

PROFFER FORM FOR FONTANA PHASE 4C

Date: January 9, 2020
ZMA # 2019-00007

Tax Map and Parcel Numbers: 078E00000000A2, 078E00000000A4, 078E0000100100, 078E0000100200, 078E0000100300, 078E0000100400, 078E0000100500, 078E0000100600, 078E0000100700, 078E0000100800, 078E0000100900, 078E0000101000, 078E0000101100, 078E0000101200, 078E0000101300, 078E0000101400, 078E0000101500, 078E0000101600, 078E0000101700, 078E0000101800, and 078E0000101900

Owner of Record: **HIGHLAND PARK INVESTMENTS, LLC**

10.88 Acres zoned R4 (Amendment to proffer statement)

Pursuant to Section 33.3 of the Albemarle County Zoning Ordinance, the Owner hereby voluntarily proffers the conditions listed below which shall be applied to the property, if rezoned. These conditions are proffered as a part of the requested rezoning and it is acknowledged that such conditions are reasonable. This proffer statement shall amend and supersede all previous proffer statements (ZMA2004-18 and ZMA 2011-01) for Fontana Phase 4C for the parcels listed.

1. **Conformity with Plans:** Fontana Phase 4C shall be developed in general accord with the plans entitled, "Fontana- Phase 4C Rezoning Plan," prepared by Terra Engineering and Land Solutions, dated August 29, 2005, and last revised July 30, 2007, a copy of which is attached hereto as Exhibit A, (the "Plan"). No more than thirty-four (34) dwelling units shall be developed in Fontana Phase 4C.
2. **Final Grading Plan:** The Owner shall submit a final grading plan meeting the requirements of this section (hereinafter, the "Final Grading Plan") with the application for each subdivision of the dwelling units shown on the Plan identified in Proffer 1 above. The Final Grading Plan shall show existing and proposed topographic features to be considered in the development of the proposed subdivision. The Final Grading Plan shall be approved by the County Engineer prior to the approval of the first preliminary subdivision plat. The subdivision shall be graded as shown on the approved Final Grading Plan. No certificate of occupancy shall be issued for any dwelling on a lot where the County Engineer has determined the lot is not graded consistent with the approved Final Grading Plan. The Final Grading Plan shall satisfy the following:
 - A. The Final Grading Plan shall show all proposed streets, building sites, surface drainage, driveways, trails, and other features the County Engineer determines are needed to verify that the Plan satisfies the requirements of this proffer.
 - B. The Final Grading Plan shall be drawn to scale not greater than one (1) inch equals fifty (50) feet.
 - C. All proposed grading shall be shown at contour intervals not greater than two (2) feet.
 - D. All concentrated surface drainages over lots shall be clearly shown with the proposed

grading. All proposed grading shall be shown to assure that surface drainage can provide adequate relief from flooding of dwellings in the event a storm sewer fails. Graded slopes on lots proposed to be planted with turf grasses (lawns) shall not exceed a gradient of three (3) feet horizontal distance for each one (1) foot of vertical rise or fall (3: 1). Steeper slopes shall be vegetated with low maintenance vegetation as determined to be appropriate by the County's program authority in its approval of an erosion and sediment control plan for the land disturbing activity. These steeper slopes shall not exceed a gradient of two (2) feet of horizontal distance for each one (1) foot of vertical rise or fall (2:1), unless the County Engineer finds that the grading recommendations for steeper slopes have adequately addressed the impacts.

- E. Surface drainage from one-half (1/2) acre of land or from three (3) or more lots, whichever is greater in area, shall be collected in a storm sewer or directed to a drainage way outside of the lots.
 - F. All drainage from streets shall be carried across lots in a storm sewer to a point beyond the rear of the building site.
 - G. The Final Grading Plan shall demonstrate that an area at least ten (10) feet in width, or to the lot line if the distance is less than ten (10) feet, from the portion of the structure facing the street has grades no steeper than ten (10) percent adjacent to possible entrances that shall not be served by a stairway. This graded area also shall extend from the entrances to the driveways or walkways connecting the dwelling to the street.
 - H. Any requirement of this condition may be waived by the County Engineer by submitting a waiver request with the preliminary plat. If such a request is made, it shall include: (i) a justification for the request contained in a certified engineer's report; (ii) a vicinity map showing a larger street network at a scale no smaller than one (1) inch equals six hundred (600) feet; (iii) a conceptual plan at a scale no smaller than one (1) inch equals two hundred (200) feet showing surveyed boundaries of the property; (iv) topography of the property at five (5) foot intervals for the property being subdivided and on abutting lands to a distance of five hundred (500) feet from the boundary line or a lesser distance determined to be sufficient by the agent; (v) the locations of streams, stream buffers, steep slopes, floodplains, known wetlands; and (vi) the proposed layout of streets and lots, unit types, uses, and location of parking, as applicable. In reviewing a waiver request, the County Engineer shall consider whether the alternative proposed by the Owner satisfies the purpose of the requirement to be waived to at least an equivalent degree. In approving a waiver, the County Engineer shall find that requiring compliance with the requirement of this condition would not forward the purposes of the County's Subdivision and Water Protection Ordinances or otherwise serve the public interest; and granting the waiver would not be detrimental to the public health, safety or welfare, to the orderly development of the Project, and to the land adjacent thereto.
 - I. The Owner may request that the Plan be amended at any time. All amendments shall be subject to the review and approval by the County Engineer.
3. **Affordable Housing:** The Owner shall contribute \$2,809.00 cash per dwelling unit, up to an aggregate maximum contribution of \$95,500.00 (equivalent to \$19,100 cash per dwelling unit as cash in lieu of five (5) affordable dwelling units) to the County for the purpose of affordable housing. Each cash contribution shall be due and payable with each application for a building permit. Each cash contribution shall be used for the purpose of funding affordable housing

