

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

VOLUNTARY PROFFER STATEMENT

Applicant/Owner: Foxcroft Development, LLC
1109 Charles Street, Fredericksburg, VA 22401

Owner: THE OAKS, L.L.C.

**** (Applicant/Owner & Owner are hereafter known collectively as the “Applicant”) ****

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: “Foxcroft”

Property: Spotsylvania County Tax Parcels 36-A-87, 36-A-88 & 36-A-89A,
consisting of approximately 11.7383 acres, known as 3725, 3737 & 3743
Lee Hill School Drive (collectively, the “Property”)

Date: May 20, 2019

GDP: Generalized Development Plan, entitled “Foxcroft”, prepared by W W
Webb and Associates, dated May 13, 2019, attached hereto as Exhibit A
 (“GDP”)

Rezoning Request: From R-2 to R-8

Rezoning File No.: R19-00_____

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are the only conditions offered in this rezoning application, and any prior proffers affecting the Property are hereby superseded by these Proffers.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 R19-____ submitted by the Applicant to reclassify the Property from R-2 to R-8 to allow the development of no more than eighty-five (85) single family attached 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, storm water management facilities, amenities, and dimensions of undeveloped areas shown on the GDP may be reasonably adjusted for purposes of the final site or subdivision plans to allow the Applicant to address final development, engineering, and design requirements, and/or to fulfill compliance with state and federal agency regulations including, but not limited to, DHR, VDOT, DEQ, DCR, Army Corps., etc., and compliance with the requirements of the County's zoning 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 below Proffers.
- B. **Use.** The Property shall be developed solely for no more than eighty-five (85) residential single family attached dwelling units (each individually, a "Unit", and collectively, the "Units") as shown on the GDP, and the Property shall not be developed for any other secondary uses allowed under the R-8 district, except for any allowable accessory and home occupation uses authorized under said district.
- C. **Covenants.** Applicant, prior to the issuance of the first certificate of occupancy for any Unit constructed on the Property, shall record and encumber the Property with a declaration of conditions, covenants, restrictions, and easements for the purpose of (a) protecting the value and desirability of the Property; (b) facilitating the planning and development in a unified and consistent manner; and (c) providing for the installation, maintenance, and repair for all landscaping, on-site amenities, stormwater management facilities, open space, private travelways and other common areas. Applicant will also create a homeowner's association (the "HOA") as a non-stock corporation under the laws of Virginia that will provide and ensure oversight and management for services provided, quality standards, and common area maintenance.

III. Transportation

The Applicant, subject to necessary County and VDOT approvals for the development of the project, agrees to provide the following transportation Proffers, all as generally shown on the GDP:

- A. Dedication of 0.4032 acres of right of way area along Lee Hill School Drive, all in the areas generally designated on the GDP as “36.5' Right of Way Dedication”.
- B. All right of way dedications shown on the GDP and described herein shall be conveyed to the County upon the first subdivision plan approval for the project to the extent that such dedication would not adversely impact the subsequent subdivision of the project, all in accordance with applicable County requirements and procedures.

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 Units has been reduced from 85 to 74 to reflect the 11 by-right Units that could be developed under the existing R-2 zoning. Cash Proffers are applicable to all Units and will be paid on a per Unit basis of \$137.58 (\$11,694.22 divided by 85 Units = \$137.58 per Unit) (“Cash Contributions”) after the final inspection and before the County’s approval of any certificate of occupancy for each Unit.

CASH AND IN-KIND PROFFERS					
	SF Detached	SF Attached	Multi-Family	Age-Restricted	TOTAL
Per Unit Cash Proffer	\$0 x 0	\$158.03 x 74	\$0 x 0	\$0 x 0	
TOTAL	\$0	\$11,694.22	\$0	\$0	\$11,694.22
LUMP SUM AND IN-KIND CONTRIBUTIONS					
PUBLIC FACILITY CATEGORY					TOTAL VALUE
Schools	\$0.00 cash per Unit to Schools				\$0.00
Public Safety	\$74.15 cash per Unit to Public Safety				\$5,487.10
Transportation	\$0.00 cash per Unit to Transportation				\$0.00
Parks & Rec.	\$83.88 cash per Unit to Parks & Rec.				\$6,207.12
TOTAL CASH & IN KIND PROFFER VALUE					\$11,694.22

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 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 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 January 1 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. Affordable Dwelling Units

1. Initial Sale of Residential Units. A minimum of ten percent (10%) of the Units on the Property shall be designated as "Affordable Dwelling Units" ("ADU") to be made available only to a Qualified Purchaser (as defined in Paragraph 2 below). Affordable Dwelling Units (as defined herein) shall be noted at the time when occupancy permits are submitted following approval of this rezoning application. ADUs shall be marketed only as owner-occupied principal residences. A proffer tracking spreadsheet for ADUs shall be provided to the Zoning Administrator annually or more frequently if requested.
2. Qualified Purchaser. The annual income of a Qualified Purchaser of an ADU may not exceed one hundred percent (100%) of the median family income for Spotsylvania County, Virginia, as of the date the purchase agreement is executed (the "Income Qualifications"). Any purchaser who meets the Income Qualifications shall be a "Qualified Purchaser." Nothing in these Proffers shall be interpreted as restricting the resale of an ADU by a Qualified Purchaser in any way.

[AUTHORIZED SIGNATURES TO FOLLOW]

The Applicant/Owner makes these Proffers voluntarily, in support of their rezoning application.

WITNESS the following signatures:

APPLICANT/OWNER:

Foxcroft Development, LLC, a
Virginia limited liability company

By: _____
Melvin L. Garrison, Sole Member

Date: _____

COMMONWEALTH OF VIRGINIA
CITY/COUNTY OF _____

The foregoing was subscribed, sworn to and acknowledged before me this ___ day of _____, 201___, by Melvin L. Garrison, Sole Member of Foxcroft Development, LLC, a Virginia limited liability company, on behalf of said company.

Notary Public

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

OWNER:

THE OAKS, L.L.C., a
Virginia limited liability company

By: _____

Name: _____

Title: _____

Date: _____

COMMONWEALTH OF VIRGINIA
CITY/COUNTY OF _____

The foregoing was subscribed, sworn to and acknowledged before me this ___ day of _____, 201___, by _____ of THE OAKS, L.L.C., 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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