

ACTIONS		
Board of Supervisors Meeting of February 14, 2007		
		February 15, 2007
1.	Call to order. <ul style="list-style-type: none"> Meeting called to order at 2:05 p.m., by the Chairman, Mr. Boyd. All BOS members were present. Also present were Bob Tucker, Larry Davis and Ella Carey. 	
2.	Work Session: Business Plan (CIP) <ul style="list-style-type: none"> HELD. 	
3.	Tour of Newly Renovated Community Development Offices. <ul style="list-style-type: none"> Due to time constraints, removed from agenda. 	
	<u>JOINT MEETING WITH SCHOOL BOARD</u> <ul style="list-style-type: none"> All School Board members were present. Also present was Pam Moran. 	
4a.	Co-location and Development of Public Facilities. <ul style="list-style-type: none"> Staff to come back with specific details and how the concept would work relative to the proposal from the Jefferson Institute of Lifelong Learning (JILL). 	<u>Tom Foley/Diane Behrens:</u> Bring additional information to joint boards.
4b.	Revised Calendar for CIP process. <ul style="list-style-type: none"> Included in the process, a joint meeting with the School Board on December 5th to review the CIP Oversight Committee's recommendations. 	<u>Clerk:</u> Include joint meeting on Board's schedule.
4c.	Living Wage Report. <ul style="list-style-type: none"> Decided to not move forward with setting a minimum living wage at this time. 	
5.	Recess. <ul style="list-style-type: none"> The meeting recessed at 5:36 p.m. 	
6.	Call to Order. <ul style="list-style-type: none"> Meeting was called back to order at 6:06 p.m. by the Chairman, Mr. Boyd. All BOS members were present. Also present were Bob Tucker, Larry Davis, and Meagan Hoy. 	
9.	From the Public: Matter Not Listed for Public Hearing on the Agenda. <ul style="list-style-type: none"> There were none. 	
10.	From the Board: Committee Reports and Matters Not Listed on the Agenda. <u>Dennis Rooker</u> <ul style="list-style-type: none"> Discussed a meeting he and Mr. Boyd had with representatives from the City regarding transit funding for the year and price of transit routes in the County. They were able to establish a long term formula on which transit will be priced to the County. <u>Sally Thomas:</u> <ul style="list-style-type: none"> Requested an update from Rivanna on sewer system capacity be scheduled on a future agenda. Requested a letter be written to Appalachian 	<u>Clerk:</u> Schedule on April 4 th agenda.

	<p>Power Company regarding clearing of debris after tree trimming under their power lines.</p> <p><u>David Wyant:</u></p> <ul style="list-style-type: none"> • Asked that this agenda item be moved before “comments from the public” on future agendas. 	
11.2	<p>SOCA South Fork Expansion.</p> <ul style="list-style-type: none"> • DEFERRED until April 11, 2007 to coincide with special use permit request. 	<p><u>Clerk:</u> Schedule on regular agenda for April 11, 2007.</p>
11.3	<p>Resolution – Acceptance of FY 2004-05 and FY 2005-06 landowners’ offer to sell conservation easements.</p> <ul style="list-style-type: none"> • ADOPTED the attached resolution, by a vote of 6:0, accepting FY 2004-05 applicant’s offer (from Rock Mills Land Trust) to sell a conservation easement to the County, for the price specified and subject to the terms and conditions contained in the proposed deed of easement, and authorize the County Executive to sign the final deed of easement for each property. • ADOPTED the attached resolution, by a vote of 6:0, accepting FY 2005-06 applicants’ offers (from Hook and Chester) to donate and sell a conservation easement to the County, respectively, for the price (Chester) specified and subject to the terms and conditions contained in the proposed deeds of easement, and authorize the County Executive to sign the final deed of easement for each property. 	<p><u>Clerk:</u> Forward resolutions to David Benish, Ches Goodall, and County Attorney’s Office. (Attachments 1 and 2)</p>
11.4	<p>Resolution Authorizing Funding for the Regional Transit Authority Plan.</p> <ul style="list-style-type: none"> • ADOPTED resolution by a vote of 6:0. Staff to prepare appropriation to come forward as budget amendment. 	<p><u>Clerk:</u> Forward resolution to Harrison Rue and County Attorney’s Office. (Attachment 3)</p> <p><u>OMB:</u> Schedule on next budget amendment.</p>
11.5	<p>Resolution of the IDA authorizing the issuance of Colorado Health Facilities Authority revenue bonds, pursuant to the Industrial Development and Revenue Bond Act, in an amount not to exceed \$51,000,000 for the benefit of Global Country of World Peace.</p> <ul style="list-style-type: none"> • ADOPTED resolution by a vote of 6:0. 	<p><u>Clerk:</u> Forward resolution to Daniel Siegel, Bond Counsel. (Attachment 4)</p>
11.6	<p>Resolution of the IDA authorizing the issuance of revenue bonds, pursuant to the IAD and Revenue Bond Act, in an amount not to exceed \$45,000,000 for Westminster-Canterbury of the Blue Ridge.</p> <ul style="list-style-type: none"> • ADOPTED resolution by a vote of 6:0. 	<p><u>Clerk:</u> Forward resolution to David Richardson, Bond Counsel. (Attachment 5)</p>
12.	<p>2007/08-2012/13 Six Year Secondary Road Plan.</p> <ul style="list-style-type: none"> • APPROVED the County Priority List of Secondary Road Improvements, as modified, with the addition of Berkmar 	<p><u>Clerk:</u> Forward to Juandiego Wade and David Benish to coordinate with VDoT.</p>

	Bridge, and Maxfield Road as a Rural Rustic Road for improvement in the current year; and AUTHORIZED the County Executive to sign the VDOT Secondary System Construction Program for Albemarle County consistent with the County's Priority List.	
13.	Water Protection Ordinance. Illicit Discharges and Connections. <ul style="list-style-type: none"> • ADOPTED the attached ordinance. 	<u>Clerk:</u> Forward ordinance to George Shadman, Greg Harper and County Attorney's office. (Attachment 6)
14.	King Family Vineyards – Winery Expansion. <ul style="list-style-type: none"> • INDEFINITLY DEFERRED at the applicant's request. 	<u>Clerk:</u> Reschedule and advertise for public hearing when ready to come back to Board.
15.	ZMA-2005-007. Haden Place (Signs #13,13) <ul style="list-style-type: none"> • APPROVED ZMA 2005-0007, by a vote of 6:0, subject to the applicant's proffers, Code of Development and Application Plan. 	<u>Clerk:</u> Set out proffers. (Attachment 7)
16.	SP-2006-034. North Pointe – Stream Crossing (Sign #8). <ul style="list-style-type: none"> • APPROVED SP-2006-034 subject to the 11 conditions recommended by the Planning Commission, with conditions #9 and #10 amended at the Board meeting. 	<u>Clerk:</u> Set out conditions of approval. (Attachment 8)
17.	From the Board: Committee Reports and Matters Not Listed on the Agenda. <u>Dennis Rooker:</u> <ul style="list-style-type: none"> • Confirmed that staff would invite Comcast to speak before the Board. <u>David Wyant:</u> <ul style="list-style-type: none"> • Asked if the issue of bonus density and affordable housing would be coming back for more discussion. Mr. Rooker commented that the issue needs to be resolved. <u>Sally Thomas:</u> <ul style="list-style-type: none"> • She would like for County staff to get to the point where it can require or request applicants to follow the lighting ordinance. 	
18.	Adjourn. At 9:17 p.m., the Board adjourned.	

