment of the Subject Property, the Subject Property will be developed pursuant to Sheet C-07B of the Development Plan, which includes a vehicle turn-around provided off-site easements are obtained per Proffer 4.

7. Utility Relocation. All existing utility relocations necessary to accommodate the construction of the proposed site features as shown on Sheet C-03 of the Development Plan shall be completed prior to the issuance of any certificate of occupancy. In the event that relocation of an existing utility is not viable or permissible, subject to the design and cost constraints of the applicable utility, any landscaping that is not acceptable to the utility easement grantee and that creates a conflict with that utility shall be relocated in as close a proximity as practicable to its location on the Development Plan, subject to the review and approval of the Zoning Administrator. Relocation of any grouping of trees shall be subject to assessment by the Zoning Administrator for substantial conformance with the Development Plan and may necessitate an amendment to the rezoning. As part of the site plan review, the Applicant shall submit to the Town a *Conceptual Dry Utility Plan* for review and approval, which shall identify all existing utilities to remain, all proposed new utilities, and all utilities proposed to be relocated, including but not limited to gas, electric, and communications, in order to demonstrate compatibility with the site features depicted on the Development Plan.

8. Ground Level Activation. The Applicant shall include active ground level uses facing the Promenade and on Herndon Parkway at the northwest and northeast corner spaces of the

development. Activated uses are identified as Retail/Restaurant, Residential Main Lobby & Amenity Area and Commercial or Office as shown on Sheets C-07, C-07A and C-07B of the Development Plan. "Pop-up" stores may also be included along the Promenade spaces provided the use is permitted in the PD-TOC District and necessary permits are obtained. These uses shall incorporate areas of transparency along exterior store fronts and residential and office lobbies. Window graphics and/or static cling decals, promotional and/or supporting themes of Herndon identity, shall be displayed on windows of retail/restaurant/commercial spaces which are vacant for more than one month after certificate of occupancy.

9. Private Amenity Spaces. The type of amenities shown in the private amenity areas, on Sheet L-04 of the Development Plan, are precedent images, the purpose of which is to illustrate the quality and breadth of amenities proposed. The Applicant reserves the right to determine the type of amenity that is ultimately installed in those areas at the time of site plan review.

10. Herndon Parkway Frontage Improvements, Promenade Improvements and Parcel 16-4((2))26B2, part. Design elements of the Herndon Parkway Streetscape, to include plantings, pavement treatments and furniture shall be as generally shown on Sheets L-01 and L-02 of the Development Plan, shall be in substantial conformance with the HTOC Urban Design & Architectural Guidelines and the Herndon Streetscape Manual and shall be subject to review and approval by the Architectural Review Board (ARB). Design elements of the Promenade, to include focal points, interactive elements, public art and hard- and soft-scape, shall be in general conformance with that shown on Sheets L-03A and L-03B of the Development Plan and shall be subject to approval of the ARB. As noted on Sheets L-01, L-03A and L-03B of the Development Plan, the seating and other elements shown in yellow are to be provided by the respective tenants of the commercial spaces. The furniture and fixtures shown in peach color shall be provided by the Applicant. One of the focal points in the Promenade shall be a minimum of one kiosk, not located on Town property, a precedent image of which is shown on Sheets L-03A and L-03B of the Development Plan. This kiosk(s) shall be movable and "pop-up" in nature. The Applicant shall construct the improvements shown on the portion of Parcel 16-4((2))26B2 adjacent to the Metro Station as shown on Sheets L-01, L-02, L-03A, L-03B and L-06 of the Development Plan. Prior to the issuance of the first certificate of occupancy on the Property, the Applicant will construct the frontage improvements shown on the Development Plan along the Property's Herndon Parkway frontage, the improvements shown along the Promenade and the improvements on the portion of Parcel 16-4((2))26B2 as indicated in this proffer provided a License Agreement, as indicated in Proffer 11, is executed with the Town.

11. License Agreement. Concurrent with the submission of the first site plan for the Property, the Applicant shall request a draft Licensing Agreement from the Town for the development of the portion of the Promenade owned by the Town, any portion of the Herndon Parkway frontage improvements owned by the Town, and the parcel at Tax Map 16-4((2))26B2 proposed by the Applicant for development as shown on the Development Plan. The License Agreement will define and provide for maintenance commitments for

improvements constructed on Town property. Should the Town Council opt not to execute the agreement, the Applicant shall have no obligation to construct the improvements shown on Town properties.

