ACTIONS Board of Supervisors Meeting June 13, 2007	
June 14, 2007	
AGENDA ITEM/ACTION	**ASSIGNMENT**
1. Call to Order. • Meeting was called to order at 2:30 p.m. by the Chairman, Mr. Boyd. All BOS members were present. Also present were Bob Tucker, Larry Davis, Ella Carey and Meagan Hoy.	
2. Report on pesticides, herbicides and cleaners on County property. • **RECEIVED**, and agreed for the County Executive, in cooperation with the School Superintendent, to form a work group to examine this matter from a County wide perspective and potentially bring forth a recommendation on a County policy.	Pat Mullaney/County Executive staff: Proceed as directed.
3. **Work Session:** FY 2008-2013 Capital Improvements Program (CIP). • **ADOPTED** the FY 2008-2012 CIP as revised.	
Recess. The Board recessed at 4:08 p.m., and reconvened at 4:14 p.m.	
4. **Work Session:** Housing Committee recommendations, re: Affordable Housing. • **APPROVED** the Housing Committee recommendations for amending the density bonus provisions in the Zoning Ordinance and the Affordable Housing Policy in the Comprehensive Plan and **DIRECTED** staff to prepare the necessary amendments and set a public hearing by the Planning Commission by August 15, 2007, adopted as operating policy the sliding scale (leaving off the top two tiers), and adopting the definition and method of calculating cash or cash equivalent proffers in lieu of affordable housing as operating policy. **DIRECTED** the Housing Committee to address the long-term affordability issue.	Ron White/Amelia McCulley/Wayne Cilimberg: Proceed as approved.
5. The Board recessed at 5:33 p.m., and went into closed session to conduct an administrative evaluation, and to consult with legal counsel and staff regarding specific matters requiring legal advice relating to an inter-jurisdictional agreement.	
6. Call to Order. • Meeting was called to order at 6:04 p.m. by the Chairman, Mr. Boyd. All BOS members were present. • Certify Closed Session. The Board immediately certified the closed session.	
9. From the Board: Matters Not Listed on the Agenda. • There were none.	
10. From the Public: Matters Not Listed for Public Hearing on the Agenda. • Lillie Williams, representing the African American Festival organization, asked the	

	Board to reconsider approving its funding request of $3000.	
11.1	**ZMA-2007-0001. Hollymead Town Center Area A-2.** • **CANCELLED** public hearing.	Clerk: Advertise and reschedule public hearing when ready to come to back.
11.2	**CPA-2005-009. Southern Urban Area B Study Amendment and CAP-2005-005. Granger Tract CPA.** • **CANCELLED** public hearing and rescheduled for August 1, 2007.	Clerk: Advertise and reschedule public hearing for August 1, 2007.
11.3	Request to abandon unused right-of-way of State Route 683 (Shelton Mill Road). • **ADOPTED** the attached resolution abandoning the public right-of-way for the old alignment of Route 683 (Shelton Mill Road).	Clerk: Forward copy of adopted resolution to Juan Wade. (Attachment 1)
11.4	Virginia Department of Education Pre-School Pilot Grant Submission for FY2008. • **AUTHORIZED** the allocation of $32,000 in surplus General Funds resulting from savings in the Department of Social Services' FY 2007 budget to provide the necessary local matching funds required to participate in the FY08 Virginia Department of Education Pre-School Pilot Initiative.	OMB: Prepare necessary appropriation form for Board approval.
11.5	Cancel July 18, 2007, Board of Supervisors' meeting. • Meeting **CANCELLED.**	
12.	Cismont Zoning Violation (TMP 65-20). • **SUPPORTED** staff's recommendation to continue working with the property owner to complete the clean up of the property, by December 31, 2007, rather than the County funding the clean up. Staff to continue to monitor the clean up progress, work with the owners to expedite the completion of the clean up as soon as possible, and continue to update the public using our established communication system. Staff to monitor the amount of material removed from the property using receipts and any other quantifiable means, to assure continued good faith effort towards compliance. • **REQUESTED** the Zoning Administrator contact Dr. R. A. Johnson to respond to the questions he raised at the meeting. • **CONSENSUS** that the Chairman will send a letter to Ed Liggett, of DEQ, encouraging DEQ to move expeditiously.	Mark Graham/Amelia McCulley: Proceed as directed.
13.	**APPEAL: SUB-2006-375, Ashcroft West – Preliminary: Private Street Waiver Request.** • **APPROVED**, by a vote of 4:1: and 1 abstention, the waiver to allow a private street for SUB-2006-375 for the reasons stated within the executive summary, and based on the findings set forth in Albemarle County Code § 14-234.	David Pennock/Amelia McCulley: Proceed as approved.
14.	**ZMA-2006-005, Avinity (Sign #75).** • **APPROVED** ZMA-2006-005, by a vote of 6:0, subject to acceptance of the applicant's proffers and the amended application plan.	Clerk: Set out applicant's proffer. (Attachment 2)

