

ACTIONS Board of Supervisors Meeting of September 13, 2006		
1.	<p>Call to Order.</p> <ul style="list-style-type: none"> Meeting was called to order at 2:30 by the Chairman, Mr. Rooker. All BOS members were present. Also present were Bob Tucker, Larry Davis, Mark Graham, Ella Carey, and Meagan Hoy. 	
	<p>NonAgenda. Mr. Rooker provided Board members with a copy of a handout on Transportation Funding and the Meadow Creek Parkway.</p>	
2.	<p>Work Session: Phasing & Clustering of Rural Area Subdivisions, Family Divisions; Mountain Overlay District.</p> <ul style="list-style-type: none"> The Board took no action to request staff to proceed with the concept of phasing and clustering of rural area subdivisions. Consensus that staff bring back an overview of the proposal for a Mountain Protection Ordinance, that does not reflect mandatory phasing and clustering; how it works with family subdivisions; a perspective on perennial vs. intermittent streams; and the impact the suggested provisions of a MOD would have if applied rural area wide. When information ready bring back for work session with the Planning Commission. 	<p><u>Clerk:</u> Schedule for work session when ready to come back to Board.</p>
3.	<p>Work Session: Green Building and Sustainability.</p> <ul style="list-style-type: none"> Staff to provide additional information on what is being done internally, how the County can publicize the concept, and discuss with the public (Blue Ridge Homebuilders) what they are doing. 	
4.	<p>Alternative Engineering Review Pilot Program.</p> <ul style="list-style-type: none"> APPROVED the Pilot Program for two years as set out on the attached. 	<p><u>Clerk:</u> Set out program. (Attachment 1)</p>
8.	<p>From the Public: Matters Not Listed on the Agenda.</p> <ul style="list-style-type: none"> Alexis Zeigler and Don Wells, of Charlottesville Peak Oil, provided a handout on "Biofuel Replacements for Gasoline Panacea or Pipe Dream" and spoke about coal and tar sands. David Steinberg suggested the Board endorse the U.S. Mayors Climate Protection Agreement which was recently endorsed by the City of Charlottesville. Jack Marshall, President of ASAP, presented a statement asking the County to amend the Comp Plan to require identification of a sustainable optimal population size for the Charlottesville-Albemarle community; to hire outside consultants to oversee the initiative; and that the County make no changes to existing zoning until a Comp Plan Amendment is established that sets forth an optimal population range. Jeff Warner spoke regarding the Board's earlier discussions on conservation easements. He noted that Albemarle is not the leader in conservation easements in the state. He noted that there is a complete lack of understanding on what a conservation easement does or does not do. Mr. Ridge Schuyler, Director, Piedmont Program, The 	

	Nature Conservancy of Virginia, asked the Board to appoint two members from its elected body to serve on the Rivanna River Basin Commission. (Mr. Rooker noted that the Board would discuss this at the end of tonight's meeting.)	
9.2	<p>Authorize County Executive to Accept Deeds on behalf of the County Conveying Right of Way and any Easements Necessary to Improve Right of Way.</p> <ul style="list-style-type: none"> • ADOPTED the attached Resolution to authorize the County Executive to accept deeds on behalf of the County conveying right of way and any easements necessary for improving right of way, provided that the deeds are approved as to form and content by the County Attorney. 	<u>Clerk:</u> Forward copy of resolution to County Attorney's office. (Attachment 2)
10.	<p>Resolution: Virginia Public School Authority (VPSA) Bond Issue.</p> <ul style="list-style-type: none"> • ADOPTED the attached Resolution to authorize the issuance of bonds in the maximum principal amount of \$15,465,000 to finance certain capital improvements for the County's public schools. 	<u>Clerk:</u> Forward seven original signed copies of resolution to Finance Department and copy to County Attorney's office. (Attachment 3)
11.	<p>ZMA-2006-001. Westhall Phase V (Signs #49,59,64).</p> <ul style="list-style-type: none"> • APPROVED ZMA-2006-001, by a vote of 4:2, as proffered, and subject to the amended application plan. • APPROVED, by a vote of 6:0, a waiver of Sections 4.6.2 and 4.6.3.b. of the Zoning Ordinance to allow for the application of setbacks for the affordable dwelling units to be as shown to be application plan. 	<u>Clerk:</u> Set out proffers. (Attachment 4)
12.	<p>ZTA-2005-005 Farm Worker Housing.</p> <ul style="list-style-type: none"> • DIRECTED staff to readvertise ZTA-2005-005 to allow as a by-right use "up to ten occupants/persons" in two dwelling structures. 	<u>Clerk:</u> Schedule on agenda when ready to come back.
13.	<p>ZMA-2005-018. Wickham Pond Phase II (Sign # 7)</p> <ul style="list-style-type: none"> • APPROVED ZMA-2005-018, by a vote of 4:2, as proffered, and subject to the amended General Development Plan and the amended Code of Development. • APPROVED, by a vote of 6:0, a waiver of Section 4.12.9(a) of the Zoning Ordinance to allow for the on-street parking to be provided for the purpose of meeting the minimum parking requirements on lots that do not necessarily abut the lot that the spaces serve. 	<u>Clerk:</u> Set out proffers. (Attachment 5)
14.	<p>From the Board: Committee Reports and Matters Not Listed on the Agenda.</p> <ul style="list-style-type: none"> • APPOINTED Sally Thomas and Lindsay Dorrier to the Rivanna River Basin Commission. • ADOPTED the attached Resolution to Authorize Acquisition of Property in the community of Crozet for the purpose of providing public space for library facilities and other public improvements. <p><u>Sally Thomas:</u></p> <ul style="list-style-type: none"> • Mentioned that there will be a Transportation Conference in October. • She will be attending the Governor's Natural Resources Leadership Summit on September 18th and 19th. 	<p><u>Clerk:</u> Notify Ridge Schuyler, update Boards and Commission book, and website.</p> <p><u>Clerk:</u> Forward resolution to County Attorney's office. (Attachment 6)</p>