- Attachment 1 – Resolution accepting FY 2004-05 landowners' offers to sell conservation easements
- Attachment 2 – Resolution accepting FY 2005-06 landowners' offers to sell conservation easements
- Attachment 3 – Resolution – Regional Transit Authority Plan
- Attachment 4 – Resolution – IDA – Global Country of World Peace
- Attachment 5 – Resolution – IDA – Westminster-Canterbury of the Blue Ridge
- Attachment 6 – Ordinance – Water Protection
- Attachment 7 – ZMA-2005-007 Haden Place Proffers
- Attachment 8 – Conditions of Approval

**RESOLUTION ACCEPTING OFFER TO SELL
A CONSERVATION EASEMENT UNDER THE ACE PROGRAM**

WHEREAS, the County has received an offer to sell a conservation easement under the ACE Program from the owner of the following properties:

Rock Mills Land Trust	TM 74, Parcel 19	(136.540 acres)
	TM 74, Parcel 20	(9.000 acres)
	Total	(145.540 acres)

WHEREAS, the owner offered to sell a conservation easement on the respective properties to the County for a fixed purchase price, subject to terms and conditions set forth in the proposed deed of easement enclosed with the County’s invitation to offer to sell, subject to any further revisions deemed necessary by the County Attorney and agreed to by the owner.

NOW, THEREFORE BE IT RESOLVED that the Board of Supervisors hereby accepts the offer to sell a conservation easement for each of the properties described above, and authorizes the County Executive to execute all documents necessary for completing the acquisitions.

BE IT FURTHER RESOLVED that the Board of Supervisors hereby directs the County Attorney to send copies of this resolution to the owner(s) of the properties identified herein, or their contact persons.

**RESOLUTION ACCEPTING OFFER TO SELL
A CONSERVATION EASEMENT UNDER THE ACE PROGRAM**

WHEREAS, the County has received an offer to sell a conservation easement under the ACE Program from the owner(s) of the following properties:

Hook	TM 84, Parcel 11B "A"	(114.000 acres)
	<u>TM 84, Parcel 11B "B"</u>	<u>(7.000 acres)</u>
	Total	(121.000 acres)
Chester	TM 65, Parcel 11	(22.011 acres)
	TM 65, Parcel 11B	(2.450 acres)
	<u>TM 65, Parcel 11C</u>	<u>(52.000 acres)</u>
	Total	(76.461 acres)

WHEREAS, the owner(s) offered to sell a conservation easement on the respective properties to the County for a fixed purchase price, subject to terms and conditions set forth in the proposed deed of easement enclosed with the County's invitation to offer to sell, subject to any further revisions deemed necessary by the County Attorney and agreed to by the owner; and

WHEREAS, the owner of the Hook property has advised the County that she desires to donate the conservation easement.

NOW, THEREFORE BE IT RESOLVED that the Board of Supervisors hereby accepts the offer to donate (Hook) and to sell (Chester) a conservation easement for each of the properties described above, and authorizes the County Executive to execute all documents necessary for completing the acquisitions.

BE IT FURTHER RESOLVED that the Board of Supervisors hereby directs the County Attorney to send copies of this resolution to the owner(s) of the properties identified herein, or their contact persons.

**Resolution Authorizing Funding for the
Regional Transit Authority Plan**

WHEREAS, The Charlottesville-Albemarle Metropolitan Planning Organization (MPO) Policy Board has authorized Harrison Rue, Executive Director of the Thomas Jefferson Planning District Commission (TJPDC) as fiscal agent for the MPO, to execute and file an application to the Department of Rail and Public Transportation, Commonwealth of Virginia, hereafter referred to as "Department," for a grant of financial assistance in the amount of \$100,000 to defray the costs for the development of the Regional Transit Authority Plan (RTAP) and to accept from the Department grants in such amounts as may be awarded, and to authorize MPO Staff to furnish to the Department such documents and other information as may be required for processing the grant request; and

WHEREAS, a grant of financial assistance from the Department requires a local match of 10% and the 10% local match for this grant of financial assistance is \$10,000; and

WHEREAS, the costs of the local match of \$10,000 will be distributed equally between the City of Charlottesville and County of Albemarle, with each contributing \$5,000; and

WHEREAS, The Charlottesville-Albemarle Metropolitan Planning Organization (MPO) Policy Board has approved the Regional Transit Authority Plan (RTAP) Scope of Work budget estimate with \$100,000 funded by the Department and \$100,000 funded by combined equal contribution from the County of Albemarle and City of Charlottesville; and

WHEREAS, The Charlottesville-Albemarle MPO Policy Board has recommended that the County of Albemarle and City of Charlottesville contribute \$50,000 each to the RTAP which includes \$5,000 from each jurisdiction to fund the 10% local match required by the Department.

NOW, THEREFORE BE IT RESOLVED that the County of Albemarle will provide funds in the amount of \$50,000, to contribute to the Regional Transit Authority Plan, of which \$5,000 will be used to match the state funds in the ratio as required and \$45,000 will fund its share of the remaining costs of the approved Scope of Work approved by unanimous vote of the MPO Policy Board.

**RESOLUTION OF THE BOARD OF SUPERVISORS OF
ALBEMARLE COUNTY, VIRGINIA APPROVING THE ISSUANCE OF COLORADO HEALTH
FACILITIES AUTHORITY REVENUE BONDS IN A MAXIMUM AGGREGATE PRINCIPAL AMOUNT OF
\$51,000,000 FOR THE PURPOSES OF FINANCING AND REFINANCING THE COSTS OF
ACQUISITION, CONSTRUCTION, IMPROVEMENT, RENOVATION, REMODELING, FURNISHING
AND EQUIPPING OF CERTAIN HEALTH FACILITIES AND CERTAIN OTHER MATTERS RELATING
THERETO**

WHEREAS, there has been described to the Industrial Development Authority of Albemarle County, Virginia (**the “Albemarle Authority”**) in a public hearing on behalf of the County of Albemarle, Virginia (**“Albemarle County”**) the plan of financing of Global Country of World Peace (**the “Borrower”**), an Iowa nonprofit corporation exempt from taxation under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended (**the “Code”**) which has its principal place of business at 1900 Capital Blvd., Fairfield, Iowa 52566;

WHEREAS, the Borrower has requested that the Colorado Health Facilities Authority (**the “Colorado Issuer”**) issue its revenue bonds (**the “Bonds”**) in one or more series in a maximum amount of a total of \$51,000,000;

