

**FENTON MILL (GPINS: C20d-4780-1137, D19a-1381-3152,  
D19b-2545-2534, D19b-2734-4736, D20c-1880-1425, D20c-1816-0933)  
PLANNED DEVELOPMENT (PDR) PROFFERS**

**THESE PROFFERS**, made this \_\_\_\_ day of May, 2020, by and among:  
**FENTON MILL ASSOCIATES, LLC**, a Virginia limited liability company, and the  
**CURRY JOINT TRUST** (to be indexed as Grantor); and **THE COUNTY OF YORK,  
VIRGINIA** ("County"), a political subdivision of the Commonwealth of Virginia (to be  
indexed as Grantee).

**RECITALS.**

R-1. Fenton Mill Associates, LLC, is the owner (the "Owner"), of certain tracts  
or parcels of land located in York County, Virginia, consisting of Parcels: C20d-4780-  
1137, D19a-1381-3152, D19b-2545-2534, D19b-2734-4736, D20c-1880-1425, totaling  
approximately three hundred seventy-four (374) acres.

R-2. The Curry Joint Trust is the owner (along with the Owner the "Owners")  
and Fenton Mill Associates, LLC is the contract purchaser of the following parcel of land  
located in York County, Virginia: D20c-1816-0933, totaling approximately 4.5 acres.

R-3. The Owners have filed an application for rezoning of the Property (the  
"Application") and has consented to the Application in its current form, as evidenced by  
the duly authorized signature thereto. The Application has been designated by York  
County as Case No. \_\_\_\_\_.

R-4. In the Application, Owners request that the Zoning Classification of the  
Property be changed from Zone LB and RR to Zone PDR with Proffers, as described in  
Section 24.1-361.1, et seq., of the York County Zoning Ordinance in effect on the date  
hereof, in order to permit the construction of a planned development residential  
community (the "Community").

R-5. The Owners, in furtherance of its Application, desires to proffer certain  
conditions which are limited solely to those set forth herein in addition to the regulations  
provided by the York County Zoning Ordinance for the protection and enhancement of  
the development of the Property in accordance with the provisions of Section 15.2-2296,  
et seq. of the Code of Virginia, 1950, as amended (hereinafter referred to as the "Virginia  
Code") and Section 24.1-361 of the York County Zoning Ordinance.

R-6. The County constitutes a high-growth locality as defined by Section 15.2-  
2298 of the Virginia Code.

R-7. All capitalized terms used herein, but not otherwise defined in these Proffers, shall have the meaning ascribed hereto in the Residential Design Guidelines.

Furthermore, for and in consideration of the Application approval by York County, and pursuant to the Virginia Code, and Section 24.1-361 of the York County Zoning Ordinance, the Owners hereby agree that, if the Application is approved, and the York County Board of Supervisors allows the rezoning of the Property from “ Limited Business and Rural Residential ” to “Planned Development Residential ” then any subsequent development of the Property shall be in conformance with the Proffers, herein.

### **PROFFERS:**

1. Plan of Development – The Property shall be developed generally in accordance with the Master Plan. The Master Plan is a conceptual plan for proposed development on the Property and provides only for the general location of buildings, proposed streets, parking, drainage facilities, landscaping, areas of open space, and buffer areas, and is subject to such approvals as may be necessary from any governmental body, quasi-governmental entity, and/or private utility entity. Deviations from the Master Plan shall be allowed in accordance with the provisions of the Zoning Ordinance and the Virginia Code, specifically including Virginia Code Section 15.2-2302, as the same may be amended,
2. Property Owners Association(s) – If any individual dwelling unit on the Property is to be offered for sale separate from the rest, then one or more property owners associations and/or condominium unit owners associations shall be established pursuant to and in accordance with the Virginia Property Owners Association Act, Section 55.1-1800 et seq., of the Virginia Code or the Virginia Condominium Act, Section 55.1-1900 et seq., of the Virginia Code, as applicable (hereinafter, each association shall be referred to as and "Owners Association"), in which all owners of residential lots, units and parcels within the Property shall be members of at least one of such Owners Associations(s) by virtue of their property ownership.
3. Residential Units – There shall be no more than 836 dwelling units constructed on the Property.
4. Commercial Space – There shall be no more than 40,000 square feet of commercial space constructed on the Property. Commercial uses will be limited to those uses allowed under the Limited Business (LB) zoning classification. Uses requiring a Special Use Permit within LB zoning classification will also require a Special Use Permit in Fenton Mill.

