

PROFFERS

RZ 2001-PR-050 STANLEY-MARTIN HOMEBUILDING, L.L.C.

August 1, 2002

Pursuant to Section 15-2.2303A of the 1950 Code of Virginia, as amended, the undersigned applicant and owners, 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. Conceptual/Final Development Plan.** Development of the property shall be in conformance with the plan entitled "Conceptual/Final Development Plan/Carey Property" ("CDP/FDP"), prepared by Patton Harris Rust & Associates, pc. (Sheets 1 through 7), revised as of June 10, 2002. Notwithstanding, the CDP/FDP is combined on one sheet, the CDP portion thereof (Section 16-501) shall constitute the entire plan relative to the points of access, the total number of units, type of units and general location of residential lots and common open space areas and distances from peripheral lot lines. Units shall be no closer than twenty-five (25) feet to the periphery of the site as shown on the CDP/FDP. All unit driveways shall be a minimum of eighteen (18) feet in length to the edge of the sidewalk so that there is no overhang of cars within the sidewalk. The Applicant shall have the option to request Final Development Plan Amendments ("FDPAs") from the Planning Commission for portions of the Plan in accordance with the provisions set forth in Section 16-402 of the Zoning Ordinance.
- 2. 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.
- 3. Recreational Facilities.** At the time of site plan approval, pursuant to Section 6-110 of the Zoning Ordinance, the Applicant shall contribute the sum of \$955 per approved dwelling unit for the total number of dwelling units on the site plan, to the Fairfax County Park Authority for use on recreational facilities in the future Fairfax County Briarwood Park (or some other County park in the general vicinity, if Briarwood Park is not constructed), subject, however, to a credit for expenditures on-site for a gazebo, benches and a four (4) foot wide sidewalk within the linear park. Notwithstanding this credit, the Applicant's contribution to the Fairfax County Park Authority shall not be less than \$15,000.

A six (6) foot high wooden (board on board) fence will be constructed on the common property line with the Hampton Commons Homeowners' Association. A gate will be provided where the trail to Hampton Commons Homeowners' Association intersects with this fence. This gate will conform in design and

material with the rest of the fence. A latch and lock fixture shall be provided by the Applicant and attached to the Hampton Commons Homeowners' Association side of the gate. The keys to the lock shall be retained by the Hampton Commons Homeowners' Association, who shall determine in its sole discretion whether the gate should be locked or unlocked.

4. **Road Dedication/Construction.** At the time of site plan approval, or upon demand by Fairfax County, whichever occurs first, right-of-way along the Lee Highway frontage necessary for public street purposes and as shown on the CDP/FDP, shall be dedicated and conveyed to the Board of Supervisors in fee simple. The Applicant shall also construct road widening, including a service drive, with curb gutter and sidewalk along the Lee Highway frontage of the Subject Property as shown on the CDP/FDP.
5. **Stormwater Management Pond Landscaping.** In order to restore a natural appearance to the proposed stormwater management pond and to plant water-tolerant plants in the bed of the pond, if determined feasible by DPWES, the landscape plan to be submitted as part of the first submission of the site plan shall show the maximum feasible amount of landscaping that will be allowed in the planting areas of the pond, in keeping with the planting policies of Fairfax County. In addition, the Applicant shall provide landscaping off-site around the area that is cleared for the stormwater management pond outfall as shown on Sheet 3 of the CDP/FDP. This stormwater management pond outfall shall be located and installed in the least disruptive manner feasible, as determined by DPWES, and subject to approval by the Urban Forestry Division. Clearing will be minimized to the maximum extent feasible. If any off-site trees within the area designated to be preserved are destroyed or irreparably damaged as a result of the Applicant's construction activities, as determined by the Urban Forestry Division, DPWES, the Applicant will provide appropriate replacement trees in terms of species, size and quantity as determined by the Urban Forestry Division pursuant to Section 12-403 of the Public Facilities Manual. The Applicant shall install said landscaping in accordance with said plan, subject to Urban Forestry approval. The stormwater management pond landscaping shall be in substantial conformance with the landscaping depicted on Sheet 5 of the CDP/FDP.
6. **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, common parking areas, and all other community-owned land and improvements.
7. **Private Streets.** The on-site private streets shall be constructed in conformance with the Public Facilities Manual ("PFM"). Said streets shall be constructed of materials and depth of pavement consistent with the PFM for public streets. Initial purchasers shall be advised in writing prior to entering into a contract of sale that the HOA shall be responsible for the maintenance of all the private streets in the development. The HOA documents shall specify that the HOA is