15.	**ZMA-2001-008, Rivanna Village at Glenmore (Signs #16,17,19,20,21).** • **APPROVED** ZMA-2001-008, by a vote of 4:2, subject to acceptance of the applicant's proffers, General Plan of Development and Code of Development. • **APPROVED** the Waivers and Modifications (Exhibit E) for Rivanna Village at Glenmore. • **ADOPTED** the attached resolution in association with ZMA-2001-008, by a vote of 6:0.	Clerk: Set out attachments below. (Attachment 3-5)
16.	**ZMA-2005-015. Hollymead Town Center Area A-1 (Signs #15,51,53,73).** • **DEFERRED** ZMA-2005-015 and SP-2005-027, by a vote of 6:0, to a work session on August 8. Requested that the rezonings for Area A-1 and Area A-2 (ZMA-2007-01) come to the Board together. • If ready, all three items to be **SCHEDULED** for public hearing on September 12, 2007.	Clerk: Schedule work session on afternoon of August 8th and schedule public hearing on September 12th.
17.	**SP-2005-027. Hollymead Town Center Area A - Drive Up Window for Bank (Signs #15,51,53,73).** • **SCHEDULE** along with above rezoning.	Clerk: Schedule along with above rezoning.
18.	From the Board: Committee Reports. There were none.	
19.	Adjourn to June 20, 2007, 1:00 p.m. • At 10:53 p.m. the meeting was adjourned until June 20, 2007.	

/ewc

Attachment 1 – Resolution - Route 683 (Shelton Mill Road)
Attachment 2 – Proffers - ZMA-2006-005, Avinity
Attachment 3 - ZMA-2001-008, Rivanna Village at Glenmore
Attachment 4 – Waivers and Modifications – Rivanna Village
Attachment 5 – Resolution – Rivanna Village

ATTACHMENT 1

RESOLUTION ABANDONING A PORTION OF STATE ROUTE 683
(Virginia Code § 33.1-164)

WHEREAS, State Route 683 was realigned and a new road was constructed that circumvented a portion of the old State Route 683 alignment (the "old road") which is described as follows:

> All that certain road and right-of-way situated in the Samuel Miller District of the County of Albemarle, Virginia, lying approximately one mile southeast of Brownsville. Beginning with a common property corner of Ethel R. Pugh and Jean and Catherine Vieille in center of State Route 683 at intersection of old road and State Route 683, approximately 210 feet south of driveway of Jean and Catherine Vieille. Thence in a southerly direction for approximately 1283 feet along old properties of Ethel R. Pugh and Bettie Ann Stanerson to the point of intersection of old road and State Route 683; and

WHEREAS, the old road is not in the secondary system of state highways; and

WHEREAS, the new road serves the same citizens as the old road identified to be abandoned and the old road no longer serves a public need.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Supervisors abandons the portion of old State Route 683 described above, pursuant to Virginia Code § 33.1-164; and

BE IT FURTHER RESOLVED, that a certified copy of this resolution be forwarded to the Resident Engineer for the Virginia Department of Transportation.

