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**DECLARATION OF PROFFERED CONDITIONS FOR MALLORY SCOTT FARM**

**FOR INDEXING PURPOSES:**

**GRANTORS/DECLARANTS:**

**MOONE CREEK, INC.**

**MOONE CREEK ASSOCIATES, LLC**

**THE TERRY COMPANIES SEVEN, LLC**

**GRANTEE:**

**TOWN OF SMITHFIELD**

## PROPOSED PROFFERED CONDITIONS FOR MALLORY SCOTT FARM MASTER PLAN COMMUNITY

Revised June 25, 2021

The undersigned applicant states that the following conditions are voluntarily proffered for the reclassification of property identified as MALLORY SCOTT FARM. The Applicant/Developer hereby voluntarily proffers that the development of the property proposed for zoning reclassification under this application shall be in accordance with the conditions set forth below. The Applicant/Developer grants consent to the following proffers as evidenced by their signatures hereto. Where exhibits are referenced in this proffer they are on file with the Town of Smithfield.

1. Mallory Scott Farm shall be developed with a mix of product types not to exceed in total 812 units. The mix of product will conform to the proposed zoning lines. A mix of these product types may be developed to respond to the market conditions over time. No more than 100 homes shall be occupied in the year 2022, and an additional 125 certificates of occupancy may be added for each consecutive year thereafter. The home count shall be cumulative.
2. The developer shall establish a Home Owners Association in accordance with the Virginia Law.
3. The developer shall contract a professional management company to administer the homeowners association.
4. The Home Owners Association will be responsible for the perpetual maintenance of the following:
  - a. Storm water ponds
  - b. 100' Resource Protection Areas (RPA's) and additionally a 25' buffer area to the RPA
  - c. All active and passive open space areas
  - d. All amenities including, but not limited to, all those listed below in proffer #5.
5. The development shall include, at a minimum:
  - a. Two community clubhouses and appropriately sized pools at each clubhouse that are both handicap accessible with an open play area, and picnic area shall be developed. The first shall be constructed prior to 50% of the homes occupied West and North of Battery Park Road. The second shall be constructed prior to 50% of the homes occupied East of Battery Park Road and adjacent to Nike Park Road.
  - b. Pedestrian nature trail that connects to the internal sidewalk network.
  - c. Extensive Open Space areas (passive and active).
  - d. Landscape entrances from Nike Park Road and Battery Park Road into the community that will include brick monumentation, signage and tree plantings to be maintained by the Home Owners Association.
  - e. A community dock/pier with limited parking will provide a kayak and non-motorized watercraft launch area and overlook. Motorized watercraft will not be permitted to use this community dock/pier.
6. Individual lots or units shall not be allowed to construct docks/piers.
7. The architectural elevations for all homes, attached and detached, shall be in substantial conformance with the provided Conceptual Elevations, dated February 24, 2021. Minimum architectural standards shall be:

- a. No attached dwelling (townhome or duplex) shall be erected on any lot with less than 1300 square feet of heated living space.
  - b. No detached dwelling shall be erected on any lot with less than 1800 square feet of heated living space in the case of a two-story home.
  - c. No detached dwelling shall be erected on any lot with less than 1400 square feet of heated living space in the case of a one-story building.
  - d. All dwellings shall be covered with upgrade materials such as brick, stucco, stone, hardwood lap siding, fiber cement siding, or premium vinyl siding (0.42 mils or thicker).
  - e. All dwellings shall be constructed on a crawl space or a 16" raised slab with a full brick skirt. The use of slab on grade can be approved to accommodate handicapped accessible dwellings if needed.
8. There will be a minimum buffer of 60 feet along Battery Park Road and Nike Park Road. Refer to Entry Corridor Exhibits provided by LPS and dated February 24, 2021. Buffer areas may include:
    - a. designated primary or secondary entry features
    - b. tree save area
    - c. storm water ponds
    - d. or five(5) foot berm and landscaped area which shall be installed. The landscape berm shall be installed in conjunction with the commencement of construction the landscape berm intends to screen.
  9. Upon recordation of a subdivision plat or condominium documents creating lots or units on developer's property bordering Battery Park Road or Nike Park Road, developer will dedicate a 25 foot strip of land on its property bordering Battery Park Road and a 50 foot strip of land on its property bordering Nike Park Road for Future Road improvements.
  10. The developer has previously dedicated 12% of the cost to construct the water storage tank.
  11. The developer has previously dedicated a three (3) acre parcel of land to the Town of Smithfield for public use as a well site, public safety building and/or a storage tank. The uses of this site shall be determined by the town in its sole discretion.
  12. The developer shall upgrade the existing public 8" water main in Battery Park Road to a 16" water main between the intersection of Battery Park Road and Stratford Lane and Battery Park Road and Nike Park Road with Phases A and B. From the intersection of Battery Park Road and Nike Park a 12" water main shall be installed east of the proposed entrance on Nike Park Road with Phase E.
  13. At the developers cost, when required by the development, the existing 12" force main in South Church Street is to be upsized to a 16" force main from the HRSD interceptor in Benn's Church Boulevard to the intersection with Battery Park Road. Prior to Phase A it shall be determined when the upgrade to the force main will be required, further, this shall be reviewed at the commencement of each new phase.
  14. The developer shall complete all improvements recommended within the submitted and approved Traffic Impact Analysis, prepared by McPherson Consulting, dated April 2020 and updated April 2021. The recommendations listed below are associated with the Traffic Zones which include the corresponding development phases referenced in the Approved April 26, 2021 Memorandum: Refer to the April 26, 2021 Approved Memorandum for improvements to be made, graphics and further detailed information.

