

PROFFERS

TCR MID ATLANTIC PROPERTIES, INC.

RZ 2005-PR-020

January 23, 2006

Pursuant to Section 15.2-2303(a) Code of Virginia, 1950, as amended, the owner and TCR Mid Atlantic Properties, Inc. (hereinafter referred to as the "Applicant"), for themselves, their successors and assigns in RZ 2005-PR-020, filed for property identified as Tax Map reference 56-2 ((1)) 19 and 20 (hereinafter referred to as the "Application Property") hereby proffer the following, provided that the Board of Supervisors approves a rezoning of the Application Property to the R-16 District.

1. GENERALIZED DEVELOPMENT PLAN

- A. Subject to the provisions of Section 18-204 of the Fairfax County Zoning Ordinance (hereinafter referred to as the "Zoning Ordinance"), development of the Application Property shall be in substantial conformance with the GDP, entitled "Fairfax Ridge Land Bay C" prepared by Land Design, dated October 7, 2005 as revised through November 30, 2005.
- B. Pursuant to Paragraph 5 of Section 18-204 of the Zoning Ordinance, minor modifications to the GDP may be permitted as determined by the Zoning Administrator. The Applicant reserves the right to make minor adjustments to the layout, design, vehicular circulation or requirements of the Virginia Department of Transportation ("VDOT") or Fairfax County at the time of site plan submission, provided that there is no decrease to the amount of open space, tree save, limits of clearing and grading, or distances to peripheral lot lines as dimensioned on the GDP, and provided that the adjustments are in substantial conformance with the GDP.

2. TRANSPORTATION

- A. The Applicant shall reimburse Fairfax County in the amount of Twenty-Three Thousand Six Hundred and Five Dollars (\$23,605.00) for right-of-way on Waples Mill Road, which was purchased by Fairfax County pursuant to an agreement described in Deed Book 16645, Page 1134, of the Fairfax County Land Records. Said reimbursements shall be made prior to site plan approval for development of the Application Property.
- B. The Applicant shall provide a contribution to the Fairfax Center Area Road Fund consistent with the Procedural Guidelines adopted by the Board of Supervisors on November 22, 1982, as may be revised. In accordance with the Fairfax Center Road

Fund Policy, the Applicant shall receive credit against the Fairfax Center Road Fund contribution for those improvements that are creditable expenses.

3. **SIDEWALKS AND TRAILS**

- A. The Applicant shall provide five (5)-foot wide sidewalks on the Application Property, as generally shown on the GDP.
- B. The Applicant shall construct an eight (8)-foot wide trail in the open space, as shown on the GDP. The trail shall be field located and the selection of material types shall be determined in conjunction with Urban Forest Management (UFM) and the Fairfax County Park Authority (FCPA) in order to minimize disturbance in the Resource Protection Area (RPA). Said trail shall connect to an existing trail on adjacent Land Bay A, as shown on the GDP, provided that concurrence of the owners of Land Bay A is obtained. The Applicant shall use best efforts in obtaining that concurrence and the resulting trail connection. The trail shall also connect to sidewalks throughout the Application Property, as shown on the GDP.
- C. The Applicant shall construct a ten (10) foot wide trail within the right-of-way along the Application Property's Waples Mill Road frontage, as shown on the Countywide Trail Plan.

4. **INTERPARCEL ACCESS.** Prior to site plan approval, the Applicant shall convey a twenty five (25) foot wide ingress/egress easement for the benefit of adjacent property identified as Tax Map 56-2 ((26)) 100 -330 (11211 Waples Road), hereinafter referred to as the "Adjacent Parcel". Said easement shall be exclusive and limited to providing ingress and egress for the Adjacent Parcel across the Application Property to Fairfax Ridge Road. Subject to receiving concurrence from the owners of the Adjacent Parcel at no cost to the Applicant, the Applicant shall construct an interparcel access between the Application Property and the parking area of the Adjacent Parcel. Such construction shall be complete prior to final bond release for the Application Property.