	<p><u>Ken Boyd</u></p> <ul style="list-style-type: none"> Discussed a request filed by United Land Corp regarding property adjacent to Hollymead. He was told the request has been held up pending Places29, and he would like to get the request back in the system for review. Mr. Graham said the request is for a Comp Plan Amendment and the Planning Commission directed staff to consider the amendment as part of the Places29 master planning process. The Commission was not willing to proceed with the proposed amendment ahead of Places29. <p><u>David Slutzky:</u></p> <ul style="list-style-type: none"> Mentioned comments made at the September 6th Board meeting regarding the openness of TJPED meetings. He has spoken to representatives of TJPED and Bob Tucker will be invited to join their Executive Committee. 	
15.	<p>Adjourn to September 15, 2006, 9:00 a.m. (Zehmer Hall) for the Board's Annual Retreat, "Funding the Future".</p> <ul style="list-style-type: none"> At 10:55 p.m., the meeting was adjourned. 	

/EWC

- Attachment 1 – Alternative Engineering Review Pilot Program
- Attachment 2 – Resolution to Authorize County Executive to Accept Deeds on behalf of the County Conveying Right of Way and any Easements Necessary to Improve Right of Way
- Attachment 3 – Resolution: Virginia Public School Authority (VPSA) Bond Issue
- Attachment 4 – Proffers: ZMA-2006-001. Westhall Phase V
- Attachment 5 – Proffers: ZMA-2005-018. Wickham Pond Phase II
- Attachment 6 – Resolution to Authorize Acquisition of Property

Alternative Engineering Review Pilot Program

Purpose/Outcome: The program's goal is to require fewer reviews with equal or better plan quality through use of detailed checklists, while making submitting design professionals more responsible for quality control of their plans. This effort will also allow County staff to focus more time on preliminary plans and plats, documentation of processes and training private engineers on County processes, and field inspections to verify proper construction.

Length of pilot program: 2 years pilot study, with 6 month reports to the Board on number of plans submitted for the pilot program, number of plans not included in the pilot program, number of plans pulled from the pilot program due to noted problems, and number of mistakes found in the field. At end of 2 year pilot program, there will be a decision by the Board on whether to continue the program as part of the plan review process.

Eligibility for pilot program: Design professionals holding a current Virginia license. (Architects, Engineers, Landscape Architects, and 3B Surveyors)

Staff's Obligations with Process:

- Collect data on number of plans using the process, number of plans not using the process, number of plans pulled from the process for noted problems, and number of problems found in the field after approval for both plans using the process and those not using the process.
- Prepare and distribute detailed checklists for engineers using the process (as well as those not using the process)
- cursory reviews of certified plans to verify work complies with checklists. Plans found to not comply with checklists may be removed from the pilot program at staff's discretion.
- Prepare reports to the Board on the pilot program status at six month intervals.
- Staff will assure design professional are notified of eligibility to submit under the pilot program with approval of preliminary plans or plats. Staff will also provide a list of requirements for final approval, checklists for final approval, and submittal forms for final approval as part of the preliminary approval.

Design Professional's Obligation with Process

- Familiarize themselves with County ordinances, design standards and checklists.
- Submit plans that fully comply with checklists. Whenever questions arise as to complying with the checklist, the design professional will seek guidance from staff and incorporate their recommendations into submitted plans.
- Assure owner understands improvements must be built as shown on approved plans and changes from the approved plan must be approved by the County. .

Property Owner's Obligation with Process

- Assure design professional is given adequate time to assure quality of certified plans.
- Construct improvements as shown on the approved plans

How will the program work?

A: Staff will provide certification forms and courtesy checklists at the front desk and through the department's web page. Engineers will review their plans against the items on the applicable certification statement and when they are confident they have addressed all of the items, place the certification on the plan. When a plan is submitted, staff will see if a certification is on the plan. If so, staff will give the plan a quick check to verify selected items. If staff doesn't find significant issues with this check, the plan will be approved. If staff finds significant issues have not been addressed, the plan will be put in the review queue and receive the normal review in the order received. In the latter case, the engineer will be notified their plan is receiving the normal review. With this process, the engineer who properly prepares a certified plan can expect approval in about a week. Conversely, the plan that follows the normal process will receive the same review as currently done. A resubmitted plan may also use the certification process, provided the engineering reviewer finds the number and extent of changes is not excessive.

What plans are eligible for this program?

A: Certifications are available for engineering plans associated with final site plans (where a preliminary plan has been approved), private road plans (where a preliminary plat has been approved), stormwater management plans, erosion control (grading) plans, and mitigation plans.

What plans are not eligible for this program?

A: Preliminary plans and plats will not be eligible for this program. Public road plans will not be eligible for this program, as VDOT approval of those plans is necessary. Waiver requests will not be eligible for this program. Special plans, such as an early grading plan in a planned development, will be considered on a case by case basis.

What happens if the engineer is uncertain of an ordinance or policy requirement?