Traffic Zone 1: Phase 1

Traffic Zone 2: Phase 2, 3 and 4



Traffic Zone 3: Phase 6 (Excluding Duplex Location on Conceptual Plan)

Traffic Zone 4: Phase 5 and Phase 6 (Excluding the Single Family detached homes on Conceptual Plan)

- a. At Battery Park Road / S. Church Street; maintain existing laneage.  
Modify the traffic signal to install a flashing yellow arrow for the southbound left-turn movement on S. Church Street. This will allow for protected/permissive left-turn operations following approval of a left-turn phase selection engineering assessment. Provide optimized signal timings. This shall be completed prior to the first certificate of occupancy.
- b. At Battery Park Road, Stratford Lane, referred to as Site Driveway 1, construct southbound approach to create a four-legged intersection.  
Construct an eastbound left-turn lane (200' storage / 200' taper).  
Construct a westbound right-turn lane (200' storage / 200' taper). This shall be completed prior to the first certificate of occupancy.
- c. At Battery Park Road and Nike Park Road, Referred to as Site Driveway 2, construct the southbound approach. Construct a two-lane roundabout during the construction and prior to the completion of traffic Zone 2.  
Construct an additional northbound lane and receiving lane on the east side of the roundabout. This will allow the northbound approach of the roundabout to function as a shared left-through lane and one exclusive right-turn lane.  
These northbound improvements, including the eastbound receiving lanes, are needed when the Scott Farm portion of the development occurs and will access Batter Park Road.
- d. At Battery Park Road and Site Driveway 3, construct the westbound approach and construct northbound right-turn taper during the construction of traffic Zone 3.
- e. At Nike Park Road referred to as Site Driveway 4 construct the westbound approach to create a T-intersection. Construct a southbound left-turn lane (200' storage / 200' taper). Construct a northbound right-turn lane (200' storage / 200' taper). These improvements are to be made during the construction of traffic Zone 4.
- f. At Nike Park Road / Titus Creek Drive construct a southbound left-turn lane (200' storage / 200' taper) prior to the 500 Certificate of Occupancy.
- g. At Smiths Neck Road / Titus Creek Drive maintain existing laneage.
- h. The projected Full Build-out traffic volumes at the future Nike Park Road / Reynolds Drive intersection do not meet signal warrants; however, based on future level of service and delays, an additional signal warrant should be performed for future development levels as specified below:  
When the first residential unit within Zone 3 – Phase 6 is occupied, a 12-hour turning movement count should be performed at the developer cost. If traffic volumes warrant a signal, the developer should be responsible for the portion of the total signalized intersection cost that include design, right of way acquisition, and construction. This calculated percentage should be equal to the amount of traffic generated by the Mallory Point Scott Farm development using this intersection in relation to the entire intersection volume.
- i. At Smiths Neck Road / Reynolds Drive maintain existing laneage.
- j. At Smiths Neck Road / Carrollton Boulevard (Route 17) Provide optimized signal timings.