5. Sidewalks and Trails – Sidewalks, trails, and multi-use paths shall be constructed on the Property generally in accordance with the Master Plan.
6. Exterior Building Materials – The exterior façade of dwelling units constructed on the Property shall consist primarily of brick, stone, concrete board, or high-quality vinyl or a combination thereof. Crawl space and basement foundations shall be brick or stone over block or stamped concrete.
7. Design Guidelines – All dwelling units, community amenities, and commercial space shall be constructed in general accordance with the Design Guidelines prepared by Land Planning Design Associates (LPDA) for Fenton Mill.
8. Age-Restricted Units – The dwelling units depicted as Active Adult on the Master Plan shall be designated as age restricted units in accordance with state and federal fair housing laws. The maximum number of dwelling units constructed in this land bay shall be 100. These units may be constructed as either quadraplexes or single-family detached homes.
9. Recreation Facilities – Recreation facilities developed on the Property shall include the following items listed below. The specific sizing, location, and design of the recreational facilities described below shall be subject to such minor modifications as may be approved in writing by the County Zoning Administrator.
  - a. Community clubhouse of at least 5,000 square feet as shown on the Master Plan, including a fitness room, kitchenette, and community activity room.
  - b. Community swimming pool of sufficient size to accommodate the Community.
  - c. Clubhouse and amenity area for Age-Restricted component generally in accordance with the Master Plan
  - d. Pedestrian bridge to provide access from the main portion of the community to the dedicated school site, subject to environmental permitting approval.
  - e. Park and amenity areas generally in accordance with the Master Plan
10. Contribution for School Impacts – The developer shall dedicate an approximately 16-acre site generally in Accordance with the Master Plan to the County of York for the construction of a school or other public use deemed appropriate by the County (“School Site”). Developer agrees to extend public water and sanitary sewer stubs to the School Site at the time development reaches that phase of the project. Such water and sewer stubs shall be of sufficient size and capacity to accommodate a public school or other designated public use on the School Site. In the event the County needs to build on the School Site prior to the time development reaches that phase of the project and the

County provides written notification to the Developer to that effect, Developer agrees to provide such water and sewer stubs to the School Site within three (3) years of receiving such written notice from the County.

11. Front and Rear Yard Setbacks – The minimum front and rear yard setbacks for dwelling units on the Property shall be as follows:

Type of Dwelling Unit	Minimum front yard setback	Minimum Rear Yard Setback
Rear loaded townhome	15 feet	20 feet
Front loaded townhome	20 feet	15 feet
Rear loaded single family detached	15 feet	20 feet
Front loaded single family detached	20 feet	15 feet

Townhomes may be either front loaded or rear loaded, with the exception of those townhomes fronting the main access road into the community, which must be rear loaded.

- a. Corner lots – For corner lots or any lots with frontage on more than one street, the "Front Yard Setback" above shall apply only to the yard with the narrower width of the two frontages (or if the width of the frontages is equal, then the "Front Yard Setback" shall apply to the yard directly adjacent to the front side of the dwelling unit), and a minimum 10' setback shall apply to the yard or yards fronting on any other street.
- b. Encroachments into setbacks – For purposes of the minimum yard/setback requirements of this paragraph, porches, stoops, and cantilevered overhangs shall be allowed to encroach into the front-yard setbacks by an amount not to exceed 5 feet, provided that in no event shall encroaching porches, stoops, or cantilevered overhangs be allowed to be enclosed as additional living space. For purposes of rear-yard setbacks, no such encroachments shall be allowed.