WHEREAS, the Borrower has represented that the proceeds of the Bonds will be used to: (a) finance the costs of acquisition, construction, improvement, renovation, remodeling, furnishing and equipping of certain health and health related support facilities of the Borrower, including but not limited to (i) regional peace center facilities to be located on approximately 450 acres at 137 Waldemere Road, Livingston Manor, New York; on approximately 1160 combined acres at 20043 70 Road, Lebanon Kansas and 17022 100 Road, Smith Center, Kansas; on approximately 668 acres at 160 Echota and Old Fort Road, Asheville, North Carolina; on approximately 522 acres at 00000 Lost Valley Road, 1000 feet southeast of the corner of Blackwood Drive and Canebrake Road, Boulevard, California; and on approximately 52 acres at 21650 Ballenger Road, Cedarpines Park, California; and (ii) local peace center facilities at the approximately three acres adjacent to the northern boundary of 1068 Elkton Drive, Colorado Springs, Colorado; 5504 Edson Road, N. Bethesda, Maryland; 380 Parkland Plaza, Ann Arbor, Michigan; 399 Ruth Street S., St. Paul, Minnesota; 968 154th Street, Pleasant Dale, Nebraska; 1929 Greentree Road, Cherry Hill, New Jersey; 9450 Transit Road, E. Amherst, New York; 1669 Pittsford Victor Road, Perinton, New York; .28 miles west of Old Willets Path on the south side of Route 25, Smithtown, Long Island, New York; 999 Rocky Ridge, Asheville, North Carolina; 971 Beaver Grade Road, Coraopolis, Pennsylvania; 3254 East Main Road, Portsmouth, Rhode Island; One Alpha Lane, Hixson, Tennessee; 7901 Centre Park Drive, Austin, Texas; Whitewood Road at the SW corner of Whitewood and Oak Forest Drive, in Charlottesville, Virginia (Lot B, Div of Parcel 26, with a proposed street address of 109 Whitewood Road) (**collectively, the “Facilities”**); (b) fund capitalized interest on the Bonds, if any; (c) fund any required debt service reserve fund; and (d) pay certain costs of issuance of the Bonds, including initial costs of any credit enhancement. Each local peace center or related facility will consist of an approximately 12,000 square foot two-story facility in which the Borrower intends to conduct health and wellness activities or related support activities. Each regional peace center will consist of at least one, but not more than four of the same approximately 12,000 square foot facility where the Borrower intends to conduct health and wellness activities or related support activities. No more than \$10,000,000 of the proceeds of the Bonds is expected to be spent in any single location. No more than \$3,500,000 of the proceeds of the Bonds will be used to finance Facilities located at Whitewood Road at the SW corner of Whitewood and Oak Forest Drive, in Charlottesville, Virginia (Lot B, Div of Parcel 26, with a proposed street address of 109 Whitewood Road). The Borrower will be the owner and operator of the Facilities and will be the party responsible for all costs of the Facilities and all costs of the issuance of and debt service on the Bonds;

WHEREAS, the Facilities located on Whitewood Road at the corner of Whitewood and Oak Forest Drive, in Charlottesville, Virginia (Lot B, Div of Parcel 26, with a proposed street address of 109 Whitewood Road) (**the “Albemarle Facilities”**) to be financed or refinanced are located within the territorial limits of Albemarle County;

WHEREAS, that there has been published, at least 14 days prior to the date of the meeting of the Albemarle Authority in which the public hearing was held, in a newspaper of general circulation within Albemarle County, a notice that a public hearing regarding the Bonds would be held on the date thereof; and

WHEREAS, such public hearing was conducted on February 13, 2007, by the Albemarle Authority on behalf of the Board of Supervisors of Albemarle County, at which time an opportunity was provided to interested parties to present arguments both for and against the issuance of the Bonds; and

WHEREAS, the issuance of the Bonds by the Colorado Issuer will not constitute a debt or pledge of the faith and credit of the Commonwealth of Virginia, Albemarle County or the Albemarle Authority;

WHEREAS, the Borrower described the benefits to Albemarle County and requested the Albemarle Authority recommend to the Board of Supervisors of Albemarle County its approval of and concurrence with the issuance of the Bonds by the Colorado Issuer in such amounts as may be necessary to finance the cost of the Facilities;

WHEREAS, the Albemarle Authority after public hearing, has recommended that the Board of Supervisors approve of and concur with the issuance of the Bonds by the Colorado Issuer in such amounts as may be necessary to finance the cost of the Facilities,

WHEREAS, Section 147(f) of the Code provides that both the governmental unit having jurisdiction over the area in which any facility financed with the proceeds of private activity bonds is located and the governmental unit on behalf of which such bonds are issued must approve the issuance of the bonds after public hearing; and

WHEREAS, the Albemarle Facilities included within the Facilities to be financed through the issuance of the Bonds is located in Albemarle County and the Board of Supervisors of Albemarle County constitutes the highest elected governmental unit of Albemarle County; and

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

1. The Board of Supervisors of Albemarle County following the public hearing by the Albemarle Authority on behalf of the Board of Supervisors of Albemarle County, hereby approves and concurs with the financing of the Albemarle Facilities and the issuance of the Bonds by the Colorado Issuer for the benefit of the Borrower, as required by Section 147(f) of the Code.
2. The approval of and concurrence with the issuance of the Bonds, as required by said Section 147(f) of the Code, do not constitute an endorsement of the Bonds or the creditworthiness of the Borrower or otherwise indicate that the Albemarle Facilities possesses any economic viability. The issuance of the Bonds by the Colorado Issuer will not constitute a debt or pledge of the faith and credit of the Commonwealth of Virginia, the Albemarle Authority or Albemarle County, Virginia. Neither the Commonwealth of Virginia nor any political subdivision thereof, including the Albemarle Authority and Albemarle County, Virginia shall be obligated to pay the Bonds, or the interest thereon, or other costs incident thereto, and neither the faith and credit nor the taxing power of the Commonwealth of Virginia nor any political subdivision thereof, including the Albemarle Authority and Albemarle County, Virginia, will be pledged to payment of principal of such Bonds or the interest thereon or other costs incidental thereto.

3. The Chairman or Vice Chairman of the Board of Supervisors, County Administrator, Clerk of the Board of Supervisors or other County officials are hereby authorized and directed to take such action and to execute and deliver such certificates or documents which they deem necessary or advisable in order to carry out, give effect to and comply with terms and intent of this resolution.
4. This resolution shall take effect immediately upon its adoption.

**RESOLUTION
OF THE BOARD OF SUPERVISORS OF THE
COUNTY OF ALBEMARLE, VIRGINIA**

WHEREAS, the Industrial Development Authority of Albemarle County, Virginia ("Authority"), has considered the application of Westminster-Canterbury of the Blue Ridge ("Borrower") requesting the issuance of the Authority's revenue bonds in an amount not to exceed \$45,000,000 ("Bonds") to assist the Borrower in (a) refinancing all or a portion of the Authority's \$69,815,000 Residential Care Facility Mortgage Revenue Bonds, Series 2001A issued on October 12, 2001 to finance or refinance various of capital projects at the Borrower's continuing care retirement community ("Facility"), located at 250 Pantops Mountain Drive in Albemarle County, Virginia (b) financing additional capital improvements to the Facility, and (c) financing a debt service reserve fund and costs of issuance for the bonds (collectively, the "Project"), and has held a public hearing on February 13, 2007.