- k. At Nike Park Road / Carrollton Boulevard (Route 17) extend northbound left-turn lane (400' storage / 200' taper).  
Extend southbound right-turn lane (900' storage / 200' taper) and provide optimized signal timings.
  - l. At Brewers Neck Boulevard / Carrollton Boulevard Route 17 provide optimized signal timings. The optimized signal timings assume incremental adjustments to study area intersections that will incorporate splits and offset adjustments with the existing coordinated.
15. A signal warrant analysis per VDOT standards shall be performed at the intersection of Wellington Estates and the phase 1 entrance. The analysis shall be completed after Phase 1 has been fully developed. If the warrant analysis indicates a signal is required, any additional right of way required would be provided by either Isle of Wight, the Town of Smithfield or the Wellington Home Owners Association Incorporated, at no cost to the developer, for installation of a new signal which will be paid for by the developer.
16. The Declaration of Restrictions for all homes constructed in the Mallory Scott Farm rezoning area will prohibit property owners from accepting Section 8 rental vouchers, except where prohibited by Federal or State law.
17. The developer will submit a copy of the proposed development's declaration of covenants and restrictions, in which the individual property owners/occupants are expressly prohibited from installing irrigation wells on their respective properties. A development of this magnitude is likely to result in a high volume of applications for private irrigation wells, which are likely to result in the withdrawal of a substantial quantity of groundwater, hindering the Town's chances of obtaining the withdrawal permit from the Virginia Department of Environmental Quality necessary to meet the demand for water that this and other developments in Town will generate.

MOONE CREEK INC.

By: \_\_\_\_\_

Vincent Napolitano, President

MOONE CREEK ASSOCIATES, LLC

BY: Napolitano V, LLC, Operating Manager

BY: Napolitano Ventures, LLC, Operating Manager

BY: Napolitano Enterprises, Inc. Operating Manager

By: \_\_\_\_\_

Vincent Napolitano, President

THE TERRY COMPANIES SEVEN, LLC

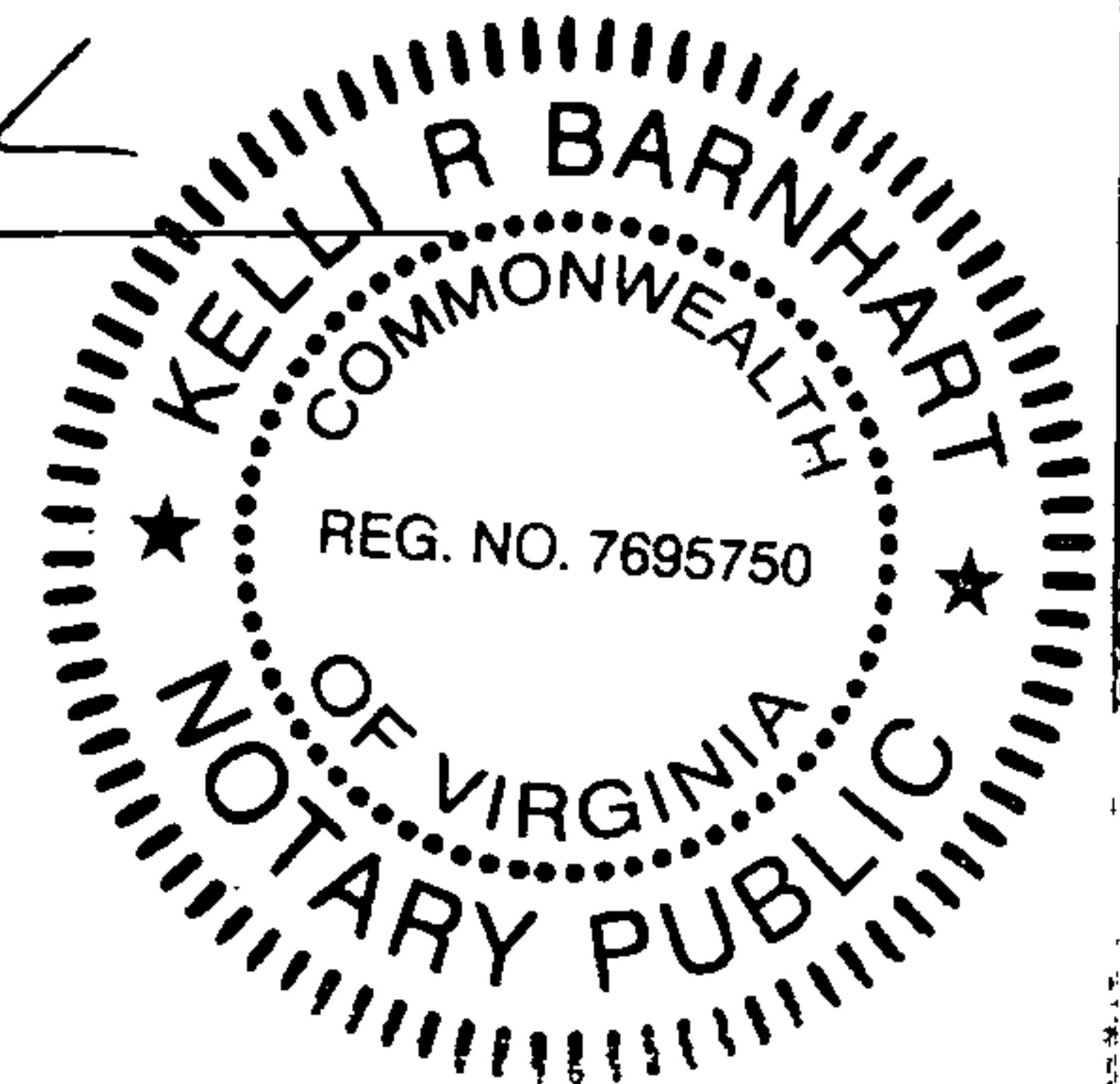
By: 