As long as the Adjacent Parcel is developed with direct access to Waples Mill Road, this interparcel access shall be controlled by a gate, installed by the Applicant, to prohibit residents of the Application Property from accessing Waples Mill Road through the Adjacent Property. Should the Adjacent Parcel be redeveloped with no direct access to Waples Mill Road, any control gate previously installed shall be removed.

If, the Applicant is unable to obtain concurrence from the owners of the Adjacent Parcel to construct the interparcel connection, the Applicant shall be relieved of its obligations for construction and control gate installation under this proffer.

5. **TRANSPORTATION DEMAND MANAGEMENT**

Transportation demand management (“TDM”) strategies, as detailed below, shall be utilized by the Applicant and/or its successors or assigns to reduce vehicular trips during peak hours. Should the Application Property be developed with condominiums, these transportation strategies shall be set forth in the Condominium Owners Association (“COA”) documentation, and shall become the responsibility of the COA.

Mass transit, ride-sharing, and other transportation strategies shall be utilized to reduce trips during peak hours by a minimum of 15% according to Fairfax County’s trip generation calculations. Residents of the development shall be advised of this transportation strategy. Transportation coordination duties shall be carried out by the COA.

The following is a list of strategies that shall be instituted:

- A. Designate an individual (property management staff) to act as the transportation coordinator for the Application Property, who shall be responsible to implement the TDM strategies for the Application Property, with on-going coordination with the Fairfax County Department of Transportation. Such individual shall also be responsible for communication and coordination of TDM strategies with the COA for the development on adjacent Land Bay A and the COA for any future development on adjacent Land Bay B. This individual may, if appropriate, may be the same person for all three land bays (A, B and C).
- B. Disseminate information regarding Metrobus, carpool and/or vanpool, ridesharing, and other relevant transit options in residential sale/leasing packages;
- C. Provide Metro maps, schedules, and forms; information on the Fairfax County Ride Share Program; and information on other relevant transit options available to owners/tenants either in a newsletter to be published on a regular basis and not fewer than four (4) times per calendar year or on a web site;
- D. Provide SmartCards loaded with a minimum of \$25, or Metro checks in the amount of \$25, to all tenants upon their initial lease or to initial purchasers at the time of settlement.
- E. Provide a business center on the Application Property for use by the residents. The small business center shall include telephones, fax machines, computers and high-speed internet access.
- F. Equip all residential units on the Application Property with broadband wiring for internet access.

- G. Provide secure bike parking for residents of the building. Provide bicycle racks for visitors either in the visitor parking area or in the vicinity of the main entrance.
- H. Participate in a larger Traffic Management Area Program should one be established by the County for this area.
- I. The TDM program shall be continued by the COA in the event of a condominium conversion.

Eighteen months following build-out of the Application Property, and every six months thereafter, the effectiveness of the TDM strategies shall be evaluated using surveys prepared by the Transportation Coordinator in cooperation with FCDOT. The Applicant shall submit to FCDOT the result of the surveys in order to determine travel characteristics and whether the required reduction in trips has been achieved. If the TDM surveys show that the trip reduction objective is being met, than the Applicant shall proceed with the TDM strategies as implemented and shall provide continuing surveys on a bi-annual basis. In the event such objective has not been met, the Applicant shall meet with FCDOT to review the strategies in place and to develop modifications to the TDM strategies that will facilitate meeting the trip reduction objective and shall proceed to conduct surveys every six months until the reduction objective is met.

6. TREE PRESERVATION, LANDSCAPING AND OPEN SPACE

- A. Tree Preservation Plan. The Applicant shall submit a tree preservation plan as part of the first and all subsequent site plan submissions. The tree preservation plan shall be prepared by a professional with experience in the preparation of tree preservation plans, such as a certified arborist or landscape architect, and shall be subject to the review and approval of UFM, DPWES.