A: County staff will still be available to assist designers with any questions they may have prior to certifying a submission. As many of you already know, the engineering reviewers have a regularly scheduled time on Thursday afternoons, starting at 2:00pm, when designers and developers can discuss applications and reviews. Staff does ask that the engineer call and set up an appointment in advance of the meeting.

What happens if errors are found after approval?

A: Staff will treat errors the same as currently happens when errors are found after approval or we find the project has not been built to the approved plan. In those cases, staff will review and determine what corrections are needed to comply with County ordinances. As part of this pilot program, staff will report all errors and resolutions to the County Board.

What happens if you find the process needs to be changed?

A: As this process is totally administrative, staff can easily modify the program or even abandon the process if it doesn't work. If there are major program changes, we will send out a notice similar to this notice. For minor changes, we anticipate keeping an email list of engineers using this program and they will be notified of those changes.

**RESOLUTION TO AUTHORIZE COUNTY EXECUTIVE
TO ACCEPT DEEDS CONVEYING RIGHT OF WAY AND EASEMENTS
NECESSARY TO IMPROVE SUCH RIGHT OF WAY**

WHEREAS, the County of Albemarle may acquire lands for its transportation system through Deeds conveying right of way and easements necessary to improve right of way; and

WHEREAS, such Deeds set forth the rights and responsibilities of the landowner and the County, including the County's rights and obligations to make improvements within the right of way and easement area; and

WHEREAS, the efficiency of government is improved by delegating the authority to the County Executive to accept such Deeds on behalf of the County.

NOW, THEREFORE, BE IT RESOLVED that the Albemarle County Board of Supervisors authorizes the County Executive, on behalf of the County, to accept Deeds conveying to the County right of way and easements necessary to improve right of way, provided that such Deeds are approved as to form and content by the County Attorney.

**RESOLUTION AUTHORIZING THE ISSUANCE OF
GENERAL OBLIGATION SCHOOL BONDS, SERIES 2006A,
OF THE COUNTY OF ALBEMARLE, VIRGINIA,
IN A PRINCIPAL AMOUNT NOT TO EXCEED \$15,465,000
TO BE SOLD TO THE VIRGINIA PUBLIC SCHOOL AUTHORITY
AND PROVIDING FOR THE FORM AND DETAILS THEREOF**

WHEREAS, the Board of Supervisors (the "Board") of the County of Albemarle, Virginia (the "County"), has determined that it is necessary and expedient to borrow a principal amount not to exceed \$15,465,000 and to issue its general obligation school bonds for the purpose of financing certain capital projects for school purposes; and

WHEREAS, the County has held a public hearing, duly noticed, on September 13, 2006, on the issuance of the Bonds (as hereinafter defined) in accordance with the requirements of Section 15.2-2606, Code of Virginia 1950, as amended (the "Virginia Code"); and

WHEREAS, the School Board of the County has, by resolution adopted on August 10, 2006, requested the Board to authorize the issuance of the Bonds and consented to the issuance of the Bonds; and

WHEREAS, the Bond Sale Agreement (as hereinafter defined) shall indicate that \$15,465,000 is the amount of proceeds requested (the "Proceeds Requested") from the Virginia Public School Authority (the "VPSA") in connection with the sale of the Bonds; and

WHEREAS, the VPSA's objective is to pay the County a purchase price for the Bonds which, in VPSA's judgment, reflects the Bonds' market value (the "VPSA Purchase Price Objective"), taking consideration of such factors as the amortization schedule the County has requested for the Bonds relative to the amortization schedules requested by other localities, the purchase price to be received by VPSA for its bonds and other market conditions relating to the sale of the VPSA's bonds; and

WHEREAS, such factors may result in the Bonds having a purchase price other than par and consequently (i) the County may have to issue a principal amount of Bonds that is less than the Proceeds Requested in order to receive an amount of proceeds that is substantially equal to the Proceeds Requested, or (ii) if the maximum authorized principal amount of the Bonds set forth in Section 1 below does not exceed the Proceeds Requested by at least the amount of any discount, the purchase price to be paid to the County, given the VPSA Purchase Price Objective and market conditions, will be less than the Proceeds Requested.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF THE COUNTY OF ALBEMARLE, VIRGINIA:

1. Authorization of Bonds and Use of Proceeds. The Board hereby determines that it is advisable to contract a debt and issue and sell its general obligation school bonds in an aggregate principal amount not to exceed \$15,465,000 (the "Bonds") for the purpose of financing certain capital projects for school purposes as described in Exhibit B. The Board hereby authorizes the issuance and sale of the Bonds in the form and upon the terms established pursuant to this Resolution.

2. Sale of the Bonds. It is determined to be in the best interest of the County to accept the offer of the VPSA to purchase from the County, and to sell to the VPSA, the Bonds at a price, determined by the VPSA to be fair and accepted by the Chairman of the Board and the County Executive, either of whom may act that is substantially equal to the Proceeds Requested, except that the Bonds may be sold

for a purchase price not lower than 95% of the Proceeds Requested if issuing the Bonds in the maximum principal amount authorized by Section 1 of this Resolution is insufficient, given the VPSA Purchase Price Objective and market conditions, to generate an amount of proceeds substantially equal to the Proceeds Requested. The Chairman of the Board and the County Executive, either of whom may act, and such other officer or officers of the County as either may designate, any of whom may act, are hereby authorized and directed to enter into a Bond Sale Agreement dated as of the sale date of the VPSA's bonds (the "Bond Sale Agreement"), with the VPSA providing for the sale of the Bonds to the VPSA. The Bond Sale Agreement shall be in substantially the form submitted to the Board at this meeting, which form is hereby approved, with such completions, omissions, insertions and changes not inconsistent with this Resolution as may be approved by the officer executing the Bond Sale Agreement, his execution to constitute conclusive evidence of his approval of any such completions, omissions, insertions and changes.