responsible for the maintenance of the private streets. A public ingress-egress easement shall be granted over the private streets, sidewalks and the trail to the Hampton Commons Homeowners' Association. Said easement shall be recorded at the time of site plan approval. Subject to review and approval by the County Attorney, the HOA documents shall provide for establishment of a Reserve Fund to be used as funding for maintenance of these private streets. At the time of settlement on each new unit, the Applicant shall place a minimum of \$125 per dwelling unit into this Reserve Fund, as approved by the County Attorney's office.

8. **Affordable Housing Contribution.** At the time of site plan approval, the Applicant shall contribute to the Fairfax County Housing Trust Fund a sum equal to one half of one percent (.5%) of the projected sales price of the new homes to be built on-site, as determined by the Department of Housing and Community Development and DPWES in consultation with the Applicant to assist the County in its goal to provide affordable dwellings elsewhere in the County.
9. **Density.** All density and intensity of use attributable to land areas dedicated and conveyed to the Board of Supervisors pursuant to these proffers shall be subject to the provisions of Paragraph 4 of Section 2-308 of the Zoning Ordinance and density hereby reserved to be applied to the residue of the Subject Property.
10. **Traffic Signal.** Prior to site plan approval, the Applicant shall prepare and submit a Virginia Department of Transportation ("VDOT") Warrant Study to VDOT. Said study shall be designed to determine the feasibility of installing a traffic signal and a pedestrian signal at the intersection of Lee Highway, Ellenwood Road and Hunter Road. Said study shall be based upon current VDOT intersection design as well as the future intersection design by VDOT, taking into account reconfigured access to Lee Highway as well as projected traffic. When completed, copies of the Warrant Study shall be forwarded to the Supervisor and Planning Commissioner for Providence District. In addition to providing the Warrant Study, the Applicant shall make a contribution of \$1,000 per dwelling unit, for each dwelling unit approved on the final site plan, to Fairfax County to be utilized for design and/or installation of this traffic signal. Said contribution shall be made prior to site plan approval.
11. **Off-Site Trail.** The Applicant shall construct a five (5) foot wide asphalt path extending westward within the Lee Highway right-of-way from the western edge of the Subject Property to the existing pavement area within the right-of-way adjacent to the Pan Am Shopping Center as shown on the CDP/FDP. Said path may meander, if necessary, to minimize clearing and grading as determined by the Urban Forestry Division, DPWES. Alternatively, the Applicant shall connect said path directly to the parking lot island in the Pan Am Shopping Center, adjacent to the right-of-way, if the owner of Tax Map 48-4 ((1)) Parcel 12F grants the necessary easements at no cost to the Applicant. Lighting shall be provided by the Applicant along the trail, as shown on the CDP/FDP. This trail, and lighting

for the trail, shall be bonded and constructed contemporaneously with the construction of the service drive.

12. **Tree Relocation Plan.** The Applicant shall prepare and implement a tree relocation plan to transfer certain holly trees, as specified on Sheet 7 of the CDP/FDP, onto an off-site property within a five (5) mile radius of the Subject Property; the off-site location to be subject to the approval of the Urban Forestry Division and the owner of the recipient off-site property. This plan shall be submitted with the construction plans for the subdivision. Specifically, existing holly trees worthy of transplantation, as identified by the Applicant's arborist on a tree relocation plan, shall be relocated from the on-site areas to the recipient off-site property. The following components shall be included in the relocation plan: identification of the existing locations of the trees to be relocated; an assessment of the condition and survival potential of said trees; the proposed location receiving said trees; the timing of relocation in the development process (the tree relocations shall occur at the start of site development work as approved by the receiving property owners and the County Urban Forester); the proposed time of year of the relocation; the relocation methods to be used, including tree spade size if one is used; the relocation site preparation materials and methods; and initial care after transplanting, including mulching and watering specifications to be conducted. Said plan shall be subject to review and approval of the Urban Forestry Division and shall be implemented by the Applicant.

