PROFFERS

RZ 2004-SP-013
STANLEY MARTIN COMPANIES, INC.

October 18, 2004

Pursuant to Section 15-2.2303A of the 1950 Code of Virginia, as amended, the undersigned applicant and owner, for themselves and their successors or assigns (hereinafter referred to as "Applicant"), hereby proffer the following conditions provided the Subject Property is rezoned as proffered herein.

1. **Generalized Development Plan.** Subject to the provisions of Section 18-204 of the Fairfax County Zoning Ordinance, development of the property shall be in substantial conformance with the plan entitled "Generalized Development Plan Fair Oaks ("GDP")," consisting of nine (9) sheets prepared by Paciulli, Simmons & Associates, Ltd., revised as of September 29, 2004.

2. **Minor Modifications.** Pursuant to Section 18-204 of the Zoning Ordinance, minor modifications to the GDP may be permitted where it is determined by the Zoning Administrator that such are in substantial conformance with the proffered GDP.

3. **Energy Efficiency.** All homes constructed on the property shall meet the thermal standards of the CABO Model Energy Program for energy efficient homes, or its equivalent, as determined by the Department of Public Works and Environmental Services ("DPWES") for either electric or gas energy homes, as applicable.

4. **Landscaping.** Landscaping for the site and landscaping for the individual units shall be in substantial conformance with the landscaping shown on Sheets 3 through 6 of the GDP, subject to minor adjustments approved by the Urban Forest Management Branch ("UFMB").

5. **School Contribution.** Prior to the issuance of the first building permit, the Applicant shall contribute $203,670 to the Board of Supervisors ("Board") to be utilized for the provision of capital facilities within the Fairfax County School Board's pyramid of schools serving this development. In the event that the approved final site plan yields less than seventy-three (73) units, this contribution amount shall be reduced proportionately based upon a ratio of seventy-three (73) units to $203,670.

6. **Density Credit.** All density and intensity of use attributable to land areas dedicated and conveyed to the Board pursuant to these proffers shall be subject to the provisions of Paragraph 4 of Section 2-308 of the Zoning Ordinance and such density is hereby reserved to be applied to the residue of the Subject Property.

7. **Homeowners' Association.** The Applicant shall establish a Homeowners' Association ("HOA") for the proposed development to own, manage and maintain the open space areas, private streets, parking areas and all other community owned land and improvements

8. **Lighting.** All lighting shall be in conformance with Part 9, Article 14 of the Zoning Ordinance.

9. **Affordable Housing Contribution.** The Applicant shall provide nine (9) Affordable Dwelling Units ("ADUs") on the site. The ADUs shall be scattered throughout the development, as generally depicted on the GDP.

10. **Archaeological Survey.** Prior to any land disturbing activities, the Applicant shall conduct a Phase I archaeological survey of the site, for review and approval by the County Archaeologist, to identify potential historic resources on-site. The Applicant shall also conduct Phase II or Phase III surveys if determined necessary by the County Archaeologist.

11. **Architectural Design.** The general design and architecture of the approved units shall be in substantial conformance with the illustrative elevations and building materials attached as Sheet 2 of the GDP, or of comparable quality, as determined by DPWES. All units, including ADUs, shall have architecturally treated (brick or stone) front facades, except for the eave areas above the gutterline. The external side walls of Units 1, 47 and 48, facing the site's entrance from Post Forest Drive, shall also be clad with brick or stone, except for the eave areas above the gutterline. These eave areas, for the front facades and the referenced side walls, shall be covered with a cementitious siding. The rear walls of the rear load units specified on the GDP shall be clad with cementitious siding, except that all rear load units (including ADUs) shall be clad with brick or stone on the first floor to match the front facade treatment, with cementitious siding on the second and third floor of these units. On all of the rear walls of the rear load units (including the ADUs), a four (4) inch trim shall be provided around the windows and doors and architectural headers will be provided on these windows.

12. **Amenity Design.** The entry, central plaza and pocket park areas shall include enhanced landscaping, seating areas and site amenities as generally illustrated on Sheets 3, 4, 5 and 7 of the GDP. The design of the entry, central plaza and pocket park areas are subject to minor modifications by final engineering in accordance with Sect. 18-204 of the Zoning Ordinance. At a minimum, the Applicant shall provide the number of benches shown on Sheets 4 and 5 of the GDP.