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 10 inches in diameter and greater, and 25 feet on either side of the limits of clearing and grading shown on the GDP for the entire site. The tree preservation plan shall provide for the preservation of those areas shown for tree preservation, those areas outside of the limits of clearing and grading shown on the GDP and those additional areas in which trees can be preserved as a result of final engineering. 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 any tree identified to be preserved, such as crown pruning, root pruning, mulching, fertilization, and others as necessary, shall be included in the plan.

- B. Protection of Existing Understory Vegetation and Soil Conditions in Tree Preservation Areas.

All tree preservation-related work occurring in or adjacent to tree preservation areas shall be accomplished in a manner that minimizes damage to vegetation to be preserved, including any woody, herbaceous or vine plant species that occurs in the lower canopy environment, and to the existing top soil and leaf litter layers that provide nourishment and protection to that vegetation. Removal of any vegetation, if any, or soil disturbance in tree preservation areas, including the removal of dead trees or plant species that may be perceived as noxious or invasive, such as poison ivy, greenbrier, multi-floral rose, etc. shall be subject to the review and approval of UFM, DPWES.

The use of equipment in tree preservation areas will be limited to hand-operated equipment such as chainsaws, wheel barrows, rakes, and shovels. Any work that requires the use of motorized equipment, such as tree transplanting spades, skid loaders, tractors, trucks, stump-grinders, etc., or any accessory or attachment connected to this type of equipment shall not occur unless pre-approved by UFM, DPWES.

- C. Retrieval of Native Plants. The Applicant shall cooperatively work with the Providence District Supervisor's Office, the Fairfax County Urban Forest Management Branch, *Earth Sangha* and *Land and Waters* to coordinate an opportunity for the removal and transplantation of native plant species located outside tree save areas as designated on the GDP. The Applicant shall mark the general area of the tree save areas following approval of this rezoning and shall notify the Providence District Supervisor's Office, the Fairfax County Urban Forest Management Branch, *Earth Sangha* and *Land and Waters* of the opportunity to rescue plants. Marking of the tree save areas after approval of this rezoning and providing notification shall constitute fulfillment of this proffer. This proffer shall in no way interfere with the land development process or construction schedule after approval of this rezoning.
- D. 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 walk-through meeting. During the tree preservation walk-through meeting, the Applicant's certified arborist or landscape architect shall walk the limits of clearing and grading with an UFM, DPWES representative to determine where adjustments to the clearing limits can be made to increase the area of tree preservation and/or to increase the survivability of trees at the edge of the limits of clearing and grading, and such adjustment shall be implemented. Trees that are identified specifically by UFM in writing as dead or dying may be removed as part of the clearing operation. Any tree that is so designated shall be removed using a chain saw and such removal shall be accomplished in a manner that avoids damage to surrounding trees and associated understory vegetation. 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 adjacent

trees and associated understory vegetation and soil conditions. The Applicant shall notify the Providence District Supervisor ten (10) days in advance of the tree preservation walk through meeting, and the Providence District Supervisor, or his or her representative, shall be given the opportunity to attend the tree preservation walk through meeting.

- E. Limits of Clearing and Grading. The Applicant shall conform strictly to the limits of clearing and grading as shown on the GDP, subject to allowances specified in these proffered conditions and for the installation of utilities and/or trails, as determined necessary by the Director of DPWES, as described herein. If it is determined necessary to install utilities and/or trails in areas protected by the limits of clearing and grading as shown on the GDP, they shall be located in the least disruptive manner necessary as determined by UFM, DPWES. A replanting plan shall be developed and implemented, consistent with the installed utilities and/or trails and any easements associated therewith, subject to approval by UFM, DPWES, for any areas protected by the limits of clearing and grading that must be disturbed for such trails or utilities.

- F. Tree Protection Fencing.

