

D R A F T
**For Discussion Purposes
Only**

VOLUNTARY PROFFER STATEMENT

Applicant/Owner: Benchmark Road Investments, LLC (“Applicant”)
1109 Charles Street, Fredericksburg, VA 22401

Representative: Charles W. Payne, Jr., Hirschler Fleischer;
725 Jackson Street, Ste 200, Fredericksburg, VA 22401;
Phone: (540) 604-2108; Fax (540) 604-2101;
Email: cpayne@hirschlerlaw.com

Project Name: “Afton Villas”

Property: Spotsylvania County Tax Parcels 24-A-92A, 36-A-113, 36-A-114, 36-A-115, 36-A-117 & 36-A-117A, consisting of approximately 19.01 acres, known as 4105, 4107, 4109, 4113, 4121 and 4125 Mine Road (collectively, the “Property”)

Date: January 28, 2020

GDP: Generalized Development Plan, entitled “Afton Villas”, prepared by Garrison Consulting Co., Inc., dated January 20, 2020, attached hereto as Exhibit A (“GDP”)

Rezoning Request: From R-1 & PDH-2 to PDH-5

Rezoning File No.: R20-00 _____

I. General Information

The Applicant, its successors and assigns, hereby agrees that the development of the Property, subsequent to approval of the rezoning application to which these proffers are attached, will be in conformance with the GDP and the following proffered conditions (“Proffers”) pursuant to Sections 15.2-2303 and 15.2-2303.4, et al. of the Code of Virginia (1950, as amended), and Section 23-4.6.3, et al. of the Zoning Ordinance of Spotsylvania County (1995, as amended). The Proffers are the only conditions offered in this rezoning application, and any prior proffers affecting the Property are hereby superseded by these Proffers. All previous proffers associated with the Property, whether of record or not, are hereby void and of no further

force and effect. The Proffers will be enforceable only upon Spotsylvania County's ("County") full and final approval of rezoning application R20-00____ submitted by the Applicant to reclassify the Property from R-1 and PHD-2 to PDH-5 to allow the development of no more than seventy-seven (77) age-restricted single family attached units and two (2) single family detached units.

II. Land Use

- A. **General Development.** The Property will be developed in conformance with the GDP. Notwithstanding the foregoing, all parcel lines, parcel sizes, building envelopes, building sizes, public road locations, private driveway and travelway locations, utility locations, waste management facilities, storm water management facilities, amenities, and dimensions of undeveloped areas shown on the GDP may be reasonably adjusted for purposes of final site or subdivision plans to allow the Applicant to be fully compliant with the requirements of state and federal agency regulations including, but not limited to, DHR, VDOT, DEQ, DCR, Army Corps., etc., and the County's zoning ordinance, subdivision ordinance and design standards manual. Notwithstanding the foregoing, any said adjustments to the GDP shall be subject to the approval of the County's Zoning Administrator, and in no event shall approved adjustments to the GDP relieve the Applicant from providing any of the Proffers.
- B. **Use.** The Property shall be developed solely for no more than seventy-seven (77) age-restricted residential single family attached dwelling units ("SFA Units") and two (2) residential single family detached dwelling units ("SFD Units") as shown on the GDP. SFA and SFD may hereafter be collectively referred to as "Units". The Property shall not be developed for any other uses allowed under the PDH-5 district, except for any allowable accessory and home occupation uses authorized under said district.
- C. **Phasing.** The SFA Units will be developed in two sections, all as shown on the GDP. Market demand will dictate the timing of those two sections.
- D. **Age-Restricted Covenants.** All SFA Units constructed on the Property shall be age-restricted and qualify as "housing for older persons" in accordance with the criteria set forth in Code of Virginia Section 36-96.7, et al., as amended. Further, the Applicant, prior to construction of the first SFA unit, shall prepare and record restrictive covenants that define the qualification for initial and subsequent occupancy of any SFA unit associated with the Property and shall further restrict households to include at least one (1) person who is age 55 years or older. Additionally, a covenant shall be placed on the Property (as applicable pursuant to future subdivision for SFA use) that further prohibits any resident 18 years or younger to reside within any SFA unit constructed on the Property for a period of time exceeding thirty (30) days within any six (6) month period. Notwithstanding the foregoing restrictions, any SFA unit constructed on the Property may be occupied by a physically or mentally disabled individual who

is 18 years of age or older and is the child of an age-restricted occupant. All such covenants described herein shall be recorded among the land records of Spotsylvania County, Virginia and encumber the Property prior to the issuance of a certificate of occupancy for any SFA unit.