ATTACHMENT 2

PROFFER FORM

"AVINITY"

Original Proffer **x**
Amended Proffer
(Amendment #:

Date: 6/1/2007
ZMA #: 2006-005
Tax Map and Parcel Number(s): 91-14, 90-35I, 90-35J, & 90-35K
Owner: Avon Properties, LLC

9.33 Acres to be rezoned from R-1 to PRD
in accordance with plan entitled
"Rezoning Request Avinity Albemarle County, Virginia"
prepared by Terra Concepts and last revised on March 28, 2007

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. AFFORDABLE HOUSING
The Owner shall provide the equivalent of nineteen (19) residential dwelling units as "affordable units" for sale or lease. The nineteen (19) units shall be comprised of one or more of the following unit types: single-family attached housing (townhouses) or condominiums. The Owner or his successor in interest reserves the right to achieve the nineteen (19) equivalent affordable units in a variety of ways, utilizing the above mentioned unit types alone or in combination as outlined below.

A) For-Sale Affordable Units – 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 homeowner's insurance (PITI) do not exceed thirty percent (30%) of the Affordable Unit Qualifying Income, provided, however, that in no event shall the selling price of such affordable units be required to be less than the greater of One Hundred Ninety Thousand Four Hundred Dollars ($190,400) or sixty-five percent (65%) of the applicable Virginia Housing Development Authority (VHDA) maximum mortgage for first-time home buyers at the beginning of the 90-day identification and qualification period referenced below. The Owner or his successor in interest may at its option provide down payment assistance or soft seconds (silent second mortgages) to reduce the costs to the homebuyer, so that the resultant first mortgage and housing costs remain at, or below, the parameters described above. All financial programs or instruments described above must be acceptable to the primary mortgage lender. Any Soft second (silent second mortgage) executed as part of the affordable housing proffer shall be donated to a local fund designated by the Albemarle County Office of Housing. Each dwelling unit qualifying under these parameters counts as one (1) affordable unit.

B) For-Lease Affordable Units – For a period of five (5) years following the date the certificate of occupancy is issued by the County for each for-lease 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"), such units shall be leased to households with incomes less than the Affordable Unit Qualifying Income. No for-lease affordable unit may be counted more than once towards the number of for-lease affordable dwelling units required by this Section 1.

(i) Definition of For-Lease Affordable Units – Paragraph 1 shall mean that the gross lease amount including tenant paid utilities shall not exceed one-hundred twenty (120%) percent of the fair market value of rentals published by the Department of Housing and Urban Development.

(ii) Conveyance of Interest – All deeds conveying any interest in the for-lease affordable units during the Affordable Term shall contain language reciting that such unit is subject to the terms of this Section 1(B). In addition, all contracts pertaining to a conveyance of any for-lease 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 Section 1(B). Prior to the conveyance of any interest in any for-lease 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 Section 1(B)(i) and 1(B)(ii) have been satisfied.

(iii) Annual Reporting – During the Affordable Term and within ninety (90) days following the end of each calendar year, the then-current owner shall provide to the Albemarle County Housing Office or its designee a certified annual report of all for-lease affordable units for the immediately preceding year in a form and substance reasonably acceptable to the County Housing Office. Subject to all federal, state and local housing laws, and upon reasonable notice during the Affordable Term, the then-current Owner shall make available to the County at the then-current Owner's premises, if requested, any reports, copies of rental or lease agreements, or other data pertaining to rental or lease rates as the County may reasonably require.

C) Each subdivision plat and site plan for the land within the Property which includes affordable or other price-restricted units shall designate the lots or units that will be subject to the terms and conditions of this proffer. Prior to the issuance of the thirty-sixth (36^{th}) building permit for a market rate dwelling unit within the Property, the then-current owner/builder shall obtain certificates of occupancy for six (6) affordable dwelling units within the Property. Prior to the issuance of the seventy-first (71^{st}) building permit for a market rate dwelling unit within the Property, the then-current owner/builder shall obtain certificates of occupancy for six (6) additional (for a total of twelve (12)) affordable dwelling units within the Property. Prior to the issuance of the final building permit for a market rate dwelling unit with the Property, the Owner shall obtain certificates of occupancy for all of the affordable dwelling units within the Property.