All trees shown to be preserved on the tree preservation plan shall be protected by tree protection fencing. Tree protection fencing in the form of a super silt fence shall be erected at the limits of cleaning and grading as shown on the GDP, as modified by the proffer related to "root pruning" below. If UFM determines that the required trenching for super silt fence will sever or wound compression roots which can lead to structural failure and/or uprooting of trees, the Applicant shall in lieu of the super silt fence provide fencing that is four (4) foot 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. All tree protection fencing shall be installed after the tree preservation walk-through meeting, but prior to any clearing and grading activities. The installation of all tree protection fencing shall be performed under the supervision of a certified arborist and UFM, and accomplished in a manner that does not harm existing vegetation that is to be preserved. Ten (10) days prior to the commencement of any clearing, grading, or demolition activities, but subsequent to the installation of the tree protection devices, the UFM, DPWES and the Providence District Supervisor shall be notified and given the opportunity to inspect the site to ensure that all tree protection devices have been correctly installed.

If it is determined that the fencing has not been installed correctly, no grading or construction activities shall occur until the fencing is installed correctly, as determined by UFM, DPWES. At the discretion and direction of the Providence District Supervisor, the adjacent and abutting property owners shall be notified by United States Mail no later than five (5) days prior to the commencement of any clearing, grading, or demolition activities and invited to a meeting with

the Providence District Supervisor to inspect the site to ensure that all tree protection devices have been correctly installed.

- G. Root Pruning. The Applicant shall root prune, as needed to comply with the tree preservation requirements of these proffers. All treatments shall be clearly identified, labeled, and detailed on the erosion and sediment control sheets of the site plan submission. The details for these treatments shall be reviewed and approved by UFM, DPWES, accomplished in a manner that protects affected and adjacent vegetation to be preserved, and may include, but not be limited to the following:
- Root pruning shall be done with a trencher or vibratory plow to a depth of 18 inches.
 - Root pruning shall take place prior to any clearing and grading, or demolition of structures.
 - Root pruning shall be conducted with the supervision of a certified arborist.
 - An UFM, DPWES, representative shall be informed when all root pruning and tree protection fence installation is complete.
- H. Site Monitoring. During any clearing or tree/vegetation/structure removal on the Application Property, a representative of the Applicant shall be present to monitor the process and ensure that the activities are conducted as proffered and as approved by UFM. The Applicant shall retain the services of a certified arborist or landscape architect to monitor all construction and demolition work and tree preservation efforts in order to ensure conformance with all tree preservation proffers and UFM approvals. The monitoring schedule shall be described and detailed in the Landscaping and Tree Preservation Plan, and reviewed and approved by UFM, DPWES. The Providence District Supervisor shall be notified of the name and contact information of the Applicant's representative responsible for site monitoring at the tree preservation walk-through meeting.
- I. Tree Value Determination. The Applicant shall retain a professional with experience in plant appraisals such as a certified arborist or landscape architect to determine the replacement value of all trees 10 inches in diameter or greater located within 25 feet of the outer edge of the limits of clearing and grading, as shown on the GDP. These trees and their value shall be identified on the tree preservation plan at the time of the first submission of the site plan. The replacement value shall take into consideration the age, size and condition of these trees and shall be determined by the so-called "Trunk Formula Method" contained in the latest edition of the Guide for Plant Appraisal published by the International Society of Arboriculture, subject to review and approval by UFM, DPWES.
- J. Tree Bonds. At the time of site plan approval, the Applicant shall post a cash bond or a letter of credit payable to the County of Fairfax to ensure preservation and/or replacement of the trees for which a tree value has been determined that die or are

dying due to unauthorized normal construction activities as permitted on the approved plan.

Any trees shown to be preserved on the Tree Preservation Plan that die or are dying due to construction activities NOT permitted on the approved plan shall be replaced with trees of equivalent species and size and the bond monies for said trees shall not be refunded. The terms of the letter of credit shall be subject to approval by the County Attorney. The total amount of the cash bond or letter of credit shall be in the amount of the sum of the assigned replacement values of the designated trees.