3. Details of the Bonds. The Bonds shall be dated the date of issuance and delivery of the Bonds; shall be designated "General Obligation School Bonds, Series 2006A"; shall bear interest from the date of delivery thereof payable semi-annually on each January 15 and July 15 beginning July 15, 2007 (each an "Interest Payment Date"), at the rates established in accordance with Section 4 of this Resolution; and shall mature on July 15 in the years (each a "Principal Payment Date") and in the amounts set forth on Schedule I attached hereto (the "Principal Installments"), subject to the provisions of Section 4 of this Resolution.

4. Interest Rates and Principal Installments. The County Executive is hereby authorized and directed to accept the interest rates on the Bonds established by the VPSA, provided that each interest rate shall be ten one-hundredths of one percent (0.10%) over the interest rate to be paid by the VPSA for the corresponding principal payment date of the bonds to be issued by the VPSA (the "VPSA Bonds"), a portion of the proceeds of which will be used to purchase the Bonds, and provided further that the true interest cost of the Bonds does not exceed five and fifty one-hundredths percent (5.50 %) per annum. The Interest Payment Dates and the Principal Installments are subject to change at the request of the VPSA. The County Executive is hereby authorized and directed to accept changes in the Interest Payment Dates and the Principal Installments at the request of the VPSA, provided that the aggregate principal amount of the Bonds shall not exceed the amount authorized by this Resolution and provided further that the final maturity of the Bonds occurs no later than December 31, 2026. The execution and delivery of the Bonds as described in Section 8 hereof shall conclusively evidence such interest rates established by the VPSA and Interest Payment Dates and the Principal Installments requested by the VPSA as having been accepted by the County Executive as authorized by this Resolution.

5. Form of the Bonds. The Bonds shall be initially in the form of a single, temporary typewritten bond substantially in the form attached hereto as Exhibit A.

6. Payment; Paying Agent and Bond Registrar. The following provisions shall apply to the Bonds:

(a) For as long as the VPSA is the registered owner of the Bonds, all payments of principal, premium, if any, and interest on the Bonds shall be made in immediately available funds to the VPSA at, or before 11:00 a.m. on the applicable Interest Payment Date, Principal Payment Date or date fixed for prepayment or redemption, or if such date is not a business day for Virginia banks or for the Commonwealth of Virginia, then at or before 11:00 a.m. on the business day next preceding such Interest Payment Date, Principal Payment Date or date fixed for prepayment or redemption.

(b) All overdue payments of principal and, to the extent permitted by law, interest shall bear interest at the applicable interest rate or rates on the Bonds.

(c) SunTrust Bank (or any successor entity), Richmond, Virginia, is designated as bond registrar and paying agent for the Bonds (the "Bond Registrar"). The County may, in its sole discretion,

replace at any time the Bond Registrar with another qualified bank or trust company as successor Bond Registrar.

7. **Prepayment or Redemption.** The Principal Installments of the Bonds held by the VPSA coming due on or before July 15, 2016, and the definitive Bonds for which the Bonds held by the VPSA may be exchanged that mature on or before July 15, 2016, are not subject to prepayment or redemption prior to their stated maturities. The Principal Installments of the Bonds held by the VPSA coming due after July 15, 2016, and the definitive bonds for which the Bonds held by the VPSA may be exchanged that mature after July 15, 2016, are subject to prepayment or redemption at the option of the County prior to their stated maturities in whole or in part, on any date on or after July 15, 2016, upon payment of the prepayment or redemption prices (expressed as percentages of Principal Installments to be prepaid or the principal amount of the Bonds to be redeemed) set forth below plus accrued interest to the date set for prepayment or redemption:

<u>Dates</u>	<u>Prices</u>
July 15, 2016 through July 14, 2017	101%
July 15, 2017 through July 14, 2018	100½
July 15, 2018 and thereafter	100

Provided, however, that the Bonds shall not be subject to prepayment or redemption prior to their stated maturities as described above without first obtaining the written consent of the VPSA or the registered owner of the Bonds. Notice of any such prepayment or redemption shall be given by the Bond Registrar to the registered owner by registered mail not more than ninety (90) and not less than sixty (60) days before the date fixed for prepayment or redemption.

8. **Execution of the Bonds.** The Chairman or Vice Chairman of the Board, either of whom may act, and the Clerk of the Board or any Deputy Clerk, either of whom may act, are authorized and directed to execute and deliver the Bonds and to affix the seal of the County thereto.

9. **Pledge of Full Faith and Credit.** For the prompt payment of the principal of and premium, if any, and the interest on the Bonds as the same shall become due, the full faith and credit of the County are hereby irrevocably pledged, and in each year while any of the Bonds shall be outstanding there shall be levied and collected in accordance with law an annual ad valorem tax upon all taxable property in the County subject to local taxation sufficient in amount to provide for the payment of the principal of and premium, if any, and the interest on the Bonds as such principal, premium, if any, and interest shall become due, which tax shall be without limitation as to rate or amount and in addition to all other taxes authorized to be levied in the County to the extent other funds of the County are not lawfully available and appropriated for such purpose.