WHEREAS, Section 147(f) of the Internal Revenue Code of 1986, as amended (the "Code"), provides that the governmental unit having jurisdiction over the issuer of private activity bonds and over the area in which any facility financed with the proceeds of private activity bonds is located must approve the issuance of the bonds;

WHEREAS, the Authority issues its bonds on behalf of the County of Albemarle, Virginia ("County"); the Project is located in the County and the Board of Supervisors of the County of Albemarle, Virginia ("Board") constitutes the highest elected governmental unit of the County;

WHEREAS, the Authority has recommended that the Board approve the issuance of the Bonds;
and

WHEREAS, a copy of the Authority's resolution approving the issuance of the Bonds, subject to the terms to be agreed upon, a certificate of the public hearing and a Fiscal Impact Statement have been filed with the Board.

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

1. The Board approves the issuance of the Bonds by the Authority for the benefit of the Borrower, as required by Section 147(f) of the Code and Section 15.2-4906 of the Code of Virginia of 1950, as amended to permit the Authority to assist in the refinancing of the Project.
2. The approval of the issuance of the Bonds does not constitute an endorsement to a prospective purchaser of the Bonds of the creditworthiness of the Project or the Borrower.
3. This resolution shall take effect immediately upon its adoption.

ORDINANCE NO. 07-17()

AN ORDINANCE TO AMEND CHAPTER 17, WATER PROTECTION, OF THE CODE OF THE COUNTY OF ALEMARLE, VIRGINIA, BY AMENDING ARTICLE I, GENERAL, ARTICLE III, STORMWATER MANAGEMENT AND WATER QUALITY, ARTICLE IV, GROUNDWATER ASSESSMENTS, AND BY ADDING ARTICLE V, ILLICIT DISCHARGES AND CONNECTIONS

BE IT ORDAINED By the Board of Supervisors of the County of Albemarle, Virginia, that Chapter 17, Water Protection, is amended and reordained as follows:

By Amending:

- Sec. 17-102 Purposes
- Sec. 17-104 Definitions
- Sec. 17-105 Designation of program authority; powers and duties
- Sec. 17-300 Applicability
- Sec. 17-301 Designation of water resources areas
- Sec. 17-402 Tier 2 Assessments
- Sec. 17-403 Tier 3 Assessments
- Sec. 17-404 Tier 4 Assessments

By Adding:

- Sec. 17-107 Relation of chapter to other laws
 - Sec. 17-500 Applicability
 - Sec. 17-501 Illicit discharges prohibited; exempt and authorized discharges
 - Sec. 17-502 Illicit connections prohibited
 - Sec. 17-503 Dumping prohibited
 - Sec. 17-504 Maintaining the functional performance of streams
 - Sec. 17-505 Inspections and monitoring
 - Sec. 17-506 Discovery, containment, cleanup and notification of discharge
 - Sec. 17-507 Penalties and remedies
1. BCHAP

CHAPTER 17

WATER PROTECTION

ARTICLE I. GENERAL

Sec. 17-102 Purposes.

The board of supervisors finds that this chapter is necessary to protect the health, safety and general welfare of the citizens of the county and the Commonwealth of Virginia and to prevent water from being rendered dangerous to the health of persons living in the county, and is supported by the findings of watershed studies that have been conducted. Therefore, the specific purposes of this chapter are to:

1. inhibit the deterioration of state waters and waterways resulting from land disturbing activities;
2. protect the safety and welfare of citizens, property owners, and businesses by minimizing the negative impacts of increased stormwater discharges from new land development and redevelopment;

3. protect against and minimize the pollution and eutrophication of public drinking water supplies resulting from land development;
4. control nonpoint source pollution, erosion and sedimentation, and stream channel erosion;
5. maintain the integrity of existing stream channels and networks for their biological functions, drainage, and natural recharge of groundwater;
6. protect the condition of state waters for all reasonable public uses and ecological functions;
7. provide for the long-term responsibility for and maintenance of stormwater management facilities and best management practices;
8. regulate the discharge of pollutants into storm drainage systems and state waters by prohibiting illicit discharges and connections, and the dumping of refuse and pollutants; the board of supervisors hereby determines that applying such regulations to not only the county's municipal separate storm sewer system but also to privately owned and operated storm drainage systems and state waters is necessary to prevent any further degradation to water resources;
9. facilitate the integration of stormwater management and pollution control with other county ordinances, programs, policies, and the comprehensive plan; and
10. promote the long-term sustainability of groundwater resources.

(§ 7-1, 6-18-75, § 2, 2-11-87, 3-18-92; § 19.1-4, 9-29-77, art. I, § 1, 7-11-90; § 19.2-2, 6-19-91, § 2; § 19.3-3, 2-11-98; Code 1988, §§ 7-1, 19.1-4, 19.2-2, 19.3-3; Ord. 98-A(1), 8-5-98; Ord. 04-17(1), adopted 12-8-04, effective 2-8-05; Ord. 07-17(1), 2-14-07)

State law reference--Va. Code §§ 10.1-560 et seq., 10.1-603.1 et seq., §10.1-2108.

Sec. 17-104 Definitions.

The following definitions shall apply in the interpretation and implementation of this chapter:

...

(4) *Best management practice (BMP)*. The term “best management practice (BMP)” means a practice or combination of practices, including treatment practices, operating procedures, general good housekeeping practices, pollution prevention, prohibitions of activities, education practices, and other management practices, determined by the program authority to be the most effective, practical means of preventing or reducing the amount of water pollution generated by nonpoint sources to a level compatible with water quality goals.

...

(10) *County engineer*. The term “county engineer” means the county engineer within the department of community development or his designee.

...

(12) *Department of community development*. The term “department of community development” means the county department of community development.

(12.1) *Department of general services*. The term “department of general services” means the county department of general services.

...

(20.1) *Hazardous substance*. The term “hazardous substance” means any substance designated as such under the Virginia Code and 40 CFR Part 116 (2000) pursuant to § 311 of the Clean Water Act, codified in 33 U.S.C. § 1251 *et seq.*

(20.2) *Illicit discharge*. The term “illicit discharge” means any discharge to the storm drainage system that is not composed entirely of stormwater, excepting discharges pursuant to a Virginia Pollutant Discharge Elimination System (“VPDES”) or Virginia Storm Management Program (“VSMP”) permit (other than a VSMP permit for discharges from the municipal separate storm sewer), discharges resulting from fire fighting activities, and discharges identified by and in compliance with 4 VAC 50-60-1220(C)(2), as delineated in section 17-501.

(20.3) *Illicit connection*. The term “illicit connection” means either:

(a) Any drain or conveyance, whether on the surface or subsurface, that allows an illicit discharge to enter the storm drainage system, and includes but is not limited to: (i) any conveyances that allow sewage, process wastewater, wash water or pollutants to enter the system; and (ii) any connections to the system from indoor drains and sinks, regardless of whether such connections were previously allowed, permitted, or approved by the county or any other government agency; or

(b) Any drain or conveyance connected to the storm drainage system from a commercial or industrial use that has not been approved by the county in a site plan, subdivision plat, or other plan or permit.