TRANSPORTATION

12. Bicycle Parking. The Applicant shall install bicycle parking and storage areas as shown on Sheets A-17 through A-21 and L-01 of the Development Plan. Specific locations for the bicycle parking shall be determined as part of site plan approval process and in consultation with the Town of Herndon. As noted on Sheet A-17, initially, 212 bike parking spaces shall be installed with the garage prior to the issuance of the certificate of occupancy for the residential use. The bike racks shown on Sheet L-01 shall also be installed prior to the issuance of a certificate of occupancy for the residential use. The remainder of the bike parking requirement shall be installed in the future as demand arises. The potential locations for the bike storage areas are shown on Sheets A-18 through A-21.

13. Vehicular Parking. Parking shall be provided in substantial conformance with the Development Plan and these proffers. Notwithstanding the above, the Applicant reserves the right to provide parking at revised ratios as may be permitted at time of site plan by the Town of Herndon Zoning Ordinance or may seek future parking reductions for the Property as permitted by the Town of Herndon Zoning Ordinance, either of which shall not require a Development Plan amendment.

14. Bus Bays. The use of the Property will not interfere or hinder the operation of the existing bus bays along the Property's frontage on Herndon Parkway, including during construction. Relative to the period of construction, the Applicant will submit a Management of Traffic (MoT) Plan at the time of site plan review which addresses the specifics of continued operation of the bus bays.

15. Right-of-way Dedication. At no public cost, the Applicant shall dedicate in fee simple the area along the frontage of Herndon Parkway as shown on Sheet C-03A. The fee simple dedication shall be granted prior to the site plan approval. The Applicant reserves future density credit from the right-of-way dedication in accordance with the terms and conditions of Zoning Ordinance Section 78-155.9 in effect as of the date of the approval of these Proffers.

16. Transportation Demand Management. This Proffer sets forth the programmatic elements of a transportation demand management program (the "TDM Program") that shall be implemented by the Applicant to encourage the use of transit (Metrorail, Fairfax Connector, Metro bus, or other public transit service), other high-occupant vehicle commuting modes, walking, biking and teleworking, all in order to reduce automobile trips generated by the multi-family units constructed on the Property. The proffered elements of the TDM Program will be implemented through a Transportation Demand Management Work Plan (the "TDM Work Plan") developed by the Applicant. This TDM Work Plan

shall be submitted for review with the first submission of a site plan on the Property and approved prior to the issuance of the first Certificate of Occupancy. It is the intent of this Proffer that the TDM Work Plan will be adapted over time to respond to changing transportation-related circumstances of the Property, the surrounding community and region, as well as to technological and/or other improvements. The Applicant's TDM Work Plan has the objective of meeting the trip reduction goals for single occupancy vehicles measured at the peak AM/PM hours of 35% for residential uses. The trip reduction percentages will be multiplied by the total number of vehicle trips that would be expected to be generated by the uses developed on the Property as determined by the application of the most recent version of the Institute of Traffic Engineers, Trip Generation Manual rates and/or equations (the "ITE Trip Generation"), and the number of trips determined by the product of such equation subtracted from the total trips will be referred to herein as the "Maximum Trips After Reduction". For purposes of this calculation, the maximum number of dwelling units or gross floor area proposed to be constructed as shown on the Development Plan will be applied to the calculation described in the preceding sentence.

The TDM Work Plan shall incorporate the following elements:

a. Appointment of a TDM Program Manager
b. Contributions to resident and employee Metro fare cards.
c. Dissemination of Transportation Program Information
d. Ride sharing and carpool parking spaces.
e. Bicycle racks, bicycle share station(s), and micro-mobility station(s).
f. Bicycle storage and maintenance facilities.
g. Program monitoring on an annual basis, to include surveys and/or vehicular traffic counts

Monitoring. The proffered trip reduction goals will be verified that they are being met through the completion of Vehicular Traffic Counts of residential uses and/or other such methods as may be reviewed and approved by the Town. The results of such Vehicular Traffic Counts and the residential occupancy rates on the day of the traffic counts will be provided to the Town as part of the Annual Reporting process. The Vehicular Traffic Counts will be conducted for the Property beginning one year following issuance of the final Certificate of Occupancy. Vehicular Traffic Counts will be collected annually thereafter until the results of three consecutive annual traffic counts conducted, with a minimum residential occupancy rate of 90%, show that the applicable trip reduction goals for the Property have been met. At such time Traffic Counts will thereafter be provided every five (5) years. If the Annual Report demonstrates that the trip reduction goals are not being met, then the Applicant shall meet with the Town to review the TDM elements in place and to develop modifications to the TDM Work Plan to address the surplus of trips.