13. **Tree Preservation.**
 - a. The Applicant shall prepare a tree preservation plans for the purposes of maximizing the preservation of existing off-site trees located in the Hampton Commons Homeowners' Association and the Braxton Homeowners' Association open space areas immediately adjacent to the common property line with the Subject Property. The open space areas that may be impacted by construction activities on-site or construction activities by the Applicant off-site are located on Tax Map 48-4 ((16)) Parcel 101A (Hampton Commons) and Tax Map 48-4 ((19)) Parcel A (Braxton).

 - b. With respect to the border with Braxton Homeowners' Association, the Applicant shall preserve the six (6) deciduous trees specifically identified on the landscape plan unless the Applicant and the Braxton Homeowners' Association agree in writing to a modification to the plan to provide a replacement tree or replacement trees, as the case may be. In that event, the Applicant shall transplant the equivalent number of trees from the Subject Property that are worthy of preservation, or, provide new deciduous trees, subject to the approval of Braxton. In the event that trees are relocated from the Subject Property, the Applicant shall provide the components of a tree relocation plan as specified in Proffer No. 12 above. The tree preservation plans shall be submitted to the Urban Forestry

Division of DPWES for review and approval as part of the first site plan and all subsequent site plan submissions. The 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 reviewed and approved by the Urban Forestry Division. 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 twenty (20) feet to either side of the limits of clearing and grading along the southern and eastern property lines. The tree survey shall also include areas of clearing and grading not shown on the CDP/FDP 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, fertilizations and others as necessary) shall be included in the plan. Utility lines shall be located and installed in the least disruptive manner feasible, as determined by DPWES, and subject to approval by the Urban Forestry Division. If any off-site trees within the area designated to be preserved are dead, dying or hazardous as a result of the Applicant's construction activities within a two (2) year time period after the completion of construction activities, the Applicant will remove said trees and provide appropriate replacement trees in terms of species, size and quantity as determined by the Urban Forestry Division pursuant to Section 12-403 of the Public Facilities Manual.

- c. Tree preservation activities may include, but are not limited to, crown pruning, root pruning, mulching and fertilization. All trees shown to be protected on the tree preservation plan shall be protected by tree protection fencing. Tree protection fencing consisting of 14-gauge welded wire fencing 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 on-site. This temporary fencing shall be installed prior to any work being conducted on-site, including demolition and clearing for Phase I of the Erosion and Sediment Control Plan. Signage shall be securely attached to the protective fencing, identifying the area as a tree preservation area and made clearly visible to all construction personnel. Signs shall measure a minimum of 10 x 12 inches and read: "TREE PRESERVATION AREA – KEEP OUT."
- d. The Applicant shall retain the services of a certified arborist or landscape architect and shall have the limits of clearing and grading along the southern and eastern property lines 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 an Urban Forestry Division 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 be given the option of removing 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.

14. Noise Attenuation. With reference to Lee Highway, the Applicant shall provide the following noise attenuation measures:

- a. In order to achieve a maximum interior noise level of approximately 45 dBA Ldn, the Applicant proffers that all residential units located between 119 feet and 257 feet from the centerline of Lee Highway, impacted by highway noise having levels between 65 and 70 dBA Ldn, shall have the following acoustical attributes:
 - (1) Exterior walls shall have a laboratory sound transmission class ("STC") of at least 39.
 - (2) Doors and glazing shall have a laboratory STC of at least 28. If glazing constitutes more than twenty percent (20%) of any facade, they shall have the same laboratory STC rating as walls.
 - (3) Measures to seal and caulk between surfaces shall follow methods approved by the American Society for Testing and Materials to minimize sound transmission.
- b. In order to achieve a maximum interior noise level of approximately 45 dBA Ldn, the Applicant proffers that all residential units located within 119 feet from the centerline of Lee Highway, impacted by highway noise having levels between 70 and 75 dBA Ldn, shall have the following acoustical attributes:
 - (1) Exterior walls shall have a laboratory sound transmission class ("STC") of at least 45.
 - (2) Doors and glazing shall have a laboratory STC of at least 37. If glazing constitutes more than twenty percent (20%) of any facade, they shall have the same laboratory STC rating as walls.

