

## **VOLUNTARY PROFFER STATEMENT**

Applicant/Owner: 268 MAIN STREET, LLC  
1309 Franklin Street, Fredericksburg, VA 22401

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

Project Name: “The Villas at Salem Church”

Property: Spotsylvania County Tax Parcel 23-3-A, consisting of approximately 6.65 acres, known as 5715 Ross Drive, Fredericksburg, VA ( the “Property”)

Date: March 9, 2018

GDP: Generalized Development Plan, entitled “The Villas at Salem Church Generalized Development Plan for Rezoning”, prepared by Fairbanks & Franklin, dated November 8, 2017, as last revised March 9, 2018, attached hereto as Exhibit A (the “GDP”)

Rezoning Request: From R-1 to R-8

Rezoning File No.: R17-0012

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### **I. General Information**

The Applicant/Owner, 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 (the “Proffers”) pursuant to Sections 15.2-2303, 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the Property, whether by prior proffer offers or through the impact statement accompanying this application, are hereby superseded by these Proffers.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 effective only upon Spotsylvania County’s (the “County”) full and final approval of rezoning application R17-0012 submitted by the Applicant/Owner to reclassify the Property from R-1 to R-8 to allow development of no more than forty-five (45) residential age-restricted single family attached dwelling 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, 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/Owner to address final development, engineering and design requirements, fulfill compliance with state and federal agency regulations including, but not limited to, DHR, VDOT, DEQ, DCR, Army Corps., etc., and fulfill compliance with the requirements of the County's development regulations 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/Owner from providing any of the below proffers.
- B. **Use.** The Property shall be developed solely for no more than forty-five (45) residential age-restricted 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 in the R-8 district, except for applicable accessory uses authorized under said district.
- C. **Age Restricted Covenants.** All 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/Owner, prior to construction of the first Unit, shall prepare and record restrictive covenants that define the qualification for initial and subsequent occupancy of any 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 that further prohibits any resident 18 years or younger to reside within any 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 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 occupancy of any Unit.
- D. **Additional Covenants.** In addition to the foregoing covenants, the Applicant/Owner, prior to the issuance of the first certificate of occupancy for any unit constructed on the Property, shall 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 of the development in a unified and consistent manner; and (c) providing for the installation, maintenance, and repair for all landscaping, on-site

amenities, open space, and other common areas. The Applicant/Owner 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 structure for services provided, quality standards, intercampus relationships, and common area maintenance.

### III. Open Space

As shown on the GDP, approximately 2.426 acres of the Property will be retained as open space for stormwater management facilities and preservation of certain natural areas. The open space area shown on the GDP will be owned and maintained by the HOA.

### IV. Cash Proffers

- A. The Applicant/Owner will provide the following reasonable cash proffers to mitigate the Project's direct impacts on certain County public facilities. For the purpose of calculating these cash proffers, the number of Units has been reduced from 45 to 41 to reflect the 4 by-right Units that could be developed under the existing R-1 cluster zoning. Cash proffers are applicable to all units and will be paid on a per Unit basis of \$156.03 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	\$0 x 0	\$0 x 0	\$171.26 x 41	
TOTAL	\$0	\$0	\$0	\$0	\$7,021.66
LUMP SUM AND IN-KIND CONTRIBUTIONS					
PUBLIC FACILITY CATEGORY					TOTAL VALUE
Schools	\$0.00 cash per unit to Schools				\$0.00
Public Safety	\$96.03 cash per unit to Public Safety				\$3,937.23
Transportation	\$0.00 cash per unit to Transportation				\$0.00
Parks & Rec.	\$75.23 cash per unit to Parks & Rec.				\$3,084.43
TOTAL CASH & IN KIND PROFFER VALUE					\$7,021.66

PROFFERED PHASING AND TIMING	
Phase or Contribution/Dedication	Timing
<i>Cash contribution to Public Safety</i>	After the final inspection and before the County's approval of any certificate of occupancy for each Unit
<i>Cash contribution to Parks &amp; 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 proffer for each age-restricted single family attached 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 (CPI-U) All Items (1982-84=100) (the "CPI") 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 Per Unit Contribution for the preceding year by the CPI 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.

[AUTHORIZED SIGNATURES TO FOLLOW]

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

WITNESS the following signatures:

**APPLICANT/OWNER:**

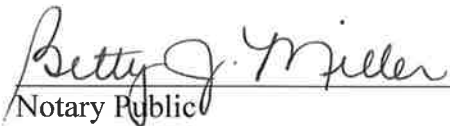
**268 MAIN STREET, LLC, a**  
Virginia limited liability company

By:

  
Paul D. Janney, Member

COMMONWEALTH OF VIRGINIA  
CITY OF FREDERICKSBURG


The foregoing was subscribed, sworn to and acknowledged before me this 12<sup>th</sup> day of March, 2018, by Paul D. Janney, Member of 268 MAIN STREET, LLC, a Virginia limited liability company, on behalf of said company.

  
Notary Public

Print Name: Betty J. Miller  
My Commission Expires: 8/31/2018  
Registration No. 4060695  
[SEAL]



268 MAIN STREET, LLC, a  
Virginia limited liability company

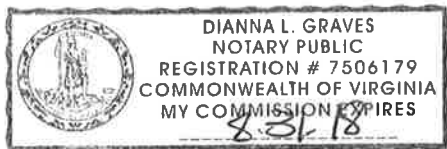
By:   
Douglas G. Janney, Jr., Member

COMMONWEALTH OF VIRGINIA  
CITY OF FREDERICKSBURG

The foregoing was subscribed, sworn to and acknowledged before me this 9<sup>th</sup> day of  
March, 2018, by Douglas G. Janney, Jr., Member of 268 MAIN STREET, LLC, a Virginia  
limited liability company, on behalf of said company

  
Notary Public

Print Name: Dianna L. Graves  
My Commission Expires: 8-31-18  
Registration No. 7506179  
[SEAL]



**EXHIBIT A**

Generalized Development Plan

See attached GDP entitled “The Villas at Salem Church Generalized Development Plan for Rezoning”, prepared by Fairbanks & Franklin, dated November 8, 2017, as last revised March 9, 2018

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