17. Traffic Signal at Herndon Parkway and Eastern Property Entrance. Prior to approval of the site plan, a traffic signal warrant analysis shall be prepared and submitted to the Town for review and approval, unless the signal has been installed by others at that time. If

warranted, the site plan shall include a full design of the traffic signal and the traffic signal shall be installed by the Applicant prior to the issuance of the final residential certificate of occupancy.

18. Non-residential Parking. Parking for non-residential uses shall be located in a convenient location in the garage relative to the uses as indicated on Sheet A-17.0 (Illustrative Parking Level 1) and will be signed for commercial parking only.

19. Loading Spaces. Loading spaces shall be constructed and operated in such a way so as to not obstruct any sidewalks, vehicular parking spaces or roads. The Applicant will implement an operations plan, coordinated with residential, retail/restaurant and commercial or office uses to manage loading facilities accordingly. The operations plan will include corresponding signage as noted on Sheet C-08A, management-scheduled use of loading areas for move ins/move-outs and deliveries, closure of overhead doors when not in use and enforcement prohibiting loading from the sidewalk, travel lanes, or parking spaces of Road A and from the southern shared access drive.

20. Collapsible Bollards. Collapsible bollards shall be utilized to preclude public vehicular traffic yet provide for municipal and emergency vehicle access along the southern side of the building between the loading zone and the Promenade as shown on Sheet L-01 of the Development Plan. The design of the bollards shall be in general conformance with that shown on Sheet L-05 of the Development Plan.

21. Micro-Mobility Vehicle Parking. The Applicant shall provide space, located with an appropriate easement if requested by the Town, for the parking of micro-mobility vehicles (scooters or bikes), either is a stationed, or un-stationed format in coordination with the Town. The space shall be sized, at a minimum, to accommodate a standard Capitol Bikeshare Station. A potential location is shown on Sheet L-01.

ENVIRONMENT

22. Green Building. For the multifamily residential building, the Applicant shall achieve either LEED Silver for Homes v4, Multifamily Mid-rise certification from the U.S. Green Building Council, Silver certification from the National Green Building Standard (NGBS), Earthcraft Multifamily certification or an equivalent green building program certification. Equivalency shall be determined by the Zoning Administrator. The Applicant shall submit the design scorecard for review to the Town at time of building permit application and shall submit the report from a green building verifier consultant certifying as-built compliance and deliverable prior to the issuance of the final residential certificate of occupancy.

23. Interior Noise Attenuation. The Applicant shall submit highway noise studies, prepared by a qualified acoustical consultant, at the time of building permit submission to determine what if any noise attenuation measures are needed to achieve Day-Night Average Sound Levels (DNL) of no more than 50 dBA for interior residential uses. Based on the findings of the studies, the Applicant shall incorporate the appropriate noise attenuation elements into the design and construction documents to achieve the recommended DNL.

24. Stormwater Management. A Manufactured Treatment Device (MTD) will be sited below grade under the garage as noted on Sheet C-14 of the Development Plan. Bio-retention or other Low Impact Development facilities ("LID") shall be provided also as shown on Sheet C-14 of the Development Plan. Additional facilities may further be included such as Filterra, StormFilter, or BayFilter devices provided they are utilized in conjunction with LIDS. The Applicant shall include an educational sign situated near a stormwater management planter of the Applicant's choice which explains the significance and purpose of the stormwater management measure as noted on L-01 and shown on L-05. Other measures may be proposed by the Applicant, if deemed by the Town to be acceptable and permitted by State regulations. Commitments for maintenance of stormwater management improvements in the Development Plan and that provides easement(s) benefitting the Town will be included in a stormwater management maintenance agreement to be recorded prior to site plan approval.

25. Planting Species and Biodiversity. In order to promote biodiversity, 10% maximum of each species of deciduous shrubs, 30% maximum of each species of deciduous trees, 25% maximum of each species of evergreen shrubs, and 25% maximum of each species of evergreen trees shall be provided with the exception of the trees located within the Allee in the Promenade and those located on the top level of the parking garage which may exceed these percentages as shown on Sheets L-02, L-03A, L-03B, and L-06 of the Development Plan. A minimum of 75% of the amount of plantings in each category (trees, shrubs and herbaceous plants) will be native to the region as noted on Sheet L-02 of the Development Plan.

26. Trash/Recycling Service. The Development shall be served by a private trash and recycling service.

27. Electric Vehicle Charging Facilities. The Applicant shall install 2% of the total parking spaces in the garage with Level 2 electric vehicle ("EV") charging stations, installed and functional prior to issuance of a Certificate of Occupancy. The Applicant shall provide an additional 5% of the total parking spaces in the garage as EV-Ready, meaning the provision of space, conduit banks, conduits, and access points to facilitate installation of future Level 2 EV charging stations. The Applicant will include the number of EV charging stations and EV-Ready locations in the first site plan submission and designate their locations in the first building permit application.