D) All purchasers of the affordable units shall be approved by the Albemarle County Office of Housing or its designee. The then-current owner/builder shall provide the County or its designee a period of ninety (90) days to identify and pre-qualify an eligible purchaser for the affordable unit(s). The ninety (90) day period shall commence upon written notice from the then-current owner/builder that the unit(s) is within one hundred twenty (120) days of completion and, that on or before the end of such one hundred twenty (120) day period shall be ready for 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 required to be provided pursuant to the terms of this proffer. The requirements of this proffer shall apply only to the first sale of each of the affordable units that are purchased. If at any time prior to the County's approval of any preliminary site

plan or subdivision plat for the Property which includes one or more for-sale affordable units, the Housing Office informs the then-current owner/builder in writing that it may not have a qualified purchaser for one or more of the for-sale affordable units at the time that the then-current owner/builder expects the units to be completed and that the Housing Office will instead accept a cash contribution to the Housing Office to support affordable housing programs in the amount of Sixteen thousand five hundred dollars ($16,500) in lieu of each affordable unit(s), then the then-current owner/builder shall pay such cash contribution to the Housing Office prior to obtaining a certificate of occupancy for the unit(s) that were originally planned to be affordable units, and 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). If the cash contribution has not been exhausted by the Housing Office for the stated purpose within five (5) years of the date it was contributed, all unexpended funds shall be refunded to the party that contributed the funds. For the purposes of this proffer, such affordable dwelling units shall be deemed to have been provided when the subsequent owner/builder provides written notice to the Albemarle County Office of Housing or its designee that the unit(s) will be available for sale.

E) The County shall have the right, upon reasonable notice and subject to all applicable privacy laws, to periodically inspect the records of the Owner or any successors in interest for the purposes of assuring compliance with this proffer.

2. CASH PROFFER

A) The Owner shall contribute $11,900 cash to the County for each market rate unit constructed within the Property 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 Neighborhoods 4 & 5 as identified in the County's Capital Improvements Program. The cash contribution shall be paid in increments of $11,900 cash for each market rate 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 five (5) years of the date of the last contribution, all unexpended funds shall be refunded to the Owner.

B) Annual Adjustment of Cash Proffers. Beginning January 1, 2009, the amount of each cash contribution required herein shall be adjusted annually until paid, to reflect any increase or decrease for the preceding calendar year in the Marshall and Swift Building Cost Index (the "MSI"). In no event shall any cash contribution amount be adjusted to a sum less than the amount initially established by these proffers. The annual adjustment shall be made by multiplying the proffered cash contribution amount for the preceding year by a fraction, the numerator of which shall be the MSI as of December 1 in the year preceding the calendar year most recently ended, and the denominator of which shall be the MSI as of December 1 in the preceding calendar year. For each cash contribution that is being paid in increments, the unpaid incremental payments shall be correspondingly adjusted each year.

3. PAVEMENT

In conjunction with improvements approved with the subdivision plat or site plan which establishes lots 22-28, the Owners shall construct a 6-foot wide asphalt trail consisting of 4 inches of 21B sub base material and 2 inches of SMA-2 asphalt, applied as a seamless coat, or other specification approved by the County Engineer. The trail shall be constructed in the location shown of the application plan or other location approved by the Building Services Director for Albemarle County Schools. If the Albemarle County School Board determines that the asphalt path is not necessary or desirable to serve Cale Elementary School, then the Owner shall be relieved of this proffer.

The Owner shall construct a new driveway to provide access to TMP 90-35L in the location shown on the application plan. The new driveway shall originate from the proposed main entry drive into the proposed development and not from Avon Street. The standards for constructing the driveway shall be 6 inches of 21B sub base material and 2 inches of SMA-2 asphalt, applied as a seamless coat. Improvements will tie into the adjacent owner's on-site improvements at the

locations that improvements exist at the property boundary. Construction of the new driveway will be completed at the same time as the construction of the main entrance road improvements into the development. Until such time as the new driveway is completed, access to the adjoining property will continue to be from the existing "shared" gravel driveway. Construction traffic for the development shall use a separate, temporary construction entrance as shown on a sketch entitled, "Avinity Temporary Construction Access Scenario", dated 1-22-07, a copy of which sketch is attached hereto as Exhibit A.

4. FENCING

The Owner or his successors or assigns shall construct a fence along the joint property line of the subject site and the school property from Avon Street to the asphalt trail. The fence shall be constructed of wood, metal, PVC, other materials or a combination of materials approved by the Building Services Director for Albemarle County Schools, and shall be completed in conjunction with the improvements required for the first subdivision plat or site plan for the development. If at any time the Building Services Director for Albemarle County Schools notifies the Owner(s) that dogs owned by those residing in the development have become a nuisance on school property, the fence shall be extended to the rear property line of the Property by the Owner(s) or his successors or assigns.