13. **Driveways.** All driveways shall be a minimum of eighteen (18) feet in length from the inside of the sidewalk to the garage door.

14. **Tree Preservation.**

a. **Tree Preservation Plan.** The Applicant shall submit a tree preservation plan as part of the first and all subsequent site plan submissions. Particular attention shall be directed to the following areas: (1) the northeast corner of the site to determine if additional tree save can be accomplished within the pocket park area depicted on Sheet 3 of the GDP; (2) the immediate area of the existing street trees along the Post Forest Drive frontage of the site; and (3) the immediate area of the minor plaza as further discussed in Proffer 14f. The Applicant will make every reasonable effort to save these trees in place, provided that such effort does not require installation of retaining walls in excess of four (4) feet in height. To the extent that these trees cannot be preserved in place due to grading needs that require retaining walls in excess of four (4) feet in height, the Applicant shall provide a transplantation program in accordance with the specifications set forth in the transplantation plan in Proffer No. 14g. hereinbelow. The preservation plan shall be prepared by a professional experienced in the preparation of tree preservation plans, such as a certified arborist or landscape architect, and the plan shall be reviewed and approved by the UFMB. The tree preservation plan shall consist of a tree survey that includes the location, species, size, crown spread and condition rating percentage of all trees twelve (12) inches in diameter and greater within twenty (20) feet to either side of the limits of clearing and grading shown on the GDP. The tree survey shall also include areas of clearing and grading not shown on the GDP resulting from engineering requirements, such as off-site clearing and grading for utilities or stormwater outfall. The condition analysis ratings shall be prepared using methods outlined in the latest edition of *The Guide for Plant Appraisal* published by the International Society of Arboriculture. Specific tree preservation activities that will maximize the survivability of trees identified to be preserved, such as crown pruning, root pruning, mulching, fertilization and others as necessary, shall be included in the plan. Additional landscaping, that emulates a natural forest edge transition from the lawn areas to the existing trees to be preserved, shall be provided using native trees and shrubs planted in a contiguous mulched bed adjoining the tree preservation area, as approved by UFMB. Trails within the tree preservation area shall be located along the previously disturbed areas to minimize further disturbance to the existing trees, as determined by UFMB.

b. **Tree Preservation Walk-Through.** The Applicant shall retain the services of a certified arborist or landscape architect, and shall have the limits of clearing and grading marked with a continuous line of flagging prior to the pre-construction meeting. Before or during the pre-construction meeting, the Applicant's certified arborist or landscape architect shall walk the limits of clearing and grading with a UFMB representative to determine where minor adjustments to the clearing limits can be made to increase the survivability of trees at the edge of the limits of clearing and grading. Trees that are not likely to survive construction due to their species and/or their proximity to disturbance will also be identified at this time, and the Applicant shall remove them as part of the clearing operation. Any tree that is designated for removal at the edge of the limits of clearing and grading or within a

tree preservation area shall be removed using a chain saw to avoid damage to surrounding trees. If a stump must be removed, this shall be done using a stump-grinding machine in a manner causing as little disturbance as possible to the adjacent trees.

c. **Tree Protection Fencing.** All trees shown to be preserved on the tree preservation plan shall be protected by tree protection fencing. Tree protection fencing four (4) feet high, fourteen (14) gauge welded wire attached to six (6) foot steel posts driven eighteen (18) inches into the ground and placed no further than ten (10) feet apart shall be erected at the limits of clearing and grading as shown on the demolition, and Phase I & II Erosion and Sediment Control Sheets for those tree save areas depicted on the GDP. All tree protection fencing shall be installed prior to any clearing and grading activities, including the demolition of any existing structures. The installation of all tree protection fencing, except super silt fencing, shall be performed under the supervision of a certified arborist. Three (3) days prior to the commencement of any clearing, grading or demolition activities, the UFMB shall be notified and given the opportunity to inspect the site to assure that all tree protection devices have been correctly installed.

d. **Limits of Clearing and Grading.** The Applicant shall conform to the limits of clearing and grading as shown on the GDP, subject to the installation of utilities and/or trails as determined necessary by the Director of DPWES. Clearing and grading limits within the central tree save area may be adjusted, subject to UFMB approval, in consultation with the Applicant's certified arborist or landscape architect based on field location of the quality trees identified by UFMB and their driplines. All utility crossings (including stormwater management outfall facilities and sanitary sewer lines) shall be located so as not to interfere with proposed tree save areas. If it is determined necessary to install utilities and/or trails within the limits of clearing and grading as shown on the GDP, they shall be located in the least disruptive manner necessary as determined by UFMB. A replanting plan shall be developed and implemented, subject to approval by UFMB, for any areas within the limits of clearing and grading that must be disturbed.

