

## Summary of Declaration of Restrictive Covenants for Stafford Future Phase Property

As many Crescent Owners are aware, there were multiple litigation matters pending between Stafford and the Crescent POA that were the subject of Mediation with Stafford on October 4, 2019. Our attorneys and our Board Members in attendance got to know each other much better during the mediation session, which lasted from 10:00 AM on the morning of October 4 until 1:00 AM on the morning of Saturday, October 5.

The parties were able to negotiate a hard-fought settlement, including a resolution of all pending litigation matters. At the crux of the settlement was a negotiated set of covenants and restrictions that would apply to Stafford's development of the Future Phase Property where the Osprey Cove Apartments had previously been planned.

The terms of this portion of the settlement are as set forth in the *Declaration of Restrictive Covenants dated October 5, 2019* ("the Restrictions") that has been recorded with the Beaufort County Register of Deeds in Book 3803 at Page 1686. The Restrictions constitute *covenants running with the land* (Future Phase Property), are enforceable by the Crescent POA, and are binding on not only Stafford but all future owners of all or any portion of the Future Phase Property. The following are bullet points of the essential terms of the recorded Restrictions:

- The maximum height of any constructed improvements on the property will not exceed three (3) stories or 45-feet above grade to the roof peak.
- There is a 75-foot setback from the property line between the Crescent property and Stafford's property. This includes a 50-foot buffer area where no improvements will be allowed other than landscaping and irrigation, (please see attached picture).
- The developer of the Future Phase Property will be required to extend the existing berm and fence behind the Best Buy Commercial Center along the length of the property line between the Crescent and Stafford's property, (approximately 550 feet).
- The developer of the property will also be required to complete landscaping with, at a minimum, the standards of a "Type E" Perimeter Buffer as defined in the Beaufort County Community Development Code. This is the densest landscaping standard in the Code and includes required plantings of Overstory Trees, Understory Trees and Shrubs, all intended to provide a buffer that "*prevents visual and auditory contact between incompatible uses on adjoining properties.*" A copy of the Code requirements is attached hereto. Type E landscaping requires 3 different types of plantings. Note required buffer width 50 of feet. The following need to be planted every 100 linear feet: 1). Minimum 24 Overstory trees, 2). Minimum 30 Understory trees, 3). Minimum 55 shrubs.
- Stafford, or the Future developer of the Future Phase Property, is required to notify the POA of its application and to provide conceptual plans for any proposed development on

the property. This will give the POA and its attorneys an opportunity to assure that the plans are in compliance with the terms of the Declaration of Restrictive Covenants.

- The Restrictions include a requirement that exterior lighting on the property shall be by *“cut off luminaires or their functional equivalent whose source is completely concealed by opaque housing and shall be of such design as to minimize the amount of ambient lighting perceptible from CPOA properties.”*
- Trash receptacles and refuse dumpsters are required to be located as far south on the Future Phase Property as practicable and between the generally southern boundary of the Future Phase Property and any buildings constructed thereon.

Note: The Declaration of Covenants will be on the website for the next few weeks to everyone to read.

Table 5.8.90.D. Perimeter Buffer Types (continued)

Type E: Significant



**Description**

This perimeter buffer functions as a significant fully-opaque separation from the ground to a height of at least eight feet. This type of buffer prevents visual and auditory contact between incompatible uses and creates complete separation.

**Width<sup>1</sup>**

Buffer Width 50 Feet

**Plant Requirements (per 100 linear feet)**

Overstory Trees 24 ACI minimum

Understory Trees<sup>3</sup> 30 ACI minimum

Shrubs 55 shrubs minimum

**Additional Requirements**

Existing trees and vegetation may not be removed unless dead, diseased, or listed as an invasive species for the Beaufort County area by the South Carolina Department of Natural Resources or in Table 5.11.100.C of this ordinance.

**Notes**

<sup>1</sup> Any required perimeter buffer can be reduced to five feet with the provision of a solid masonry wall at least five feet in height, along with ten large shrubs per 100 linear feet.

<sup>2</sup> Perimeter buffer widths (but not vegetation amounts) for perimeter buffer types A, B, C, and D may be reduced in accordance with Section 7.2.30 (Modulation Permit).

<sup>3</sup> Where and adjacent use is designed for solar access, understory trees can be substituted for canopy trees.

- F. **Perimeter Buffer Type Application.** Table 5.8.90.F (Perimeter Buffer Type Application) specifies the type of perimeter buffer that is required between a proposed development and adjacent property, based on the proposed use type on the development site and the existing use type on the abutting property or the zone district in which abutting vacant property is located. The perimeter buffer standards do not apply in the transect zones, except for T2 Rural. The buffer type is indicated by a letter corresponding to one of the four buffer types depicted in Table 5.8.90.D (Perimeter Buffer Types).
- G. **Development Abutting Existing Perimeter Buffer.** Where a developing parcel abuts an existing use and application of a perimeter buffer is required by Table 5.8.90.D (Perimeter Buffer Types), the developing parcel shall provide the entire minimum perimeter buffer width and screening required by Table 5.8.90.D (Perimeter Buffer Types), unless a portion or all of a perimeter buffer that complies with the standards of this Section already exists between the parcels. Where such an existing perimeter buffer does not fully comply with the width and screening standards for the required perimeter buffer type, the developing parcel shall be responsible for providing all the additional perimeter buffer width and planting material necessary to meet the standards of this Section.