10. **Use of Proceeds Certificate and Certificate as to Arbitrage.** The Chairman of the Board, the County Executive and such other officer or officers of the County as either may designate, any of whom may act, are hereby authorized and directed to execute a Certificate as to Arbitrage and a Use of Proceeds Certificate, each setting forth the expected use and investment of the proceeds of the Bonds and containing such covenants as may be necessary in order to show compliance with the provisions of the Internal Revenue Code of 1986, as amended (the "Code"), and applicable regulations relating to the exclusion from gross income of interest on the Bonds and on the VPSA Bonds. The Board covenants on behalf of the County that (i) the proceeds from the issuance and sale of the Bonds will be invested and expended as set forth in such Certificate as to Arbitrage and such Use of Proceeds Certificate and that the County shall comply with the other covenants and representations contained therein and (ii) the County shall comply with the provisions of the Code so that interest on the Bonds and on the VPSA Bonds will remain excludable from gross income for Federal income tax purposes.

11. **State Non-Arbitrage Program; Proceeds Agreement.** The Board hereby determines that it is in the best interests of the County to authorize and direct the Director of Finance to participate in

the State Non-Arbitrage Program in connection with the Bonds. The Chairman of the Board, the County Executive and such officer or officers of the County as either may designate, any of whom may act, are hereby authorized and directed to execute and deliver a Proceeds Agreement with respect to the deposit and investment of proceeds of the Bonds by and among the County, the other participants in the sale of the VPSA Bonds, the VPSA, the investment manager and the depository, substantially in the form submitted to the Board at this meeting, which form is hereby approved, with such completions, omissions, insertions and changes not inconsistent with this Resolution as may be approved by the officer executing such Proceeds Agreement, his execution to constitute conclusive evidence of his approval of any such completions, omissions, insertions and changes.

12. Continuing Disclosure Agreement. The Chairman of the Board, the County Executive and such other officer or officers of the County as either may designate, any of whom may act, are hereby authorized and directed to execute a Continuing Disclosure Agreement, substantially in the form attached as Appendix F to the Bond Sale Agreement, setting forth the reports and notices to be filed by the County and containing such covenants as may be necessary in order to show compliance with the provisions of the Securities and Exchange Commission Rule 15c2-12, under the Securities Exchange Act of 1934, as amended, and directed to make all filings required by Section 3 of the Bond Sale Agreement should the County be determined by the VPSA to be a MOP (as defined in the Continuing Disclosure Agreement).

13. Filing of Resolution. The appropriate officers or agents of the County are hereby authorized and directed to cause a certified copy of this Resolution to be filed with the Circuit Court of the County.

14. Further Actions. The members of the Board and all officers, employees and agents of the County are hereby authorized to take such action as they or any one of them may consider necessary or desirable in connection with the issuance and sale of the Bonds and any such action previously taken is hereby ratified and confirmed.

15. Effective Date. This Resolution shall take effect immediately.

PROFFER FORM

Date of Proffer Signature 8/34/06
ZMA # 2006-00001
Tax Map 056H0-00-00-000A0,

**8.9 Acres to be rezoned from R-1 and R6 to Planned Residential Development (PRD)
In accordance with Application Plan entitled "Westhall Phase V – Application for Zoning Map
Amendment" prepared by WW Associates and dated July 13, 2006**

With respect to the property described in rezoning application #ZMA-2006-00001 (the "ZMA"), Shiflett Farms LLC is the fee simple Owner of the following parcels:

• **TMP 56H -00-00-A**

Shiflett Farms LLC shall be collectively referred to herein as the "Owner," which term shall include any successors in interest. The parcel listed above is referred to collectively as the "Property."

Pursuant to Section 33.3 of the Albemarle County Zoning Ordinance (the "Ordinance"), Owner hereby voluntarily proffers the conditions listed in this Proffer Statement, which shall be applied to the Property if the ZMA is approved by Albemarle County. These conditions are proffered as part of the ZMA and it is agreed that: (1) the ZMA itself gives rise to the need for the conditions, and (2) such conditions have a reasonable relation to the rezoning requested.

1. Capital Improvements

1.1 Eastern Avenue: The Owner shall contribute \$3,000 cash for each market rate unit to the County for the purpose of constructing Eastern Avenue to mitigate traffic impacts from the development. If Eastern Avenue has not begun construction within ten years of rezoning approval of the property, the cash proffer shall be reallocated to the County's Capital Improvement Program for transportation improvements for the Community of Crozet. The contribution will be paid as follows: \$45,000 will be paid prior to the issuance of the first building permit, the remaining \$45,000 will be paid in \$3,000 increments prior to the issuance of the second through sixteenth building permits.

1.2 Capital Impacts: The Owner shall contribute \$1,000 cash for each market rate unit to the County's capital improvement program for the purpose of mitigating impacts from the development. The cash contribution shall be used for schools, libraries, fire, rescue, parks or any other public use serving the Community of Crozet as identified in the Comprehensive Plan. The contribution will be paid as follows: \$15,000 will be paid prior to the issuance of the first building permit, the remaining \$15,000 will be paid in \$1,000 increments prior to issuance of the second through sixteenth building permits.

1.3 Traffic Impacts on Park Road: Prior to issuance of the first building permit for housing units in the project, the Owner shall construct the following improvements to the satisfaction of the County Engineer:

1. Re-grade the ditch/shoulder on the east side of Park Road in front of the townhouses in Westhall Phase IV (lots 84-89) approximately 180' to assure proper flow into the pipe crossing Park Road.
2. Install a pipe at the intersection of Adele Street and Alfred Street and regrade the ditch around the pipe, as necessary.
3. Regrade the ditch/shoulder in front of Claudius Crozet Park (approximately 650') along the east side of Park Road extending north from the main entrance to the park to assure

a minimum 1.5-foot shoulder width, and 2-feet from the edge of shoulder to the centerline of the ditch.