12. Transitional Buffers – A minimum Type 25-foot Transitional Buffer shall be maintained along the Property's boundary line with the adjacent Skimino Hills subdivision and the adjacent, undeveloped properties located at 200 Newman Road and 286 Newman Road.

13. Prior to receiving a certificate of occupancy for the 451<sup>st</sup> residential unit, the Developer will perform a signal warrant analysis at the intersection of Newman Road and the primary entrance into the community. In the event the warrant analysis indicates the need for a traffic signal at this intersection, the Developer will construct the traffic signal at this intersection or will provide surety for installation of the traffic signal prior to receiving an occupancy permit for the 451<sup>st</sup> dwelling unit on the Property. In the event this signal warrant analysis does not indicate the need for a traffic signal prior to the 451<sup>st</sup>

residential unit, the Developer will perform a second signal warrant analysis at the intersection of Newman Road and the primary entrance prior to receiving a certificate of occupancy for the 651<sup>st</sup> dwelling unit on the Property.

14. As part of the site plan review process for the commercial property, the developer will perform a signal warrant analysis at the intersection of the Newman Road and 1-64 Eastbound On/Off Ramp intersection. The warrant analysis will be performed using actual count data at the time of the request and add the projected traffic volumes associated with specific trip generation rates for the proposed land use. These volumes will be used to determine if a signal is required at this location in the event the commercial development proceeds.

15. Successors and Assigns – These Proffers shall run with the title to the Property and shall be binding on the parties hereto and their respective successors and assigns; provided, however once a party ceases to own any portion of the Property, such party shall have no continuing liability hereunder.

16. Severability – In the event that any clause, sentence, paragraph, subparagraph, section or subsection of these Proffers shall be judged by any court of competent jurisdiction to be invalid or unenforceable for any reason, including a declaration that it is contrary to the Constitution of the Commonwealth of Virginia or the United States, or if the application thereof to any owner of any portion of the Property or to any government agency is held invalid, such judgment or holding shall be confined in its operation to the clause, sentence, paragraph, subparagraph, section, subsection or provision hereof, or the specific application thereof directly involved in the controversy in which the judgment or holding shall have been rendered or made, and shall not in any way affect the validity of any other clause, sentence, paragraph, subparagraph, section, subsection or provision hereof.

17. Headings – All paragraph and subparagraph headings of the Proffers herein are for convenience only and are not part of these Proffers.

18. Conflicts – In the event that there is any conflict between these Proffers and the Zoning Ordinance, the conflict shall be resolved by the County's Zoning Administrator subject to the appeal process to the Board of Zoning Appeals and the Courts as otherwise provided by law,

19. Void if Application not Approved – In the event that the Application is not approved by the County or is overturned by subsequent judicial determination, these Proffers and the Master Plan shall be null and void.

20. Incorporation of Recitals – The Recitals set forth above shall be included and read as part of these Proffers and are incorporated herein by reference.

WITNESS the following signature, thereunto duly authorized:

**FENTON MILL ASSOCIATES, LLC**

A Virginia limited liability company

By: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Title: \_\_\_\_\_

COMMONWEALTH OF VIRGINIA

CITY/COUNTY OF \_\_\_\_\_, to wit:

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2020 by \_\_\_\_\_ as \_\_\_\_\_ of Fenton Mill Associates, LLC, a Virginia limited liability company.

\_\_\_\_\_  
NOTARY PUBLIC

My commission expires: \_\_\_\_\_  
Registration No.: \_\_\_\_\_

**CURRY JOINT TRUST**

By: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Title: \_\_\_\_\_

COMMONWEALTH OF VIRGINIA

CITY/COUNTY OF \_\_\_\_\_, to wit:

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2020 by Clarence F. Curry, Jr. as Trustee of the Curry Joint Trust.

\_\_\_\_\_  
NOTARY PUBLIC

My commission expires: \_\_\_\_\_  
Registration No.: \_\_\_\_\_