CONTRIBUTIONS

28. Recreation/Community Amenities/Civic Facilities. Prior to the issuance of the first certificate of occupancy, the Applicant shall demonstrate that the value of any proposed public and private, exterior and interior recreational on-site amenities/community amenities/civic facilities to include those facilities/amenities provided in the Promenade and those improvements proposed on the Town Parcel 16-4((2))26B2, as shown on Sheets

C-07, L-01, L-02 and L-06 of the Development Plan, are equivalent to a minimum of $2,150 per residential unit. In the event it is demonstrated that the proposed facilities do not have sufficient value, the Applicant shall provide the remainder in a cash contribution to the Town of Herndon for use on recreational facilities in the Town of Herndon**.**

29. Offsite Recreation Contribution. The Applicant shall make a per gross square foot shown on the site plan contribution payment of $0.45 to the Town for offsite recreation improvements for residential Gross Floor Area ("GFA") and $0.19 for offsite recreation improvements for non-residential GFA prior to the issuance of the first certificate based on the actual GFA of the building constructed. Such funds shall be used for the improvements of Town recreational facilities in locations that logically serve the approved development and the HTOC area.

30. Off-Site Transportation Improvement Contribution. The Applicant shall make a per gross square foot shown on the site plan contribution of $1.65 for residential GFA and $2.75 for retail/restaurant and commercial GFA to the Town to address off-site transportation improvements. This contribution shall be paid prior to issuance of the certificate of occupancy for the building based on the actual gross floor area of the building. The Applicant shall receive credit towards this contribution for off-site improvement expenditures requested by the Town and constructed by the Applicant provided in Proffer 19.

31. School Contribution. Per the Residential Development Criteria Implementation Motion adopted by the Fairfax County Board of Supervisors on January 7, 2003, as amended, prior to the issuance of a certificate of occupancy for the residential uses, the Applicant will contribute funds to the Board of Supervisors for transfer to the Fairfax County School Board at an assumed rate of 0.061 students per unit shown on the site plan for elementary school, 0.019 students per unit shown on the site plan for middle school, 0.028 students per unit shown on the site plan for high school multiplied by $14,956.00 per student generated to be used for capital improvements and capacity enhancements to schools that serve the Town. The contributions will be based on the actual number of residential units constructed, as the total amount may vary. Following approval of this Development Plan and prior to the Applicant's payment of the amount(s) set forth in this Proffer, if the Fairfax County Board of Supervisors should modify the ratio of students per unit or the amount of the contribution per student, the Applicant will pay the modified contribution amount for that phase of development to reflect the then current ratio and/or contribution. Prior to beginning construction, the Applicant will notify Fairfax County Public Schools of the intended construction and anticipated completion date.

32. Public Safety Contribution. The Applicant shall contribute $60 per residential unit shown on an approved site plan to the Town of Herndon Police Department. The contribution shall be paid prior to the issuance of the first residential certificate of occupancy.

33. Sanitary Sewer Contribution. The Applicant shall make a contribution to the Town of Herndon in the amount of $136,500 for the construction of a new sanitary sewer line along the site's Herndon Parkway frontage which shall be paid prior to the issuance of a building

permit. This contribution shall relieve the Applicant from any obligation to physically replace the sewer line and the Applicant shall receive credit towards this amount for any off-site sanitary sewer work required of the Applicant at the time of site plan approval.

34. Escalation. All monetary contributions required by these proffers, with the exception of the proffer relating to the public school contribution, shall escalate on a yearly basis from the base year of 2025 and change effective each January 1 thereafter, based on the Consumer Price Index as published by the Bureau of Labor Statistics, the U. S. Department of Labor for the Washington-Baltimore, MD-VA-DC-WV Consolidated Metropolitan Statistical Area (the "CPI"), as permitted by Virginia State Code Section 15.2-2303.3.

Successors and Assigns

These proffers shall bind and inure to the benefit of the Applicant and his/her successors and assigns.

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 taken together shall constitute but one and the same instrument.

TITLE OWNER/APPLICANT SIGNATURE TO FOLLOW ON THE NEXT PAGE:

Bristol Herndon Parkway LLC
Title Owner of 16-4((10))6A

By: _____

Name: _____

Title: _____

COMMONWEALTH OF _____

CITY/COUNTY OF_____, to-wit:

The foregoing instrument was acknowledged before me this ___ day of _____, 2025 by _____ as _____ of and on behalf of _____.

_____

Notary Public

Notary Registration No: _____

My Commission Expires:_____