Improvements shall be made by the Owner, prior to or at the time of issuance of the first building permit for any improvements thereon.

2. Affordable Housing.

2.1 Affordable Dwelling Units. Owner proffers to require through the lot sale contracts on the Property the construction of a minimum of six (6) Affordable Dwelling Units (17% of all units) on the Property that meet the requirements for a single family dwelling as defined below. Each Affordable Dwelling Unit shall be on a single parcel and be conveyed fee simple. A home Owner's association shall be created to maintain the parking area and sidewalk. Access easements shall be required to access the two provided parking spaces for each unit.

Affordable units shall be affordable to households with incomes less than eighty percent (80%) of the area median family income (the "Affordable Unit Qualifying Income"), such that the housing costs consisting of principal, interest, real estate taxes and homeowners insurance (PITI) do not exceed thirty percent (30%) of the Affordable Unit Qualifying Income.

All purchasers of affordable units shall be approved by the Albemarle County Housing Office or its designee. The subsequent Owner/builder shall provide the County or its designee a period of ninety (90) days to identify and prequalify an eligible purchaser for the affordable unit. The ninety (90)-day period shall commence upon written notice from the then-current Owner/builder that the unit(s) shall be available for sale. This notice shall not be given more than sixty (60) days prior to anticipated receipt of the Certificate of Occupancy. If the County or its designee does not provide a qualified purchaser who executes a contract of purchase during this ninety (90)-day period, the then-current Owner/builder shall have the right to sell the unit(s) without any restriction on sales price or income of the purchaser(s), provided, however, that any unit(s) sold without such restriction shall nevertheless be counted toward the number of affordable units proffered. The requirements of this proffer shall apply only to the first sale of each of the affordable units.

3. Open Space and Greenways.

3.1 Temporary Greenway Connection: In conjunction with the Owners of Lickinghole Creek LLC, the Owner shall grant a temporary access easement for a Class B public greenway as specified in the County's Comprehensive Plan, in a form approvable by the County on the property described as TMP 0560-00-00-05300 prior to the approval of the first building permit for any new construction on the property. The temporary access easement shall be replaced by the projected 80' right-of-way required for Eastern Avenue.

3.2 Trailhead Park: The Owner shall dedicate and convey in fee-simple to Albemarle County, Open Space, Parcel A, or "Trailhead Park" as shown on the application plan with the first subdivision plat and grant drainage easements in a form approved by the County Attorney. In conjunction with improvements approved with the first subdivision plat, the Owner shall construct a 6' asphalt trail consisting of four (4) inches of 21-B stonebase material and two (2) inches of SMA-2 asphalt or other specifications approved by the County Engineer. The trail shall connect five parking spaces to the greenway system, a 2100 +/- square foot tot lot with a 42" fence, a stormwater management facility and landscaping. The stormwater management facility shall be designed such that its shape, placement, and land form (grading) transition between the adjacent residential lots, the tot lot on the site, and the trailhead elements, to the satisfaction of the Department of Parks and Recreation. The tot lot shall contain the following elements: a play structure, a small swing set and a set of two spring mounted riding figures, or other elements approved by the Director of Planning. Open space areas dedicated to public use shall be for the use and enjoyment of the public, including the residents of the project.

3.3 Open Space: The Owner shall dedicate and convey to Albemarle County, Open Space, Parcel C, as shown on the application plan with the first subdivision plat and grant drainage easements in a form approved by the County Attorney. The Owner shall construct a 6' asphalt trail consisting of four (4) inches of 21-B stonebase material and two (2) inches of SMA-2 asphalt or other specifications approved by the County Engineer and a stormwater management facility. The stormwater management facility shall be designed such that its shape, placement, and land form (grading) transition between the adjacent street, greenway, and trails to the satisfaction of the Department of Parks and Recreation and minimize disturbance of the stream buffer within Parcel C shown on the Application Plan to the satisfaction of the Program Authority. Open space areas dedicated to public use shall be for the use and enjoyment of the public, including the residents of the project. The Owner shall make a contribution of \$3,000 to the County to be used by the Parks and Recreation Department for the construction of a pedestrian bridge in the general location shown on the Application Plan. The contribution shall be payable prior to issuance of the first building permit for the property. If the bridge is not constructed within 10 (ten) years of rezoning approval of the property, the contribution shall be reallocated to the County's Capital Improvement Program for park improvements for the community of Crozet.

Signatures of All Owners:

(Signed) John G. Desmond, V.P.
Shiflett Farms LLC, by Stonehaus, Inc.,
Manager, by John G. Desmond, V.P.

Printed Names of Owners:

Shiflett Farms LLC, by Stonehaus, Inc.,
Manager, by John G. Desmond, V.P.

Date:

8-23-06

PROFFER FORM

Date of Proffer Signature: Sept 5, 2006
ZMA # 2005-00018 Wickham Pond 2
Tax Map 56 Parcel Number 91

19.69 Acres to be rezoned from RA to NMD (Neighborhood Model Development)
in accordance with the Code of Development (dated August 25, 2006)
and Application Plan (dated August 25, 2006)

Pursuant to Section 33.3 of the Albemarle County Zoning Ordinance, the owner, or its duly authorized agent, hereby voluntarily proffers the conditions listed below which shall be applied to the property, if rezoned with the offered plans approved for development. These conditions are proffered as a part of the requested rezoning and it is agreed that: (1) the rezoning itself gives rise to the need for the conditions; and (2) such conditions have a reasonable relation to the rezoning request.