...

(26.1) *Municipal separate storm sewer system (“MS4”)*. The term “municipal separate storm sewer system” means all separate storm sewers comprising the system of conveyances, including roads with drainage systems, public streets, catch basins, sidewalks, curbs, gutters, ditches, manmade channels, or storm drains: (i) owned or operated by the county; (ii) designed or used for collecting or conveying stormwater; (iii) that are not a combined sewer; and (iv) that are not part of a publicly owned treatment works.

...

(29.1) *Non-stormwater discharge*. The term “non-stormwater discharge” means any discharge to the storm drainage system or state waters that is not comprised entirely of stormwater.

...

(35.1) *Person*. The term “person” means a natural person, corporation, partnership, sole proprietorship, trust, trustee, joint venture, or any other entity.

...

(36.1) *Pollutant*. The term “pollutant” means dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials (except those regulated under the Atomic Energy Act of 1954, as amended (42 USC §2011 *et seq.*)), heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water.

(a) The term “pollutant” includes, but is not limited to: paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquids and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordnances, and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.

(b) The term “pollutant” does not include: (i) sewage from vessels; or (ii) water, gas, or other material that is injected into a well to facilitate production of oil or gas, or water derived in association with oil and gas production and disposed of in a well if the well used either to facilitate production or for disposal purposes is approved by the Virginia Soil and Water Conservation board and if the board determines that the injection or disposal will not result in the degradation of ground or surface water resources.

(36.2) *Premises*. The term “premises” means any building or structure, or any lot or parcel, whether improved or unimproved, and including adjacent curbs, gutters, sidewalks and planting strips.

(37) *Program authority*. The term “program authority” means the department of community development, and except where the context clearly indicates otherwise, includes any officer or employee of the department of community development or the department of general services authorized by the director of the department of community development to act pursuant to this chapter.

...

(43.1) *Storm drainage system*. The term “storm drainage system” means the municipal separate storm sewer system and any privately owned and maintained improvements by which stormwater is collected and/or conveyed and which ultimately discharges to state waters, including but not limited to, street drainage systems, streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, human-made or altered drainage channels, ponds, and other drainage structures.

(43.2) *Stormwater*. The term “stormwater” means precipitation that is discharged across the land surface or through conveyances to one or more waterways and that may include stormwater runoff, snow melt runoff, and surface runoff and drainage.

...

(47.1) *Virginia Pollutant Discharge Elimination System (VPDES) permit*. The term “Virginia Pollutant Discharge Elimination System (VPDES) permit” means a document issued by the State Water Control Board pursuant to the State Water Control Law authorizing, under prescribed conditions, the potential or actual discharge of pollutants from a point source to surface waters and the use or disposal of sewage sludge.

...

(§ 7-2, 6-18-75, § 4, 7-9-80, 2-11-87, 3-18-92, § 19.1-5, 9-29-77, art. I, § 2, 9-13-78, 7-11-90, 8-3-94; § 19.2-4, 6-19-91; § 19.3-5, 2-11-98; Code 1988, §§ 7-2, 19.1-5, 19.2-4, 19.3-5; Ord. 98-A(1), 8-5-98; Ord. 07-17(1), 2-14-07)

State law reference--Va. Code §§ 10.1-560, 10.1-603.2.

Sec. 17-105 Designation of program authority; powers and duties.

A. The board of supervisors hereby designates the department of community development as the program authority.

B. The program authority shall administer and enforce this chapter as authorized by law.

C. The program authority shall establish reasonable administrative procedures for the administration of this chapter, including developing and maintaining for article III a design manual containing information about the content of plans required by article III, calculation methods, maintenance and inspection procedures, and other information to assist with the implementation and enforcement of article III. The program authority shall update the design manual periodically. The manual shall be consistent with this chapter and all applicable statutes and regulations.

D. The program authority shall assure that the erosion and sediment control program set forth in article II is administered by a certified program administrator, a certified plan reviewer, and a certified project inspector. Such positions may be filled by the same person.

E. The program authority shall take appropriate enforcement actions to achieve compliance with this chapter, and shall maintain a record of enforcement actions for all active land disturbing activities, land developments, illicit discharges, illicit connections, and prohibited dumping.

F. The program authority is authorized to cooperate with any federal or state agency in connection with plans for erosion and sediment control or stormwater management. The program authority may also recommend to the county executive any proposed agreement with such agency for such purposes, which agreement shall be executed, if at all, by the county executive on behalf of the county.

(§ 7-9, 4-21-76, 2-11-87, 3-18-92; § 19.3-6, 2-11-98; Code 1988, §§ 7-9, 19.3-6; Ord. 98-A(1), 8-5-98; Ord. 07-17(1), 2-14-07)

State law reference--Va. Code §§ 10.1-562, 10.1-603.3, 10.1-603.12:1 *et seq.*

Sec. 17-107 Relation of chapter to other laws

The requirements of this chapter are:

A. Separate from, but supplementary to, all other applicable requirements of the Code. Compliance with the requirements of this chapter shall not be deemed to be compliance with other applicable ordinances or regulations.

B. Separate from, but supplementary to, all other applicable requirements of state or federal law. If the requirements of this chapter are in direct conflict with mandatory state or federal requirements, then the state or federal requirements shall apply.

C. Separate from the requirements, terms or conditions of any private easement, covenant, agreement or restriction. Neither the county nor any of its officers, employees or agents shall have any duty to enforce a private easement, covenant, agreement or restriction.

ARTICLE III. STORMWATER MANAGEMENT AND WATER QUALITY

Sec. 17-300 Applicability.

Each owner shall comply with the requirements of this article prior to commencing any land development, or allowing any land development to occur, on his property and at all times thereafter.

(§ 19.1-6, 9-29-77, art. II, § 1, 10-19-77, 9-13-78, 10-22-80, 7-11-90, 8-3-94; § 19.2-5, 6-19-91, § 5; § 19.3-24, 2-11-98; Code 1988, §§ 19.1-6, 19.2-5, 19.3-24; Ord. 98-A(1), 8-5-98; Ord. 07-17(1), 2-14-07)

State law reference--Va. Code §§ 10.1-603.3, 10.1-603.9, 10.1-2108.

Sec. 17-301 Designation of water resources areas.

In order to better effectuate the purposes of this article, all of the land within the county is hereby designated as being within one or more of the following water resources areas:

A. *Development areas*: Development areas are those areas of land within the county designated as development areas in the land use element of the comprehensive plan, and as shown on the official map of the land use element.

B. *Areas of infill and redevelopment:* Areas of infill and redevelopment are those areas of land within the county that are: (i) within a development area; and (ii) designated as areas of infill and redevelopment for purposes of this article by the board of supervisors, and as shown on the official map adopted showing such areas. The board of supervisors shall designate such areas based on a finding that existing development has altered severely the natural condition of the area, including the presence of vegetation, and that infill and redevelopment activities would serve other community and comprehensive plan goals.