e. The trail, within the central tree preservation area, shall be installed in coordination with UFMB and shall be constructed in a manner that will minimize the disturbance to the existing mature trees. The filling of minor depressions and the removal of noxious weeds and vegetation may be permitted under the supervision and approval of UFMB and the Applicant's certified arborist or landscape architect. The Applicant shall install additional landscape material within this tree save area to enhance the natural appearance of this wooded site, subject to approval of UFMB.

f. The final design of the minor plaza area depicted on Sheet 5 of the GDP shall be subject to the review and approval of UFMB at time of site plan approval. The design configuration requirement for the plaza shall be flexible in order to maximize the preservation of quality trees, subject to the approval of UFMB.

g. **Transplantation.** If required by Proffer No. 14b. hereinabove, the Applicant shall provide and implement a transplanting plan as part of the first and all subsequent site plan submissions for review and approval by the Urban Forester. However, to ensure responsible survivability, in no event shall transplanting of deciduous trees greater than three (3) inch caliper be required. The plan shall be prepared by a professional with experience in the preparation of tree transplanting plans such as a certified arborist or landscape architect. The plan shall generally address the following items:

(1) The species and sizes to be transplanted;

(2) The existing location of the trees;

(3) The final location of the trees;

(4) The proposed time of the year when the trees will be moved;

(5) The transplant methods to be used, including tree spaces size, if applicable;

(6) Details regarding after transplant care, including mulching, fertilization, watering, and if necessary, support measures such as cabling or staking; and

(7) Provision for the storage of the trees if necessary during construction.

If weather, season of the year, or ground conditions preclude implementation of a transplanting plan, appropriate nursery stock shall be provided and planted in locations indicated for plant material transplanted on-site in consultation with UFMB.

15. **Garages.** The Applicant shall place a covenant on each townhouse garage unit that prohibits the use of the garage for any purpose which precludes motor vehicle storage. The covenant shall be in a form acceptable to the County Attorney and it shall be recorded among the land records of Fairfax County prior to the sale of lots and shall run to the benefit of the HOA and the Board. Initial purchasers shall be advised in writing of this restriction prior to execution of the sales contract; this restriction shall also be included in the HOA documents.

16. **Private Streets.** The on-site private street shall be constructed in conformance with the Public Facilities Manual ("PFM") and shall be constructed of materials and depth of pavement consistent with Sect. 7-0502 of the PFM, subject to any design modifications as to pavement and easement width and use of curb, that are approved by the Director of DPWES. Signage shall be placed on the private street to direct through traffic to utilize the private street for access through the development. The Homeowners' Association shall be responsible for the maintenance of the on-site private street. All prospective purchasers shall be advised of this maintenance obligation prior to entering into a contract of sale and said obligation will be disclosed in the HOA documents. The Applicant shall deposit the sum of $18,250 into a maintenance account that will be available for utilization by the

HOA for street maintenance after the Applicant turns over control of the HOA to the homeowners.

17. **Park Authority.** Prior to site plan approval, the Applicant shall contribute $46,640 to the Fairfax County Park Authority for use on capital facilities in a Fairfax County park in the general vicinity of the Subject Property.

18. **Bus Stop Shelter.** The Applicant shall construct a bus stop shelter prior to issuance of the tenth (10th) residential use permit for the site, or upon demand, whichever event first occurs, on Post Forest Drive near the entrance to the site, at a location to be determined in consultation with the County's Department of Transportation. The HOA shall provide and maintain a trash receptacle for the bus shelter and the HOA shall maintain trash removal from the receptacle on a regular basis. This maintenance requirement shall be set forth in the HOA documents.

19. **Special Permit Amendment.** Prior to site plan approval, the Applicant shall obtain approval by the Fairfax County Board of Zoning Appeals of a Special Permit Amendment (SPA 80-S-067-02) deleting the subject property of this rezoning from the Special Permit for the Church and School. No site plan shall be submitted unless or until such Special Permit Amendment is approved.