If, at the time of final bond release, trees are found to be dead or dying despite adherence to approved construction activities by Urban Forest Management, DPWES, the cash bond or letter of credit shall be used as necessary to plant similar size and species, or species appropriate to the site, in consultation with Urban Forest Management, DPWES, and the developer's certified arborist. The cash bond or letter of credit shall not be used for the removal of the dead/dying trees normally required by the PFM and the Conservation Agreement.

Any funds remaining in the letter of credit or cash bond will be released two (2) years from the date of release of the Application Property's conservation escrow, or sooner, if approved by UFM, DPWES.

- K. Open Space Maintenance. At the time of final site plan approval, an open space easement shall be recorded over the large naturalized area consisting of Parcel 20 and the southern portion of Parcel 19. This easement shall ensure that this area will be left in permanent open space and will be maintained in its wooded state. The Applicant or subsequent COA shall be responsible for the maintenance of this and all open space on the Application Property. Responsibility for open space maintenance shall be included in the COA documents.

7. **PARKS AND RECREATION**

The Applicant shall provide on-site recreation amenities that include trails in the open space, pedestrian connections to Land Bays A and B, outdoor seating, a plaza area and indoor and outdoor exercise facilities as shown on the GDP. In addition, at the time of site plan approval, the Applicant shall contribute the sum of forty thousand eight hundred and ten (\$40,810.00) to the Fairfax County Park Authority for the development of recreational facilities in the vicinity of the Application Property, as may be determined appropriate in consultation with the Providence District Supervisor.

8. **STORMWATER MANAGEMENT - BEST MANAGEMENT PRACTICES**

- A. A regional stormwater management pond is located on the adjacent Land Bay A located immediately west of the Application Property. Said regional pond was constructed as a part of the development pursuant to RZ 2000-PR-056 for the

rezoning of Land Bays A and B. The pond was specifically designed to treat and filter water from Land Bays A, B and C (the Application Property), and to satisfy the RPA pollution control objectives of the Chesapeake Bay Preservation Ordinance and the forty percent (40%) requirement for phosphorus removal, as required by the Public Facilities Manual ("PFM"). The Applicant shall provide adequate outfall to the regional pond on adjacent Land Bay A, as shown on the GDP.

- B. In reliance upon the existence of the regional pond on adjacent Land Bay A, the Applicant intends to process a waiver of on-site stormwater management detention and BMP requirements. In the event that DPWES does not approve a waiver of standard on-site stormwater management detention requirements, the Applicant shall apply for a PCA/FDPA to establish an on-site stormwater management pond, which may result in a loss of density.

9. AFFORDABLE HOUSING

The Applicant shall provide three (3) affordable dwelling units on-site concurrent with construction of other units.

10. DESIGN

- A. The design of the building on the Application Property shall be in strict conformance with the architectural elevations shown on Sheet 4A of the GDP. The Applicant reserves the right to make final design changes as a result of final architectural design, so long as the character and quality of design remains consistent with what is shown. The Applicant reserves the right to substitute materials listed below with an equivalent or those of a higher quality. The building shall be constructed with a mixture of masonry, siding and glass materials compatible with the materials and colors utilized on the existing multi-family units on adjacent Land Bay A. Materials include the following, however can be replace with the equivalent, or those of a higher quality: horizon shingle (Shadow Black); 5" Rivera double siding (Sandalwood); 3" Rivera triple siding (Sandalwood); Rivera siding trim, fascia, and frieze (Sandstone); Continental field brick (#455); Continental accent brick (cream wire-cut oversized with white mortar); Duron trim paint (Weathershield semi-gloss white); Duron railing paint (Duraclad gloss black).
- B. Parking shall be provided for residents and visitors in a partially underground parking structure as shown on the GDP. Visitor parking and loading shall be separated from resident parking and shall not be gated. The height of the loading area shall be a minimum of 18 feet, sufficient to accommodate moving and delivery trucks. Additionally, if access to resident parking is gated or otherwise controlled, such control shall be designed with sufficient room for vehicular turn-around in the visitor parking area.