C. *Water supply protection areas:* Water supply protection areas are those areas of land within the county that are within the watershed of a public water supply reservoir or water supply intake, and such areas shall consist of all land within the county that drains naturally to the South Fork Rivanna Reservoir, Beaver Creek Reservoir, Totier Creek Reservoir, Sugar Hollow Reservoir, Ragged Mountain Reservoir, Chris Greene Lake, the North Fork Rivanna River intake, and to any impoundment or water supply intake designated in the future by the board of supervisors as a public water supply reservoir.

D. *Other rural land:* Other rural land consists of those areas of land that are not within a development area, an area of infill and redevelopment, or a water supply protection area.

(§ 19.2-6, 6-19-91, § 6; § 19.3-25, 2-11-98; Code 1988, §§ 19.2-6, 19.3-25; Ord. 98-A(1), 8-5-98; Ord. 07-17(1), 2-14-07)

State law reference--Va. Code § 10.1-2108.

ARTICLE IV. GROUNDWATER ASSESSMENTS

Sec. 17-402 Tier 2 assessments.

A Tier 2 assessment shall consist of the program authority reviewing and evaluating the county's well database, available hydrogeologic studies, and information from the Virginia Department of Health and the Virginia Department of Environmental Quality, as provided in chapter 2 of the design standards manual. Based on this evaluation, the program authority may require that the owner provide additional groundwater assessment data prior to subdivision plat or site plan approval, or may require that a Tier 3 assessment be submitted.

(§ 402, Ord. 04-17(1), 12-8-04, effective 2-8-05; Ord. 07-17(1), 2-14-07)

Sec. 17-403 Tier 3 assessments.

2.

A Tier 3 assessment shall consist of the following:

A. The owner shall submit a draft groundwater management plan with the preliminary plat or site plan. The groundwater management plan shall comply with the requirements for such plans in chapter 2 of the design standards manual. If the groundwater management plan identifies special areas of concern, such as an off-site resource of high groundwater sensitivity or a previously unknown source of contamination, then the program authority may require additional groundwater assessment data prior to preliminary subdivision plat or site plan approval.

B. The owner shall submit a final groundwater management plan that must be approved by the program authority prior to approval of the final plat or site plan.

C. Any structural measures (e.g., best management practices) shall be bonded as a subdivision plat or site plan improvement.

The program authority may require that a Tier 4 assessment be submitted instead of a Tier 3 assessment if the special areas of concern identified in subsection (A) have not been adequately addressed by the additional groundwater assessment data.

(§17-403, Ord. 04-17(1), 12-8-04, effective 2-8-05; Ord. 07-17(1), 2-14-07)

Sec. 17-404 Tier 4 assessments.

A Tier 4 assessment shall consist of the following:

A. The owner shall submit a draft groundwater management plan and an aquifer testing workplan complying with the requirements for such plans in chapter 2 of the design standards manual, with the preliminary plat, preliminary site plan, or the application for a central water supply. The groundwater management plan must demonstrate to the program authority's satisfaction that the site's groundwater conditions have been considered with the subdivision or site plan's layout and design. The aquifer testing workplan must be approved by the program authority before the owner may conduct aquifer testing as required by subsection (B).

B. After the program authority approves the aquifer testing workplan, the owner shall conduct aquifer testing as provided in the workplan.

C. The owner shall submit a final groundwater management plan and a groundwater assessment report complying with the requirements for such a report in chapter 2 of the design standards manual, based upon the results of the aquifer testing. The final groundwater management plan and the groundwater assessment report must be approved by the program authority prior to final subdivision plat or site plan approval.

D. Any structural measures (e.g., best management practices) shall be bonded as a subdivision plat or site plan improvement.

(§404, Ord. 04-17(1), 12-8-04, effective 2-8-05; Ord. 07-17(1), 2-14-07)

ARTICLE V. ILLICIT DISCHARGES AND CONNECTIONS

Sec. 17-500 Applicability.

This article shall apply to all activities that cause or allow to be caused direct or indirect illicit discharges, illicit connections, and the prohibited dumping of refuse and pollutants, or which negatively impede the flow capacity of the storm drainage system or state waters that (i) are not covered by other articles of this chapter and (ii) are not expressly exempt from this article.

State law reference--Va. Code §§ 10.1-603.3, 10.1-603.7.

Sec. 17-501 Illicit discharges prohibited; exempt and authorized discharges.

No person shall throw, drain, or otherwise discharge, cause or allow others under their control to throw, drain, or otherwise discharge into the storm drainage system or state waters any pollutants or waters containing any pollutants, other than stormwater. The commencement, conduct, or continuance of any such illicit discharge to the storm drainage system or state waters is prohibited, subject to the following:

A. *Conditionally exempt discharges.* The following discharges are conditionally exempt from this article:

1. Discharges pursuant to a Virginia Pollutant Discharge Elimination System (“VPDES”) or Virginia Storm Management Program (“VSMP”) permit (other than a VSMP permit for discharges from the municipal separate storm sewer);
2. Discharges resulting from fire fighting and other public safety activities;
3. Discharges associated with the maintenance or repair of public water, sanitary, and storm sewer lines, and public drinking water reservoirs and drinking water treatment or distributions systems conducted in accordance with applicable federal and state regulations and standards;
4. Discharges associated with any activity by the county, its employees and agents, in the maintenance of any component of a county-maintained stormwater management facility conducted in accordance with applicable federal and state regulations and standards;
5. Discharges specified in writing by the program authority as being necessary to protect public health and safety;
6. Water line flushing;
7. Landscape irrigation and lawn watering;
8. Non-point discharges associated with agricultural and silvicultural operations;
9. Diverted stream flows;
10. Rising ground water, springs, uncontaminated ground water infiltration, and pumped ground water;
11. Flows from riparian habitats and wetlands;
12. Discharges from potable water sources, foundation drains, and air conditioning condensation;
13. Water from crawl space pumps and footing drains;
14. House washing and individual car washing on residential lots;
15. De-chlorinated swimming pool discharges having less than 1 part per million chlorine and discharges from hot tubs;
16. Street wash water;
17. Water from washed parking lots or sidewalks to remove algae or oil buildup;
18. Application of salts or other de-icing substances to streets, sidewalks and parking lots.
19. Discharges associated with dye testing, provided that the program authority is notified in writing before the test.

If the program authority determines that any of these exempted activities are causing adverse impacts to state waters in a specific case, the program authority may revoke the exemption for that specific case and such revocation shall be effective from the date the person responsible for the discharge is informed in writing of the determination that the exemption is revoked.

B. *Discharges authorized by VPDES permit, waiver or waste discharge order.* The prohibition shall not apply to any non-stormwater discharge permitted under a VPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the United States Environmental Protection Agency (EPA), provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations and provided that written approval has been granted for any discharge to the storm drainage system.

State law reference--Va. Code §§ 10.1-603.3, 10.1-603.7.

Sec. 17-502 Illicit connections prohibited.

The construction, use, maintenance, or continued existence of illicit connections to the storm drainage system is prohibited.