20. **Fairfax Center Area Road Fund.** The Applicant shall contribute to the Fairfax Center Area Road Fund in accordance with the "Procedural Guidelines" adopted by the Board on November 22, 1982, as amended, subject to credits for any creditable expenses, as determined by the Fairfax County Department of Transportation and DPWES. This contribution is currently specified to be Nine Hundred and Ninety-Three Dollars ($993.00) per dwelling unit.

21. **Crosswalks.** Subject to VDOT approval, the Applicant shall provide a painted pedestrian crosswalk across Post Forest Drive at the northernmost entrance to the site. The crosswalk shall be provided at the time of construction of the site's entrance from Post Forest Drive.

22. **Traffic Signal.** At the time of site plan approval, the Applicant shall demonstrate to DPWES that the Applicant has paid its pro rata share towards the cost of equipping and installing a traffic signal by others at the intersection of Post Forest Drive and Legato Road. Said pro rata share to be paid to the party responsible for its construction. Said pro rata share shall be determined by DPWES based upon the percentage of PM peak hour site-generated traffic utilizing the subject intersection coincident with the build-out of the adjacent Fair Chase development.

23. **Stormwater Management/Low Impact Design ("LID") Standards.** Stormwater management and BMPs will be provided in a stormwater management dry pond with extended drawdown time. Other measures, including innovative BMPs, may be utilized as supplemental designs. LID measures, i.e., a vegetative swale and/or filter strip, will be used in areas adjacent to the parallel parking, subject to approval by DPWES and UFMB. In the event that the proposed LID measures require a change in the design of the

development that is not in substantial conformance with the GDP, a Proffered Condition Amendment may be required, as determined by the Zoning Administrator, pursuant to Sect. 18-204 of the Zoning Ordinance and Proffer No. 2 hereinabove.

24. **Stormwater Management Pond Landscaping.** In order to restore a natural appearance to the proposed stormwater management pond, the landscape plan submitted as part of the first submission of the site plan shall show the restrictive planting easement for the pond and the maximum feasible amount of landscaping that will be allowed in the planting areas of the pond outside of that restrictive planting easement, in keeping with the planting policies of DPWES and the Applicant shall install said landscaping in accordance with said plan, subject to DPWES and UFMB approval.

25. **Counterparts.** These proffers may be executed in one or more counterparts, each of which when so executed and delivered shall be deemed an original, and all of which taken together shall constitute but one and the same instrument.

[SIGNATURES ON THE FOLLOWING PAGE]

APPLICANT/CONTRACT PURCHASER OF TAX MAP 56-1 ((1)) PARCELS 11H (PART) AND 11I [FORMERLY PARCELS 11C (PART), 11E, 11F AND 11G (PART)]

STANLEY MARTIN COMPANIES, INC.

By: _____

Steven B. Alloy, President

OWNER OF TAX MAP 56-1 ((1)) PARCEL 11H (PART) [FORMERLY PARCELS 11C (PART), 11E AND 11G (PART)]

TRUSTEES FOR THE BETHLEHEM BAPTIST CHURCH

By: _____

Gilbert T. Chihocky, Trustee

_____

Patrick M. Matus, Trustee

_____

Kenneth F. McKeehan, Trustee

OWNERS OF TAX MAP 56-1 ((1)) PARCEL 11I [FORMERLY PARCELS 11F AND 11G (PART)]

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David R. Stokes

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Karen M. Stokes

APPLICANT/CONTRACT PURCHASER OF TAX MAP 56-1 ((1)) PARCELS 11H (PART) AND 11I [FORMERLY PARCELS 11C (PART), 11E, 11F AND 11G (PART)]

STANLEY MARTIN COMPANIES, INC.

By: _____
Steven B. Alloy, President

OWNER OF TAX MAP 56-1 ((1)) PARCEL 11H (PART) [FORMERLY PARCELS 11C (PART), 11E AND 11G (PART)]

TRUSTEES FOR THE BETHLEHEM BAPTIST CHURCH

By: _____
Gilbert T. Chihocky, Trustee

_____
Patrick M. Matus, Trustee

_____
Kenneth F. McKeehan, Trustee

OWNERS OF TAX MAP 56-1 ((1)) PARCEL 11I [FORMERLY PARCELS 11F AND 11G (PART)]

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David R. Stokes

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Karen M. Stokes