1. The Owner shall contribute \$405,000 cash (\$4,500 per unit for 90 units) to the County for the purpose of mitigating impacts from this development. The cash contribution shall be used for transportation improvements, schools, libraries, fire and rescue, parks or any other public use serving the Community of Crozet as identified in the Comprehensive Plan (hereinafter, "Capital Improvement Project"). Contributions for Block 1 shall be payable under one of the following methods, which shall be designated by the County: (1) ninety (90) days after receipt of written notice by the Owner from the County identifying a Capital Improvement Project within the Community of Crozet for which the cash would be applied, provided that contributions for a Capital Improvement Project shall not exceed \$50,000 during any sixty (60) day period, said request is after the County's approval of the first building permit within the Project, and the aggregate amount of said requests does not exceed \$216,000 (48 detached units at \$4,500 per unit), or (2) in increments of \$4,500 cash per unit, for any market-rate condominium or new detached single family dwelling unit prior to or at the time of issuance of a building permit for any such dwelling unit. Contributions for Block 2 shall be payable in increments of \$4,500 cash per unit for any market rate condominium unit prior to or at the time of issuance of building permit for any such dwelling unit. If the cash contribution has not been exhausted by the County for the stated purpose within (10) ten years from the date of the County's receipt of the final contribution, all unexpended funds shall be applied to a Capital Improvements Project for the Community of Crozet.
2. Detached single family units within Block 1 as identified on the Application Plan shall have the following restriction: The Owner shall not request that the County issue certificates of occupancy for residential units earlier than April 1, 2008.
3. Buildings C and D within Block 2 as identified on the Application Plan shall have the following restrictions: The Owner shall not request that the County issue certificates of occupancy for residential units earlier than the three-year anniversary of the County's approval of the first final site plan; The Owner shall not request that the County issue certificates of occupancy for ground floor commercial/retail space earlier than the five-year anniversary of the County's approval of the first final site plan.
4. The Owner shall install a landscape buffer along the eastern property line of Block 2 if the units immediately adjacent to Block 2 on the adjoining property are not constructed with a façade

(facing Block 2) that is evocative to a typical front entry elevation and as approved by the County's Director of Planning.

5. The Owner shall provide sixteen (16) units of affordable housing as identified on the Application Plan produced by Timmons Group, dated August 25, 2006, entitled "Application Plan — Figure 2"; eight (8) units to be built within Block 1 (for sale or rent), and eight (8) units to be built within Block 2 (for rent or sale). The Owner shall convey the responsibility of constructing the affordable units to any subsequent purchaser of the subject property. The current Owner or subsequent Owner shall create units affordable to households with incomes less than 80% of the area median income, such that housing costs consisting of principal, interest, real estate taxes and homeowner's insurance (PITI) do not exceed 30% of the gross household income.
 - A. For-Sale Affordable Units - All purchasers of for-sale affordable units shall be approved by the Albemarle County Office of Housing or its designee. The Owner shall provide the County or its designee a period of 180 days to identify and pre-qualify an eligible purchaser for the affordable units. The 180-day period shall commence upon written notice from the Owner that the units will be available for sale. This notice shall not be given more than 120 days prior to the anticipated receipt of the certificate of occupancy. If the County or its designee does not provide a qualified purchaser during this period, the Owner shall have the right to sell the unit(s) without any restriction on sales price or income of purchaser(s). If these units are sold, this proffer shall apply only to the first sale of each unit.
 - B. For-Rent Affordable Units
 - i. Rental Rates - The initial net rent for each for-rent affordable unit shall not exceed the then-current and applicable maximum net rent rate approved by the County Housing Office. In each subsequent calendar year, the monthly net rent for each for-rent affordable unit may be increased up to three percent (3%). For purposes of this proffer statement, the term "net rent" means that the rent does not include tenant-paid utilities. The requirement that the rents for such for-rent affordable units may not exceed the maximum rents established in this paragraph 5B shall apply for a period of five (5) years following the date the certificate of occupancy is issued by the County for each for-rent affordable unit, or until the units are sold as low or moderate cost units qualifying as such under either the Virginia Housing Development Authority, Farmers Home Administration, or Housing and Urban Development, Section 8, whichever comes first (the "Affordable Term").
 - ii. Conveyance of Interest - All deeds conveying any interest in the for-rent affordable units during the Affordable Term shall contain language reciting that such unit is subject to the terms of this paragraph 5. In addition, all contracts pertaining to a conveyance of any for-rent affordable unit, or any part thereof, during the Affordable Term shall contain a complete and full disclosure of the restrictions and controls established by this paragraph 5B. At least thirty (30) days prior to the conveyance of any interest in any for-rent affordable unit during the Affordable Term, the then-current owner shall notify the County in writing of the conveyance and provide the name, address and telephone number of the potential grantee, and state that the requirements of this paragraph 5B(ii) have been satisfied.
 - iii. Reporting of Rental Rates - During the Affordable Term, within thirty (30) days of each rental or lease term for each for-rent affordable unit, the then-current owner shall provide to the Albemarle County Housing Office a copy of the rental or lease agreement for each such unit rented that shows the rental rate for such unit and the term of the rental or lease agreement. In addition, during the Affordable Term, the then-current Owner shall provide to the County, if

requested, any reports, copies of rental or lease agreements, or other data pertaining to rental rates as the County may reasonably require.