- (3) Measures to seal and caulk between surfaces shall follow methods approved by the American Society for Testing and Materials to minimize sound transmission.
- c. In order to achieve a maximum exterior noise level of 65 dBA Ldn, noise attenuation measures such as acoustical (architecturally solid, no gaps) fencing, walls, earthen berms, or combinations thereof, shall be provided for rear yard, ground level areas, unshielded by topography or built structures, in accordance with noise wall specifications depicted on the CDP/FDP, unless alternative specifications are approved by DPWES and the Department of Planning and Zoning (“DPZ”).
- d. The Applicant may elect to have a refined acoustical analysis performed to verify or amend the noise levels and impact areas set forth above to revise interior noise attenuation measures as prescribed above and/or to revise exterior noise mitigation in order to determine if the height of the acoustical fencing as detailed on Sheet 4 of the CDP/FDP may be reduced to six (6) feet. The refined acoustical analysis and revisions to noise attenuation measures is subject to the approval of DPWES and the Department of Planning and Zoning. Any refined acoustical analysis shall also be forwarded to the Providence District Planning Commissioner at the time of filing with the County.
15. **Architecture.** The front exterior facades and the side exterior facades of Units 1, 27, 28 and 43 shall be constructed with brick facing except for the gables on the end units, which may be brick or cementitious siding (e.g. HardiPlank by James Hardie Building Products). In addition, sunroom walls shall have brick facing where the sunroom walls are an extension of a unit sidewall having brick facing unless the sunroom wall is indented from the sidewall by more than two (2) feet. All other front or side facades shall be constructed of brick or cementitious siding (e.g., HardiPlank by James Hardie Building Products) or a combination thereof. With regard to the townhouse units contiguous to the linear park, optional sunroom extensions will only be permitted on Units 28 and 43. No sunrooms shall be permitted on Units 29 through 42. Sunrooms shall be permitted on all other units as an option provided each sunroom meets the minimum setback requirements of these proffers. The restriction on sunrooms shall be disclosed in the HOA documents. The architecture of the units shall substantially conform to the elevations depicted on Sheet 4 of the CDP/FDP. The architectural treatment of fencing on the perimeter of the site shall be in accordance with Sheet 6 of the CDP/FDP. Sunrooms shall be no closer than five (5) feet from the rear property line and no closer than twenty-five (25) feet from the boundary line of the Subject Property. The maximum width of any deck, from side to side, shall not exceed fifteen (15) feet.

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16. **School Contribution.** Prior to site plan approval, the Applicant shall provide documentation to DPWES that the Applicant has donated the sum of \$1500 per dwelling unit, for each dwelling unit approved on the final site plan (a total of \$64,500), to Fairhill Elementary School. These funds are to be applied towards the purchase of Wireless Networking and Mobile Lab Units in support of Fairhill's Technology Project. At the time the funds are received, more advanced technologies may be substituted, at the discretion of the principal, for the actual purchases that will be made and installed through the Fairfax County Public School System.
 17. **Rear Yard Fencing.** Except for required acoustical fencing, optional rear yard fencing for the rear yards of units contiguous to the linear park shall not exceed a height of five (5) feet. All other rear yard fencing shall also be optional, but any such fencing shall be in accordance with the Typical Rear Yard Fencing Plan Detail depicted on Sheet 5 of the CDP/FDP. These restrictions shall be recorded in the HOA documents.
 18. **Setback.** The common open space area (i.e., the area that is not included within an individual lot) adjacent to the common property of the Hampton Commons Homeowners' Association and the Braxton Homeowners' Association, Inc., shall be a minimum width of fifteen (15) feet along these two property lines as shown on the CDP/FDP.
 19. **Landscaping.** Pursuant to Section 16-403 of the Zoning Ordinance, landscaping shall be in substantial conformance with the Landscape Plan (Sheet 3).
 - a. Landscaping along the border with the Hampton Commons Homeowners' Association property shall be in accordance with the Landscape Plan (Sheet 3) unless an alternative landscape plan is approved by the Applicant and the Hampton Commons Homeowners' Association, subject to the approval of the Urban Forestry Division.
 - b. Landscaping along the border with the Braxton Homeowners' Association property shall be in accordance with the Landscape Plan (Sheet 3) unless an alternative landscape plan is approved by the Applicant and Braxton Homeowners' Association, subject to the approval of the Urban Forestry Division.
 20. **Construction Hours.** Exterior construction hours shall be limited to 7:00 a.m. to 7:00 p.m., Monday through Friday, and 9:00 a.m. to 5:00 p.m. on Saturdays. No exterior construction shall be permitted on Sundays or holidays.
 21. **Signs.** No temporary signs (including "popsicle" style paper or cardboard signs) which are prohibited by Article 12 of the Zoning Ordinance, and no signs which are prohibited by Chapter 7 of Title 33.1 or Chapter 8 of Title 46.2 of the Code of Virginia shall be placed on- or off-site by the Applicant or at the Applicant's

direction to assist in the initial sale of homes on the Subject Property. Furthermore, the Applicant shall direct its agents and employees involved in marketing and sale of residential units on the Subject Property to adhere to this proffer.