Vincent Napolitano, Assistant Operating Manager

STATE OF VIRGINIA

CITY OF VIRGINIA BEACH, to-wit:

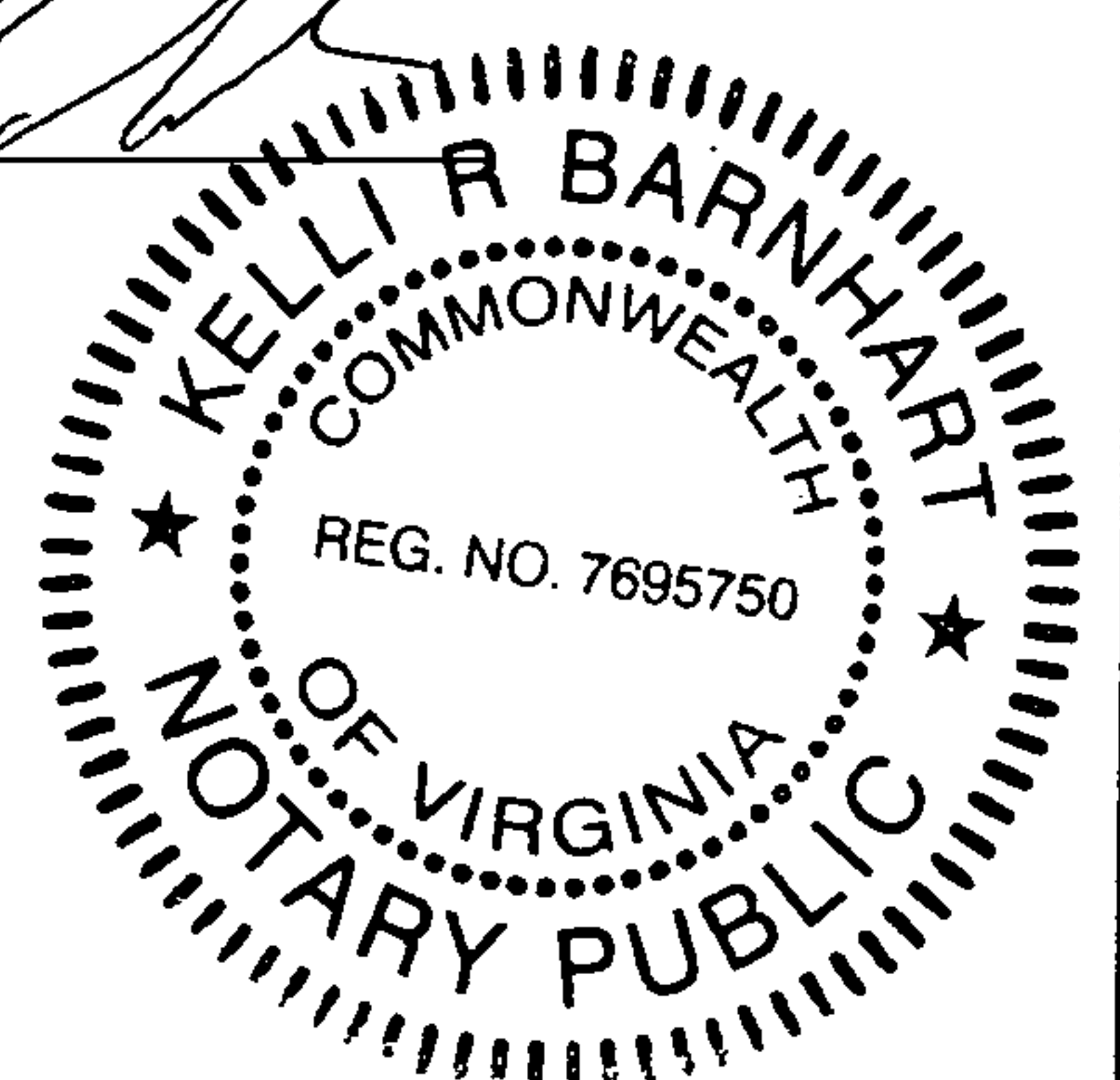
The foregoing instrument was acknowledged before me this 13<sup>th</sup> day of July, 2021 by Vincent Napolitano, President of Moone Creek, Inc, on behalf of said company, who is personally known to me or who has produced identification.

