

Prepared by:

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After recording return to:
Office of the City Attorney
22 Lincoln Street
Hampton, Va. 23669
(jek)

LRSN: 1005156

PROFFER AGREEMENT

THIS PROFFER AGREEMENT (“Agreement”) made this ____ day of _____, 2024, by and between CAVALIER HOMES, LLC, a Virginia limited liability company (the “Grantor”); and THE CITY OF HAMPTON, a municipal corporation of the Commonwealth of Virginia (the “Grantee” or the “City”), with an address of 22 Lincoln Street, Hampton City Hall, Hampton, Va. 23669.

RECITALS

A. Grantor is the owner of a certain parcel of property located in the City of Hampton, herein known as LRSN Number(s) 1005156 and more fully described on “**Exhibit A**” (the “Property”).

B. Grantor has initiated a conditional amendment to the zoning map of the City of Hampton, Virginia, by petition addressed to the Grantee so as to change the zoning classification of the Property from Neighborhood Commercial (C-1) and One Family Residential (R-11) Districts to Multifamily Residential (MD-4) District.

C. Grantor has requested approval of this Agreement.

D. Grantee's policy is to provide for the orderly development of land for various purposes, including commercial purposes, through zoning and other land development legislation.

E. Grantor desires to offer the City certain conditions for the enhancement of the community and to provide for the highest quality and orderly development of the Property.

F. The conditions outlined in this Agreement have been proffered by Grantor and allowed and accepted by Grantee as a part of the amendment of the City Zoning Ordinance and the Zoning Map. These conditions shall continue in full force and effect until a subsequent amendment changes the zoning of the Property; provided, however, that such conditions shall continue if the subsequent amendment is part of the comprehensive implementation of a new or substantially revised zoning ordinance of Grantee.

NOW, THEREFORE, for and in consideration of the approval and acceptance by the City of this Agreement, Grantor agrees that it will meet and comply with all of the following conditions in developing the Property. In the event the requested change of zoning classification is not granted by the City, these Proffers shall thereupon become null and void. Grantor, its heirs, successors, assigns, grantees and other successors in title or interest to the Property, voluntarily and without any requirement by or exaction from Grantee or its governing body and without any element or compulsion or quid pro quo for zoning, rezoning, site plan, building permit or subdivision approval, makes the foregoing declaration of conditions and restrictions governing the use and physical development and operation of the Property, and covenants and agrees that this declaration and the further terms of this Agreement shall constitute covenants running with the Property, which shall be binding upon the Property, and upon all persons and

entities claiming under or through the Grantor, its heirs successors and assigns, grantees and other successors in interest or title to the Property; namely:

CONDITIONS

- 1) The Property shall be improved in substantial conformance with the site plan entitled "Physical Survey of the Property of Cavalier Homes, LLC, Lots 46-49 & Pt Lots 45 & 50, Block 3, Newport News Riverview Development Company, Hampton, Virginia", dated August 9, 2023, last revised August 14, 2024, prepared by A. D. Potts & Associates, Inc. (the "Conceptual Plan"), a copy of which is on file with the Community Development Department and has been exhibited to the Hampton Planning Commission and the Hampton City Council for illustrative purposes and to provide justification for this rezoning action. Minor changes to the Conceptual Plans may be made to accommodate environmental, engineering, architectural, topographic or other development conditions, or site plan approval requirements as required by law and subject to the approval of the Director of Community Development or their designee. A copy of the final approved Conceptual Plan shall be on file with the Planning Division of the Department of Community Development and shall supersede any previously filed Conceptual Plans.
- 2) The existing structure on the Property shall be improved in substantial conformance with the elevations entitled "Elevations, 1814 Kecoughtan Reno", dated April 10, 2024, prepared by Michael Henry Architect (the "Elevations"), a copy of which is on file with the Community Development Department and has been exhibited to the Hampton Planning Commission and the Hampton City Council for illustrative purposes and to provide justification for this rezoning action. Only minor changes to the

Elevations may be made to accommodate environmental, engineering, architectural, topographic or other development conditions, or site plan approval requirements as required by law and subject to the approval of the Director of Community Development or their designee. A copy of the final approved Elevations shall be on file with the Planning Division of the Department of Community Development and shall supersede any previously filed Elevations.