- C. All homes constructed on the Application Property shall meet the thermal standards of the CABO Model Energy Program for energy efficient homes, or its equivalent, as confirmed by Virginia Power, Washington Gas or an independent third party professional consultant, for either electric or gas energy systems.
- D. The Applicant shall provide outdoor lighting in the entry and common areas, as shown on the GDP. All lighting shall include cut-off features and shall comply with Sect. 14-900, Outdoor Lighting Standards.
- E. All structures shall be located a minimum of ten (10) feet from the RPA designation, as shown on the GDP. All construction activity within this ten (10)-foot limit shall include preventative measures to protect the RPA, such as protection fencing as described in Proffer 6.F.

11. NOISE ATTENUATION

Polysonics Corporation has prepared a Traffic Noise Analysis of the Application Property dated September 9, 2005. This report provides an analysis of noise impacts associated with Waples Mill Road and Route 50 and recommends mitigation measures. The Applicant shall submit the report to DPWES with submission of the site plan. Any units requiring mitigation shall be identified on the site plan.

In order to reduce interior noise to a level of approximately 45 dBA L_{dn}, units located within 225 feet of the existing right-of-way of Route 50 which are projected to be impacted by highway noise levels above 65 dBA L_{dn}, shall be constructed with the following acoustical measures:

- A. Exterior walls should have a laboratory sound transmission class (STC) rating of at least 39.
- B. Doors and glazing shall have a laboratory STC rating of at least 28 unless glazing constitutes more than 20% of any façade exposed to noise levels above L_{dn} 65 dBA. If glazing constitutes more than 20% of an exposed façade, then the glazing shall have a STC rating of at least 39.
- C. All surfaces should be sealed and caulked in accordance with methods approved by the American Society for Testing and Materials (ASTM) to minimize sound transmission.

Prior to the issuance of building permits, alternative interior noise attenuation measures may be provided subject to the implementation of a refined noise study as reviewed and approved by DPWES after consultation with the Department of Planning and Zoning.

12. **HERITAGE RESOURCES**

The Applicant shall conduct a Phase I Archeological Study of the Application Property and submit it to the Fairfax County's Cultural Resource Protection Section (FCCRPS) for review and approval, prior to final site plan approval. If determined warranted by the Phase I Study, the Applicant shall undertake Phase II and Phase III Archeological Studies for FCCRPS review and approval prior to any land disturbing activities on the Application Property.

13. **ASBESTOS**

If DPWES determines that a potential health risk exists due to the presence of asbestos-containing materials on the Application Property, then the Applicant shall:

- A. Take appropriate measures, as determined by the Health Department, to alert all construction personnel as to the potential health risks; and
- B. Commit to appropriate techniques, as determined by DPWES in coordination with the Health Department and the Applicant, relative to the removal and disposal of the asbestos-containing materials to minimize this risk. Such techniques may include, but are not limited to, dust suppression measures during all blasting and drilling activities, covered transportation of removed materials, and appropriate disposal of such materials in accordance with all applicable State, Federal, and County requirements.

14. **BLASTING**

If blasting is required, and before any blasting occurs on the Application Property, the Applicant or its successors will ensure that blasting is done per Fairfax Fire Marshal requirements and all safety recommendations of the Fire Marshal, including, without limitation, the use of blasting mats, shall be implemented. In addition:

- A. A professional consultant shall be retained to perform a pre-blast survey of each house or residential building located within one hundred fifty (150) feet and any well located within two hundred fifty (250) feet of the Application Property boundary. Residences within two hundred fifty (250) feet are located within the tax map number 56-2 ((27)) (10) 101-410. The consultant shall request access by way of certified mail to the last known address of the owner(s) of any house, buildings, swimming pools or wells located within the aforesaid ranges, to determine the pre-blast conditions of these structures. The consultant shall give a minimum of fourteen (14) days notice of the scheduling of the pre-blast survey. All owners of structures entitled to pre-blast inspections shall be provided with the name, address, and phone number of the blasting contractor's insurance carrier. Written confirmation that the

pre-blast survey has been completed shall be provided to DPWES and copies of the survey shall be provided to Fairfax County upon request prior to any blasting.