A. *Pre-existing illicit connections.* Any illicit connection previously authorized before the effective date of this chapter shall comply with the requirements of this chapter by December 31, 2007, or such later date as expressly authorized by the program authority upon good cause shown by the person requesting the extension.

B. *Disconnection and redirection.* Any illicit connection shall be disconnected and redirected, if necessary, to an approved onsite wastewater management system or the sanitary sewer system upon approval of the Albemarle County Service Authority.

C. *Locating undocumented connections.* Any drain or conveyance that has not been documented in plans, maps, or their equivalent and which appears to be connected to the storm drainage system shall be located by the owner, occupant, lessee, principal, agent, employee or otherwise, of that property within the time period specified in the written notice of violation from the program authority requiring that the connection be located. The notice shall require that: (i) the location of the drain or conveyance be determined; (ii) the drain or conveyance be identified as a storm sewer, sanitary sewer, or other; and (iii) the outfall location or point of connection to the storm drainage system, sanitary sewer system, or other discharge point be identified. The results of these investigations shall be documented and provided to the program authority.

State law reference--Va. Code §§ 10.1-603.3, 10.1-603.7.

Sec. 17-503 Dumping prohibited.

No person, whether the owner, occupant, lessee, principal, agent, employee or otherwise, may dump or discharge, or allow any other person to dump or discharge, refuse, as that term is defined in section 13-100 of the Code, or any other material or pollutant, natural or synthetic, into the storm drainage system or a natural stream, unless the dumping or discharge is expressly authorized by the Code.

Sec. 17-504 Maintaining the functional performance of the storm drainage system and streams.

The storm drainage system and natural streams shall be maintained as follows:

A. *Keeping the storm drainage system and natural streams free of refuse and other obstacles.* Every person, whether the owner, occupant, lessee, principal, agent, employee or otherwise, owning, occupying or otherwise responsible for the condition of the property through which a privately-maintained storm drainage system or natural stream passes, shall maintain the part of such system or stream on the property free of refuse, as that term is defined in section 13-100 of the Code, and other obstacles that would pollute, contaminate, or adversely impact the system's or stream's functional performance.

B. *Maintaining structures within the flood hazard overlay district.* Every person, whether the owner, occupant, lessee, principal, agent, employee or otherwise, owning, occupying or otherwise responsible for the condition of the property through which a natural stream passes, shall maintain existing privately-owned structures within the flood hazard overlay district established under section 18-30.3 of the Code so that such structures do not become a hazard to the use, function, or physical or ecological integrity of the stream.

State law reference--Va. Code §§ 10.1-603.3, 10.1-603.7.

Sec. 17-505 Inspections and monitoring.

The program authority is authorized to assure compliance with the requirements of this article as follows:

A. *Inspections and monitoring, generally.* The program authority is authorized to conduct inspections of private property and to conduct monitoring of storm drainage systems, natural streams, and facilities permitted by VPDES permits, in the manner authorized by law to assure compliance with the requirements of this article.

B. *Inspection of records of VPDES permittees.* Every VPDES permittee shall allow the program authority to examine VPDES application materials, plans, specifications, and other pertinent information as may be necessary to determine the effect of the permittee's discharge on the quality of state waters, such other information as may be necessary to accomplish the purposes of this article, including records required to be kept under the conditions of the permit, and enforcement records such as inspection reports, notices of violation, and documents detailing the nature of any land disturbing activity that may have occurred, or similar documents, that are not exempt from disclosure under Virginia Code § 10.1-603.12:2.

C. *Monitoring and sampling equipment on VPDES permitted facilities.* The program authority is authorized, either under a condition of the VPDES permit, with the permittee's consent or by court order: (i) to establish on any permitted facility such devices as are necessary in the opinion of the program authority to conduct monitoring and/or sampling of the facility's stormwater discharge; and (ii) to require the permittee to install monitoring equipment as the program authority deems necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the permittee at its own expense. All devices used to measure stormwater flow and quality shall be calibrated to ensure their accuracy.

D. *Obligation of VPDES permittee to assure clear access.* At the written or oral request of the program authority, every VPDES permittee shall promptly remove any temporary or permanent obstruction to safe and easy access to the permitted facility to be inspected and/or sampled, and such obstructions shall not be replaced. The costs of removing such obstructions shall be borne by the operator.

State law reference--Va. Code §§ 10.1-603.3, 10.1-603.7, 10.1-603.12:1, 10.1-603.12:2.

Sec. 17-506 Discovery, containment, cleanup and notification of discharge.

If a discharge occurs or is suspected to have occurred, the following procedures shall apply:

A. *Discovery, containment and cleanup.* Notwithstanding any other requirement of law, as soon as any person responsible for a facility, operation, or activity, or responsible for the emergency response for a facility, operation, or activity, has information of any known or suspected discharge of substances which are resulting or may result in an illicit discharge into the storm drainage system or state waters, that person shall take all necessary steps to ensure the discovery, containment, and cleanup of the discharge.

B. *Notification.* The person identified in subsection (A) also shall provide the following notification of the discharge: (i) if the discharge contains, or may contain, a hazardous substance, the person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services; and (ii) if the discharge contains, or may contain, only non-hazardous substances, the person shall notify the program authority in person, by phone, by email, or by facsimile no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the program authority within five (5) business days of the phone notice.

C. *Record of discharge from commercial or industrial establishment.* If an illicit discharge is from a commercial or industrial establishment, the owner or operator of the establishment shall retain on-site a written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least two (2) years and a copy thereof shall be provided to the program authority within fifteen (15) days of the date of the discharge.

State law reference--Va. Code §§ 10.1-603.3, 10.1-603.7, 10.1-603.11.

Sec. 17-507 Penalties and remedies.

The penalties and other remedies for a violation of this article shall be as provided in Virginia Code § 10.1-603.14.

State law reference--Va. Code § 10.1-603.14.

Proffer Form

Date: October 2, 200610/05/0612/01/0602/05/07

Revisions:

01/24/07ZMA: 2005-0007Tax Map and Parcel Numbers: 55-69 and 56-9

69 Acres to be rezoned from R2 to NMD (Neighborhood Model District)
in accordance with the Application Plan titled Haden Place, dated September 4, 2006 revised January 23,
2007

And prepared by Dominion Development Resources, LLC

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. 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) **Construction of Off-Site Improvements:** No later than 12 months after approval of the first subdivision plat or site plan within Haden Place, the Applicant shall design and construct at its sole expense the following:
 - a. **Haden Lane Road Widening:** Haden Lane, from the southern boundary of Haden Place to Jarmans Gap Road, and from the southern boundary of Haden Place to its terminus at the southern Boundary of Tax Map 56 Parcel 8, shall be widened to a minimum pavement width of 20' and shoulders and ditches shall be installed to the extent allowed within the existing right-of-way. The improvements shall be designed and constructed to the satisfaction of the County Engineer.
 - b. **Stormwater Drainage to Powell's Creek:** The Owner shall not request that the County issue a building permit within Haden Place prior to the construction or bonding of an off-site stormwater drainage system to Powell's Creek in general accord to that shown on the General Development Plan.