- 3) The Property shall be landscaped in substantial conformance with the landscaping plan entitled “1814 Kecoughtan Road, Hampton, VA”, dated August 20, 2024 and prepared by Kristine Hall which shall be consistent with the following criteria:
 - a. The landscape plan shall be in conformance with the City of Hampton Landscape Guidelines.
 - b. Plant materials shall be native species to the Hampton Roads region, as found within the “Native Plants for Southeast Virginia including Hampton Roads Region” guidebook, on file with the Planning and Zoning Division, except that up to 25% of the plant materials may include crepe myrtles, palms, and other southern planting elements even if not native to the Hampton Roads Region, provided other requirements of the Agreement are met.
- 4) All existing interior parcel lines within the Property shall be vacated in accordance with Chapter 35 of the Hampton City Code, subject to approval by the City of Hampton and recordation of a property line vacation plat.
- 5) The existing ground-mounted monument signage located on the Property shall be removed.

- 6) It is understood that all phases of the proposed project shall comply with all ordinances of the Grantee.
- 7) Further lawful conditions or restrictions against the Property may be required by Grantee during the detailed Site Plan review and administration of applicable codes and regulations of Grantee by all appropriate agencies and departments of Grantee, which shall be observed or performed by Grantor. Grantor acknowledges that additional further lawful conditions or restrictions may be imposed by Grantee as a condition of approvals, including but not limited to final site plan approval.
- 8) All references hereinabove to zoning districts and to regulations applicable thereto refer to the City Zoning Ordinance of the City of Hampton, in force as of the date the conditional rezoning amendment is approved by the Grantee.
- 9) The Grantor covenants and agrees that (1) the Zoning Administrator of the City of Hampton, Virginia, shall be vested with all necessary authority on behalf of the governing body of the City of Hampton, Virginia, to administer and enforce the foregoing conditions and restrictions specified in this Agreement, including (i) the ordering in writing of the remedying of any noncompliance with such conditions, and (ii) the bringing of legal action or suit to ensure compliance with such conditions, including mandatory or prohibitory injunction, abatement, damages or other appropriate action, suit or proceedings; (2) the failure to meet all conditions shall constitute cause to deny the issuance of any of the required building or occupancy permits as may be appropriate; and (3) the Zoning Map shall show by an appropriate symbol on the Map the existence of conditions attaching to the zoning of the subject Property on the Map and that the ordinance and conditions may be made readily available and accessible for public

inspection in the office of the Zoning Administrator and in the Department of Community Development and that this Agreement shall be recorded in the Clerk's Office of the Circuit Court of the City of Hampton, Virginia and indexed in the name of the Grantor and Grantee.

[Remainder of Page Intentionally Left Blank - Signature on Following Page]

WITNESS the following signature:

CAVALIER HOMES, LLC, a Virginia limited liability company

By: _____

George E. Fiscella, Manager

COMMONWEALTH OF VIRGINIA
CITY OF NEWPORT NEWS, to-wit:

The foregoing instrument was acknowledged before me this 19TH day of March, 2024, by George E. Fiscella, Manager of Cavalier Homes, LLC, a Virginia limited liability company ☒ who is personally known to me or ☐ who has produced satisfactory evidence of identity.

My commission expires: 2/28/2025

Notary Public (affix seal and registration number)



Exhibit A
Legal Description

All those certain lots, pieces or parcels of land located in the City of Hampton, Virginia, known as 1814 Kecoughtan Road, and fronting 100 feet on the Southerly side of said Kecoughtan Road and extending back between parallel lines a distance of 125 feet, and being all of Lots Forty-six (46), Forty-seven (47), Forty-eight (48) and Forty-nine (49) and the Southerly 17½ feet, from front to rear, of Lot Numbered Fifty (50), and the Northerly 7½ feet, from front to rear, of Lot Numbered Forty-five (45), in Block Numbered Three (3), all as shown on a certain plat entitled, "MAP OF THE NEWPORT NEWS RIVERVIEW DEVELOPMENT COMPANY", made by J. L. Marye, C.E., duly of record in the Clerk's Office of the Circuit Court of the City of Hampton, Virginia, in Deed Book 38, at page 184, *et seq.*, to which reference is here made.

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