6. Overlot Grading Plan - Subdivision Plats: The Owner shall submit an over-lot grading plan (hereinafter, the "Plan") meeting the requirements of Proffer 6 with the application for each subdivision of the Property into single family detached lots and single family attached dwelling units shown on the General Development Plan. The Plan shall show existing and proposed topographic features to be considered in the development of the proposed subdivision. The Plan shall be approved by the County Engineer prior to final approval of the site plan or subdivision plat. The Property within the subdivision shall be graded as shown on the approved Plan. The Owner shall not request that the County issue a certificate of occupancy for any dwelling on a lot where the County Engineer has determined the lot grading is not consistent with the approved grading Plan. The Plan shall satisfy the following:
 - A. The Plan shall show all proposed streets, building sites, setbacks, surface drainage, driveways, trails, and other features the County Engineer determines are needed to verify that the Plan satisfies the requirements of this proffer.
 - B. The Plan shall be drawn to a scale not greater than one (1) inch equals fifty (50) feet.
 - C. All proposed grading shall be shown with contour intervals not greater than two (2) feet. All concentrated surface drainage over lots shall be clearly shown with the proposed grading. All proposed grading shall be designed to assure that surface drainage can provide adequate relief from the flooding of dwellings in the event a storm sewer fails.
 - D. Graded slopes on lots proposed to be planted with turf grasses (lawns) shall not exceed a gradient of three (3) feet of horizontal distance for each one (1) foot of vertical rise or fall (3:1). Steeper slopes shall be vegetated with low maintenance vegetation as determined to be appropriate by the County's program authority in its approval of an erosion and sediment control plan for the land disturbing activity. These steeper slopes shall not exceed a gradient of two (2) feet of horizontal distance for each one (1) foot of vertical rise or fall (2:1), unless the County Engineer finds that the grading recommendations for steeper slopes have adequately addressed the impacts.
 - E. Surface drainage may flow across up to three (3) lots before being collected in a storm sewer or directed to a drainage way outside of the lots.
 - F. No surface drainage across a residential lot shall have more than one-half (1/2) acre of land draining to it.
 - G. All drainage from streets shall be carried across lots in a storm sewer to a point beyond the rear of the building site.
 - H. The Plan shall demonstrate that an area at least five (5) feet in width, or to the lot line if it is less than five (5) feet, from the portion of the structure facing the street, has grades no steeper than ten (10) percent adjacent to possible entrances to dwellings that will not be served by a stairway. This graded area also shall extend from the entrances to the driveways or walkways connecting the dwelling to the street.
 - I. Any requirement of this proffer may be waived by the County Engineer by submitting a waiver request with the preliminary plat. If such a request is made, it shall include: (i) a justification for the request contained in a certified engineer's report; (ii) a vicinity map showing a larger street network at a scale no smaller than one (1) inch equals six hundred (600) feet; (iii) a conceptual Plan at a scale no smaller than one (1) inch equals two hundred (200) feet showing surveyed boundaries of the property; (iv) topography of the property at five (5) foot intervals for the property being subdivided and on abutting lands to a distance of one hundred (100) feet from the boundary line or a lesser distance determined to be sufficient by the agent; (v) the locations of streams, stream buffers, steep slopes, floodplains, known wetlands; and (vi) the proposed layout of streets and lots, unit types, uses, and location of parking, as applicable. In reviewing a waiver request, the County Engineer shall consider whether the alternative proposed by the Owner satisfies the purpose of the requirement to be waived to at least an equivalent degree. In approving a waiver, the County Engineer shall find that requiring compliance

with the requirement of this condition would not forward the purposes of the County's Subdivision and Water Protection Ordinances or otherwise serve the public interest; and granting the waiver would not be detrimental to the public health, safety or welfare, to the orderly development of the Project, and to the land adjacent thereto.

- J. The Owner may request that the Plan be amended at any time. All amendments shall be subject to the review and approval by the County Engineer.
- K. In the event that the County adopts overlot grading regulations after the date ZMA 2005-018 is approved, any requirement of those regulations that is less restrictive than any requirement of Proffer 6 shall supersede the corresponding requirement of this paragraph, subject to the approval of the Director of the Department of Community Development.

Charlotte Dammann

Barnes-Crozet, LLC

by: Charlotte Dammann, Member

Barnes-Crozet LLC

Printed Names of All Owners

September 5, 2006

Date

**RESOLUTION TO AUTHORIZE
ACQUISITION OF PROPERTY**

WHEREAS, the County of Albemarle desires to acquire certain property within the County in the community of Crozet for the purpose of providing public space for library facilities and other public improvements; and

WHEREAS, an agreement for the acquisition of such property owned by Thomas Amato and Martha B. Amato located at 1171 Crozet Avenue in Crozet has been negotiated.

NOW, THEREFORE, BE IT RESOLVED that the Albemarle County Board of Supervisors hereby approves the County Executive's execution of the Sales Contract dated September 1, 2006 between Thomas Amato and Martha B. Amato for the purchase of approximately .9 acres of property and the improvements thereon located at 1171 Crozet Avenue, Crozet, Virginia, (Albemarle County tax parcel 056A2010001800) and authorizes the County Executive to execute the deed and all other documents approved by the County Attorney necessary to purchase and accept the property on behalf of the County upon a determination that all the contingencies in the Sales Contract have been satisfied.