- 2) **Interparcel connection to Summerford Lane:**

Final location for dedication of the inter-parcel connection with Ballard Fields will be determined as a condition of first subdivision plat or first site plan approval for any development within Haden Place. The Owner shall design and construct at its sole expense the inter-parcel vehicular connection to Summerford Lane. Said construction shall be completed as designed and approved by the County Engineer, no later than 12 months after approval of the final subdivision plat or final site plan approval for lots within Blocks C, D, E, F, or G as shown on the General Development Plan.

- 3) **Vehicular Ingress/Egress:**

Vehicular connection from the Proposed Connector Road shown on the ZMA 2005-0007 Application Plan, last revised February 5, 2007 to Killdeer Lane shall be prohibited until such time that sight distance improvements, acceptable to the Virginia Department of Transportation, are

made to the intersection of Killdeer Lane and Jarmans Gap Road. The bollards prohibiting vehicular connection from the Proposed Connector Road to Killdeer Lane shall be removed within 60 days of the Virginia Department of Transportation's acceptance of the sight distance improvements.

4) Future Dedication for Realignment of Killdeer Lane:

- a. Upon the request of Albemarle County, a fifty (50) foot wide portion of the open space area shown as "Block J" on sheet A5.I of the Application Plan shall be dedicated to public use, as necessary, for future realignment of Killdeer Lane. The location of the realignment is shown conceptually on the General Development Plan.
- b. If the land dedicated in Proffer 4a is not used for its stated purpose within 10 years of dedication, then the Owner may pursue vacation or abandonment of the dedicated right-of-way.

5) Cash Proffers:

The Owner shall contribute a total of \$82,000 cash for the purpose of mitigating traffic impacts from the development. The cash contribution shall be used only for the purpose of funding transportation projects identified in the County's Capital Improvements Program within the Community of Crozet. The cash contribution shall be paid in increments of \$3,200 for each detached market rate unit and \$2,700 for each market rate attached unit, prior to or at the time of issuance of the building permit for each unit. If this cash contribution has not been exhausted by the County for the stated purpose within ten (10) years from the date of the last payment of the contribution, all unexpended funds shall be applied to project(s) identified in the County's Capital Improvements Program within the Community of Crozet.

6) Affordable Housing:

- a. The Owner shall provide six (6) "for sale" residential units of affordable housing in Haden Place as identified on the Application Plan. 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. The Albemarle County Office of Housing or its designee shall approve all purchasers of these units. The Owner/builder 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 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. This proffer shall apply only to the first sale of each of the six (6) units.
- b. Prior to the issuance of the fifteenth building permit for a market rate dwelling unit within Haden Place, the Owner shall obtain certificates of occupancy for three (3) affordable dwelling units. Prior to the issuance of the final building permit for a market rate dwelling unit within Haden Place, the Owner shall obtain certificates of occupancy for all of the affordable dwelling units within Haden Place.

7) Historic Resources: As a condition of the first preliminary subdivision plat or preliminary site plan approval for any development within Haden Place, the Owner shall provide a

reconnaissance level survey performed by an architectural historian or other qualified individual, to adequately provide an archival record of the existing homestead. The survey shall meet the requirements of the Virginia Department of Historic Resources Reconnaissance Survey Field Form, and results shall be included in the Haden Place Code of Development.

- 8) **Overlot Grading Plan:** For any subdivision not requiring a site development plan, the Owner shall submit an Overlot Grading Plan to the satisfaction of the County Engineer. The Owner shall obtain approval of the Overlot Grading Plan by the County Engineer before the first final subdivision plat or site plan is approved within Haden Place. The Owner shall not request that a Certificate of Occupancy be issued for a dwelling unit on a lot if the County Engineer has determined the lot grading is not consistent with the approved grading plans.

Signature of Owner,

Wendell W. Gibson, President
Wendell W. Gibson, Inc.

Wendell W. Gibson
Printed Name of Owner

02-05-2007
Date

PROJECT: SP-2006-034. North Pointe - Stream Crossing (Sign #8): PROPOSED: Fill in the floodplain of Flat Branch Creek for a road crossing to provide access for residential development. ZONING CATEGORY/GENERAL USAGE: Planned Development Mixed Commercial with which allows large-scale commercial uses; and residential by special use permit (15 units/ acre). A special use permit exists for residential use. SECTION: 30.3.05.2.1. of the Zoning Ordinance which allows for fill in the floodplain. COMPREHENSIVE PLAN LAND USE/DENSITY: Urban Density Residential - residential (6.01-34 units/acre) and supporting uses such as religious institutions, schools, commercial, office and service uses. ENTRANCE CORRIDOR: Yes. LOCATION: East Side of Route 29 North (Seminole Trail) across from Lewis and Clark Drive. TAX MAP/PARCEL: 32-22K. MAGISTERIAL DISTRICT: Rivanna.

1. County and VDOT approval of the final lane configuration for the Northwest Passage over the stream crossing with the final road plans;
2. County and VDOT approval of final design plans and hydrologic/hydraulic computations for the stream crossing;
3. The applicant must obtain a map revision, letter of revision, or letter of amendment as required from the Federal Emergency Management Agency (FEMA) and copy the County Engineer on all correspondence;
4. County approval of a grading and an erosion and sediment control plan prior to the issuance of a grading permit for modification of the existing stream crossing;
5. Natural Resources Manager approval of a stream buffer mitigation plan prior to the issuance of a grading permit for modification of the existing stream crossing;
6. Provide an informal planting of mixed tree and shrub species and sizes to compensate for removed vegetation, and low-growing plants to stabilize slopes in the "proposed landscaping areas" shown on the plan submitted for ARB review entitled "Proposed Entry Layout with Landscaping North West Passage Intersection @ Route 29 North" with revision date of 12-04-06.
7. Provide large shade trees on the north and south sides of Northwest Passage, along the sidewalk and space reserved for the sidewalk, two and one half inch (2½") caliper minimum at planting, forty feet (40') on center, for a minimum distance of four hundred feet (400') from the existing edge of pavement of Route 29 North;
8. Provide trees in the median of Northwest Passage, beginning at the point closest to Route 29 North that can be approved by VDOT and extending for a minimum distance of four hundred feet (400') from the existing edge of pavement of Route 29 North. The planting shall take the form of a continuous informal mix of large, medium and small deciduous trees ranging from one and one-half inches (1½") to two and one half inches (2½") caliper and evergreen trees ranging from four feet (4') to six feet (6') in height;
9. All of the above-noted landscaping shall be shown on the road plans submitted for Northwest Passage. The plans shall include a complete planting schedule keyed to the plan. The plans are subject to approval of the Design Planner;
10. Design details of the retaining walls, including column cap design, pier design, stone finish, other materials, etc., plant size and planting configuration shall be shown on the road plans and are subject to approval of the Design Planner; and
11. If the use, structure, or activity for which this special use permit is issued is not commenced within sixty (60) months after the permit is issued, the permit shall be deemed abandoned and the authority granted thereunder shall thereupon terminate.