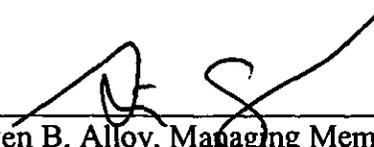
22. **Garages.** The Applicant shall place a covenant on each townhouse garage unit that prohibits the use of the garage for any purpose, which precludes motor vehicle storage. This covenant shall be recorded among the land records of Fairfax County prior to the sale of lots and shall run to the benefit of the Homeowners' Association and to the Board of Supervisors. Prior to recordation, the covenants shall be approved by the Fairfax County Attorney's office. The HOA documents shall expressly state this use restriction.
23. **Sewer/Water Line.** The Applicant shall seek to obtain a sewer line/water line easement over the Hampton Commons Property through Tax Map 48-4 ((16)) Parcel 101A. If successful, the Applicant shall connect its sewer line and water line through this parcel within the new easement area in lieu of utilizing the existing water line easement in Hampton Commons and the existing sewer line easement located adjacent to the property in Braxton.
24. **Site Plan Submission.** At the time of filing of each site plan submission, a copy of each submission will be forwarded to the Providence District Supervisor and the Providence District Planning Commissioner for review and comment.
25. **Braxton Fence.** Subject to receiving permission from the Braxton Homeowners' Association, the Applicant shall remove the existing fence located on the Braxton Homeowners' Association property adjacent to the eastern border of the Subject Property. The Applicant shall then install a six (6) foot high board on board fence on the Subject Property on this border with Braxton, except in any area where an acoustical fence is required pursuant to Paragraph 14 herein. The fencing constructed by the Applicant along the boundary line with Braxton shall be field located, to preserve the trees referenced in Proffer No. 13b, above.
26. **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 48-4 ((1)) PARCELS 15 AND 16**

STANLEY-MARTIN HOMEBUILDING, L.L.C.

By:



Steven B. Alloy, Managing Member

OWNER OF TAX MAP 48-4 ((1)) PARCELS 15 AND 16

COVINGTON FAMILY LIMITED PARTNERSHIP

By:

Ida Lee Carey, General Partner

**APPLICANT/CONTRACT PURCHASER OF TAX
MAP 48-4 ((1)) PARCELS 15 AND 16**

STANLEY-MARTIN HOMEBUILDING, L.L.C.

By: _____
Steven B. Alloy, Managing Member

OWNER OF TAX MAP 48-4 ((1)) PARCELS 15 AND 16

COVINGTON FAMILY LIMITED PARTNERSHIP

By: Ida Lee Carey
Ida Lee Carey, General Partner

PROPOSED FINAL DEVELOPMENT PLAN CONDITIONS

FDP 2001-PR-050

June 20, 2002

If it is the intent of the Planning Commission to approve Final Development Plan Application FDP 2001-PR-050 for Tax Map Parcels 48-4 ((1)) 15 and 16, staff recommends that the Planning Commission condition the approval by requiring conformance with the following development conditions.

1. Prior to site plan approval the applicant shall demonstrate to the satisfaction of DPWES that all grading for the site has been coordinated with the Fairfax County Department of Transportation along with the Virginia Department of Transportation (VDOT) in order to ensure that the final grades of the subject site tie into the grades proposed with the future widening of Lee Highway.
- ~~2. Sunroom options for units along the southern and eastern property lines (proposed units 8 through 27) shall be limited to a maximum of two stories in height from finished grade.~~
2. A vehicular turnaround shall be provided at the eastern end of the private street serving Lots 14-19 if determined necessary by the Department of Public Works and Environmental Services (DPWES).

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Department of Planning & Zoning

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Zoning Evaluation Division