programs in Albemarle County. If this cash contribution has not been exhausted by the County for the stated purpose within ten (10) years after the last payment of the contribution, all unexpended funds shall be applied to any public use serving Neighborhood 3 Pantops.

4. **Trees:** At least one hundred-seventy (170) trees shall be planted or retained on the subdivided lots. Trees shall be distributed among all lots with a minimum of 5 trees per lot. The five trees to be counted on each lot shall be marked in the field for inspection purposes. The owner shall not request a certificate of occupancy until a final zoning inspection is performed and all required trees are in place.

Standard for trees to be retained: Deciduous trees to be retained shall be at least a 1 ½ inch caliper d.b.h. and non-deciduous trees shall be at least four (4) feet in height. All trees to be retained shall be identified on erosion and sediment control plans, final grading plans, and road plans. A tree conservation plan in accordance with Section 32.7.9.4. of the Zoning Ordinance shall be submitted and approved prior to approval of any erosion and sediment control permit for grading.

Standards for trees to be planted: All trees shall be planted in accordance with either the standardized landscape specifications jointly adopted by the Virginia Nurserymen's Association, the Virginia Society of Landscape Designers and the Virginia Chapter of the American Society of Landscape Architects, or the road and bridge specifications of the Virginia Department of Transportation. At planting, deciduous trees shall be at least a 1½ inches in caliper d.b.h.; non-deciduous trees shall be at least four (4) feet in height.

5. **Pedestrian Paths:** Pedestrian paths in the general location shown on the Plan, or as approved on any final site plan or plat, shall be constructed according to the standards for a Class B- Type 1 primitive nature trail in the Albemarle County Design Standards Manual. Pedestrian paths shall be constructed concurrently with other public improvements for each phase of development and shall be completed when 50% of the dwelling units within each phase have received certificates of occupancy.
6. **Cash proffer:** Cash proffer: The Owner shall contribute Seventeen Thousand Five Hundred and 0/100 Dollars (\$17,500.00), as adjusted by Proffer 7 below, for each dwelling unit in excess of the nine (9) dwelling units previously allowed by right. This cash contribution shall begin after the issuance of the building permit for the ninth dwelling unit and prior to (or at the time of) the issuance of the building permit for the tenth dwelling unit. Credit will be applied for any cash proffer payments made under this proffer in advance of this proffer's approval.

The cash contribution shall be paid for each dwelling unit prior to or at the time of issuance of a building permit for each dwelling unit. If this cash contribution has not been exhausted by the County for the stated purpose within five (5) years after the date, all unexpended funds shall be applied to any public use serving Neighborhood 3 Pantops.

7. **Annual Adjustment of Cash Proffers:** Beginning January 1, 2008, the amount of each cash contribution required herein shall be adjusted annually until paid, to reflect any increase or decrease for the preceding calendar year in the Marshall and Swift Building Cost Index (the "MSI"). In no event shall any cash contribution amount be adjusted to a sum less than the amount initially established by these proffers. The annual adjustment shall be made by multiplying the proffered cash contribution amount for the preceding year by a fraction, the numerator of which shall be the Index as of December 1 in the preceding calendar year, and the denominator of which shall be the Index as of December 1 in the year preceding the calendar year most recently ended. For each cash contribution that is being paid in increments, the unpaid

incremental payments shall be correspondingly adjusted each year.

8. **Omitted. This proffer has been satisfied.**
9. **Architectural Standards:** The Owner shall require that all structures be constructed using a range of earth-tone colors, including cream, for facade treatment of the buildings and dark, non-reflective materials for roofs. The colors for the facade treatments and the colors and materials for the roofs shall be subject to prior approval by the Director of Planning.
10. **Omitted. This proffer has been satisfied.**

(Signature Pages to Follow)

WITNESS the following signature:

OWNER of Tax Map and Parcels 078E00000000A2, 078E00000000A4, 078E0000100100, 078E0000100200, 078E0000100300, 078E0000100400, 078E0000100500, 078E0000100600, 078E0000100700, 078E0000100800, 078E0000100900, 078E0000101000, 078E0000101100, 078E0000101200, 078E0000101300, 078E0000101400, 078E0000101500, 078E0000101600, 078E0000101700, 078E0000101800, and 078E0000101900:

HIGHLAND PARK INVESTMENTS, LLC, a Virginia limited liability company

By: 
Alan R. Taylor, Its President

Date: 1/9/2020