  
 Notary Public
My Commission Expires: 6/30/2024Notary Registration No.: 7695750

STATE OF VIRGINIA

CITY OF VIRGINIA BEACH, to-wit:

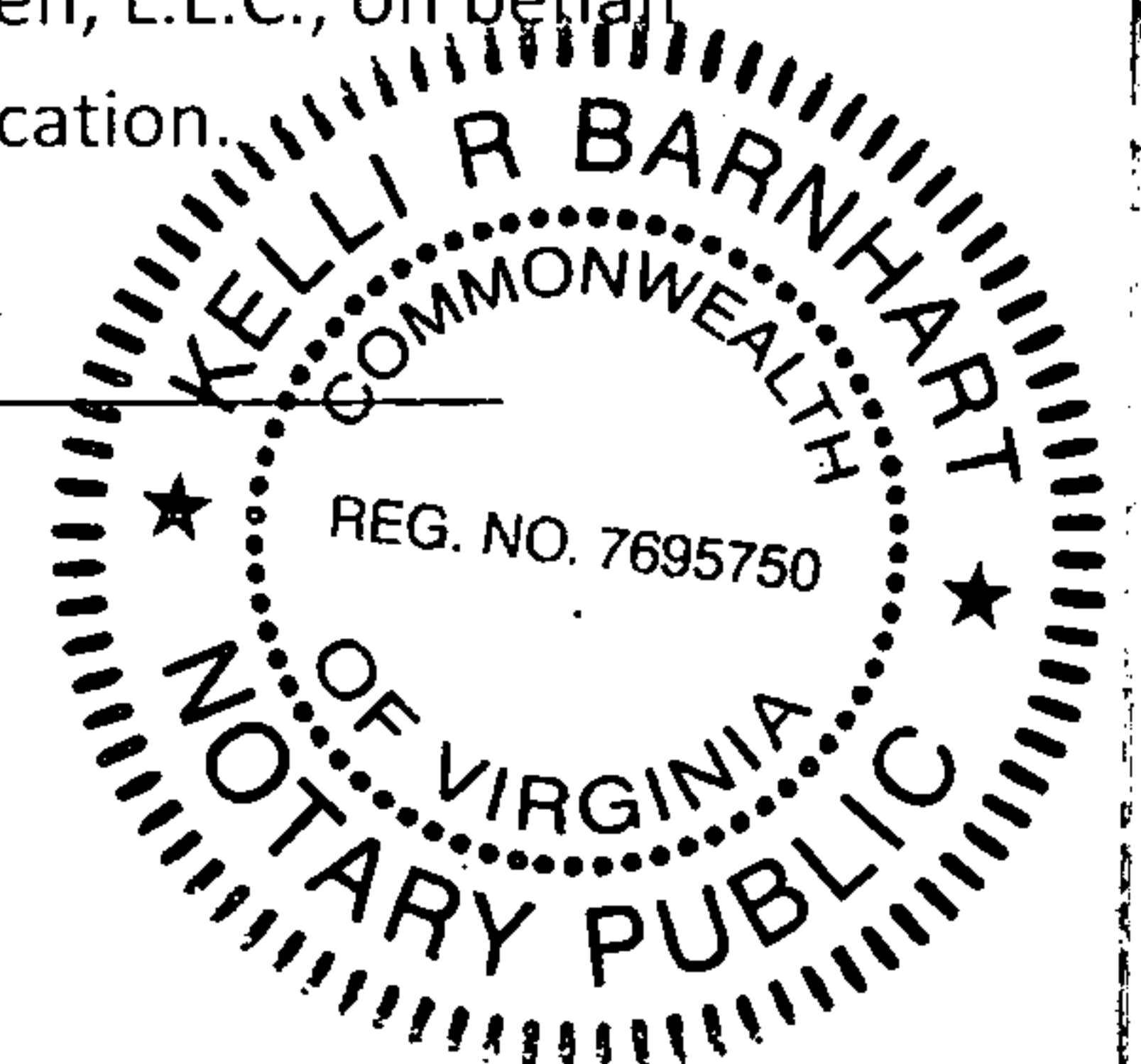
The foregoing instrument was acknowledged before me this 13<sup>th</sup> day of July, 2021 by Vincent Napolitano, Operating Manager of Napolitano Enterprises, Inc., Operating Manager of Napolitano Ventures, LLC, Operating Manager of Napolitano V, LLC, President of Moone Creek Associates, L.L.C, on behalf of said corporation, who is personally known to me or who has produced identification.