- B. The consultant shall place seismographic instruments prior to blasting to monitor the shock waves. Seismographic monitoring records shall be provided to County agencies upon their request.
- C. The consultant shall provide an analysis of the potential for gas migration from the site to the Fire Marshal for review and approval prior to blasting, and appropriate mitigation or notification as determined by the Fire Marshal shall be implemented.
- D. All residences within 150 feet of the Application Property boundary shall be notified ten (10) days prior to blasting, no blasting shall occur until such notice has been given.
- E. Upon receipt of a claim of actual damage resulting from said blasting, the consultant shall respond within five (5) days by meeting at the site of the alleged damage to confer with the property owner. Any verified claims for damage due to blasting shall be expeditiously resolved.
- F. Blasting subcontractors shall be required to maintain necessary liability insurance to cover the costs of repairing any damages to structures that are directly attributable to the blasting activity.

15. CONDOMINIUM OWNERS' ASSOCIATION

- A. Should the Application Property be developed with or converted to condominiums, the Applicant shall establish a COA to own, manage and maintain all common areas and to operate the TDM program. The maintenance and operational responsibilities of the COA shall be included in the COA documentation. In accordance with the Virginia Property Owners' Association Act, Section 55 of the Code of Virginia, purchasers shall be advised of these requirements and restrictions prior to entering into a contract of sale through a disclosure package that contains the COA documentation.
- B. Subsequent to the time when the condominium owners on adjacent Land Bay A assume authority for the Land Bay A COA, the Applicant shall make best efforts to combine the COA for the Application Property with the COA for the adjacent Land Bay A. Such combination shall include, to the extent possible, sharing the use of amenities on the combined properties, sharing of maintenance obligations, and the discussion of the potential removal or relocation of the gate currently separating Land Bays A and C. In the event that the Applicant is successful in bringing about such a combination, the agreement for such a combination, including but not limited to maintenance obligations, shall be disclosed to contract purchasers of residential units within the Application Property prior to entering into a contract of sale, and shall be

disclosed in the COA documents prepared for the Application Property. In the event the Applicant is unable to combine the COAs, the Applicant shall provide written documentation of its efforts to DPWES and shall establish a separate COA for the Application Property as outlined in Proffer 5A above.

16. SCHOOL CONTRIBUTION

Per the Residential Development Criteria Implementation Motion adopted by the Board of Supervisors ("BOS") on September 9, 2002, effective January 7, 2003, at the time of site plan approval, the Applicant shall contribute the sum of \$52,500 to the BOS for transfer to the Fairfax County School Board.

17. FIRE SAFETY

At the time of site plan approval, the Applicant shall contribute the sum of \$5,000 to the Fair Oaks Volunteer Fire Department.

18. SUCCESSORS OR ASSIGNS

The proffers shall bind and inure to the benefit of the Applicant and his or her successors and assigns.

19. 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.

[SIGNATURES BEGIN ON THE FOLLOWING PAGE]

APPLICANT/CONTRACT PURCHASER

TCR MID ATLANTIC PROPERTIES, INC.

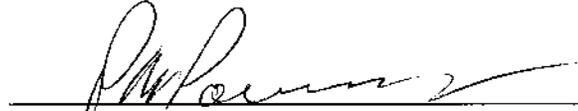
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By: P. Sean Caldwell
Its: Vice President

[SIGNATURES CONTINUED ON NEXT PAGE]

TITLE OWNER OF TAX MAP 56-2 ((1)) 19, 20

PALUMBO FAMILY LLC

A handwritten signature in black ink, appearing to read 'P. Palumbo', is written over a horizontal line.

By: Pasquale M. Palumbo

Its: Sole Managing Member

[SIGNATURES END]