- E. **Architectural Materials.** The building materials for only the SFA units will include one or more of the following: vinyl siding (Dutch lap in main areas; Board and batten in accent areas); painted fiberglass front doors; 30 year architectural shingles; cultured stone veneer; 4" aluminum gutters; aluminum wrapped fascia/exterior trim; carriage (beaded) style garage door with glass insert; driveways: all will be either concrete or asphalt; and professionally coordinated/designed exterior color schemes, to include certain restrictions that no houses side by side one another or directly across the street from each other will have the same color scheme or same exterior elevation. Notwithstanding the foregoing, in the event any of these materials are discontinued or no longer available, then the Applicant will utilize substantially similar materials, subject to the approval of the County's Zoning Administrator.

III. **Transportation**

The Applicant agrees to provide the following transportation Proffers, all as generally shown on the GDP:

- A. Dedication of 0.4641 acres of right of way area along Mine Road and additional offsite right of way area across Mine Road, all in the areas generally designated on the GDP as "PROP. R/W";
- B. A 100 foot right turn lane and a 100 foot right turn lane taper from Mine Road, as shown on the GDP; and
- C. A 100 foot left turn lane and a 100 foot left turn lane taper from Mine Road, as shown on the GDP.
- D. The Applicant agrees to dedicate right of way as provided herein and shown on the GDP upon final site plan approval or sooner pursuant to the County's request but in no event earlier than the Applicant's initial site plan submission.

IV. **Cash Proffers**

- A. The Applicant will provide the following cash Proffers to mitigate the project's impacts. For the purpose of calculating these cash Proffers, the number of SFA Units has been reduced from 77 to 49 to reflect the 28 by-right units that could be developed under the existing R-1 and PDH-2 zoning. Cash Proffers are only applicable to all SFA Units and will be paid on a per unit basis of \$92.51 (\$7,123.27 divided by 77 Units = \$92.51 per Unit) ("Cash Contributions") after the final inspection and before the County's approval of any certificate of occupancy for each SFA Unit.

CASH AND IN-KIND PROFFERS					
	SF Detached	SF Attached	Multi-Family	Age-Restricted	TOTAL
Per Unit Cash Proffer	\$0 x 0	\$92.51 x 77	\$0 x 0	\$0 x 0	
TOTAL	\$0	\$7,123.27	\$0	\$0	\$7,123.27
LUMP SUM AND IN-KIND CONTRIBUTIONS					
PUBLIC FACILITY CATEGORY					TOTAL VALUE
Schools	\$0.00 cash per unit to Schools				\$0.00
Public Safety	\$28.59 cash per SFA Unit to Public Safety				\$2,201.43
Transportation	\$0.00 cash per SFA Unit to Transportation				\$0.00
Parks & Rec.	\$63.92 cash per SFA Unit to Parks & Rec.				\$4,921.84
TOTAL CASH & IN KIND PROFFER VALUE					\$7,123.27

PROFFERED PHASING AND TIMING	
Phase or Contribution/Dedication	Timing
<i>Cash Contributions to Public Safety</i>	After the final inspection and before the County's approval of any certificate of occupancy for each SFA Unit
<i>Cash Contributions to Parks & Rec.</i>	After the final inspection and before the County's approval of any certificate of occupancy for each SFA Unit

- B. Escalation/De-Escalation Clause. Commencing five (5) years after the approval of this rezoning application, the cash Proffers for each single family attached residential Unit shall be adjusted annually on the next following January 1st to reflect any increase or decrease for the preceding year in the Consumer Price Index, U.S. City Average, All Urban Consumers (the "CPI-U") prepared and reported monthly by the U.S. Bureau of Labor Statistics of the United States Department of Labor. The adjustment shall be made by multiplying the Cash Contributions for the preceding year by the CPI-U as of December 1st in the preceding year. If the CPI-U is discontinued by the United States Department of Labor, the Marshall and Swift Building Cost Index formula shall be used as defined by Section 15.2.2303.3b of the Code of Virginia.

V. **Additional Proffers**

- A. Amenities. The Applicant will construct prior to the issuance of the certificate of occupancy for the 10th SFA Unit, a pickleball court; and prior to the issuance of the certificate of occupancy for the 39th SFA Unit, a gazebo, all as shown on the GDP.

[AUTHORIZED SIGNATURES TO FOLLOW]

The Applicant makes these Proffers voluntarily, in support of their rezoning application and by our signatures deem them reasonable and appropriate as set out in Virginia Code Section 15.2-2303.4 A.D.1.

WITNESS the following signatures:

APPLICANT/OWNER:

BENCHMARK ROAD INVESTMENTS, LLC, a Virginia limited liability company

By: _____
Melvin L. Garrison, III, Manager

Date: _____

COMMONWEALTH OF VIRGINIA
CITY/COUNTY OF _____

The foregoing was subscribed, sworn to and acknowledged before me this ___ day of _____, 2020, by Melvin L. Garrison, III, Manager of Benchmark Road Investments, LLC, a Virginia limited liability company, on behalf of said company.

Notary Public

Print Name: _____
My Commission Expires: _____
Registration No. _____
[SEAL]

EXHIBIT A

Generalized Development Plan

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