  
 Notary Public
My Commission Expires: 6/30/2024Notary Registration No.: 7695750

STATE OF VIRGINIA

CITY OF VIRGINIA BEACH, to-wit:

The foregoing instrument was acknowledged before me this 13<sup>th</sup> day of July, 2021 by Vincent Napolitano, Assistant Operating Manager of The Terry Companies Seven, L.L.C., on behalf of said company, who is personally known to me or who has produced identification.

  
 Notary Public
My Commission Expires: 6/30/2024Notary Registration No.: 7695750



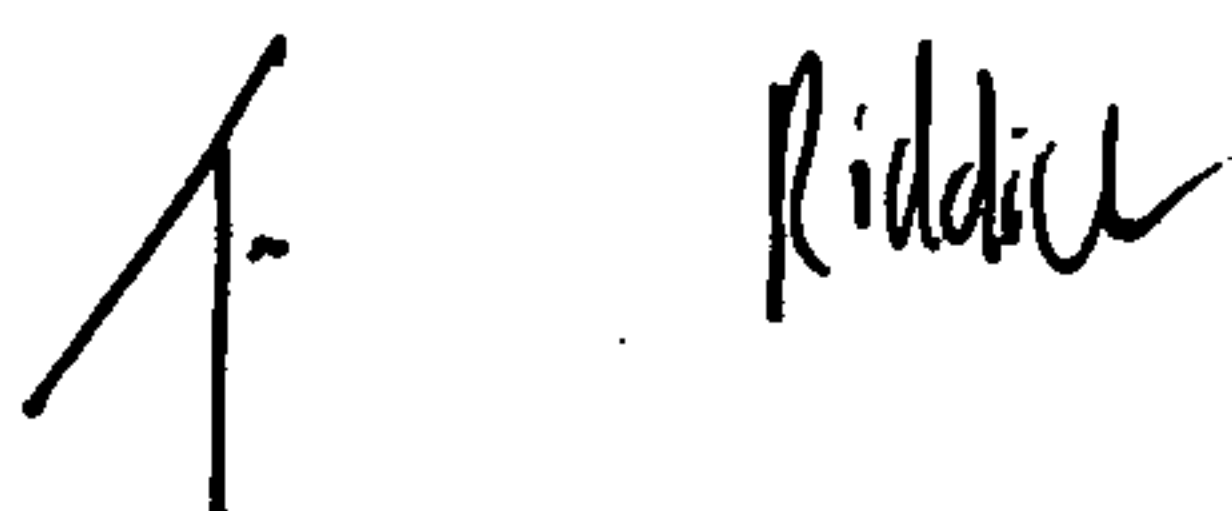
**Exhibit "A"**

Mallory Scott Farm General Development Plan dated April 3, 2020 on file with the Town of Smithfield.

Mallory Scott Farm Entry Corridor Landscaping plan dated February 24, 2021 on file with the Town of Smithfield.

Traffic Impact Analysis prepared by McPherson Consulting dated April 2020 and updated April 26, 2021 on file with the Town of Smithfield.

Conceptual Elevations date February 24, 2021 on file with the Town of Smithfield.

 Riddick

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INSTRUMENT # 210007746  
RECORDED IN THE CLERK'S OFFICE OF  
ISLE OF WIGHT COUNTY ON  
OCTOBER 29, 2021 AT 03:08PM

KATHLEEN S. TORRENCE, CLERK  
RECORDED BY: DDS