Owner of TMP 91-14, 90-35J & 90-35K:

Avon Properties, LLC,
a Virginia limited liability company

By: River Bend Management, Inc.,
a Virginia corporation, and Manager
By: (Signed) Andrew J. Dondero
Andrew J. Dondero, Vice President/CFO
Date: 06/04/2007

Owner of TMP 90-35I:
(Signed) Donna M. Jordan 06/04/2007
Donna M. Jordan (f/k/a Donna M. Hill) Date

RIVANNA VILLAGE APPROVAL DOCUMENTS

PROFFER STATEMENT
RIVANNA VILLAGE
Amendment #: [ ]

Date:	6/13/07
ZMA #:	2001-08 (Initialed MC/PBK)
Tax Map Parcel #:	79-25A, 80-46, 80-46A, 80-46C, 80-46D, 80-46E, 80-50, 80-51, ~~80-55A,~~ 93-A1-1 (two portions thereof), 93-A1-2, 93-A1-3, and 93-A1-4
Existing Zoning:	PRD, Planned Residential Development and RA, Rural Areas
Proposed Zoning:	NMD, Neighborhood Model District in accordance with the Code of Development (titled Rivanna Village at Glenmore, prepared by The Cox Company, dated February 5, 2007) and the General Plan of Development (Exhibits D- O of the Code of Development).
Total Land Area:	94.47 acres

Pursuant to Section 33.3 of the Albemarle County Zoning Ordinance, the Owner hereby voluntarily proffers the conditions listed herein below which shall be applied to Rivanna Village (herein after the "Property") if the Zoning Map Amendment (hereinafter "ZMA") is approved by the County of Albemarle (the "County"). These conditions are proffered as a part of the requested 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.

The term "Owner" as referenced herein shall mean the owner of record and successors in interest of (Initialed MC/PBK)
parcels 79-25A, 80-46, 80-46A, 80-46C, 80-46D, 80-46E, 80-50, ~~80-51,~~ 80-55A, 93-A1-1 (two portions thereof), 93-A1-3, and 93-A1-4. Parcel 93-A1-2 is not subject to the terms, conditions and obligations imposed by these proffers.

The headings of the proffers and conditions set forth below have been prepared for convenience or reference only and shall not control or affect the meaning or be taken as an interpretation of any provisions of the proffers.

1. **Community Development Authority Participation:** In order to mitigate impacts from this development, the Owner shall, upon request by the County (such request to be made by the County within 90 days of ZMA approval), petition for and consent to any lot or unit (as the case may be) designated in the General Plan of Development for non-residential uses to participate in a Community Development Authority ("CDA") established pursuant to Section 15.2-5152, et seq. of the Code of Virginia ("Code").

   The CDA, if created, will be created for the purpose of implementing transportation improvements located along Route 250 East between the Property and the Interstate 64 interchange to the west. In the event that a lot or building, as designated in the final and approved General Plan of Development, contains both residential and non-residential units, only the non-residential units shall participate in the CDA.

2. **Cash Proffer for Capital Improvements:** In order to mitigate impacts from this development, the Owner shall contribute cash for each market rate residential unit constructed within the Property to Albemarle County for the stated purpose of either funding traffic improvement projects within or immediately adjacent to the Village of Rivanna as identified in the County's Capital Improvements Program or school projects at Stone-Robinson Elementary School, Burley Middle School, and Monticello High School as identified in the County School's Capital Improvements Program.

   The cash contributions shall be at the following rates: $3,500 for each single family detached unit, $3,000 for each townhouse unit and $2,500 for each multifamily unit. Single family detached

units paying cash in lieu of an affordable unit as provided in Proffer 9, Carriage Houses and other affordable dwellings as defined in the Code of Development shall be exempted from this proffer. The cash contribution shall be paid at the time of the issuance of the building permit for such residential dwelling unit.

If the cash contribution has not been exhausted by the County for the stated purposes within ten (10) years from the date of the issuance of the last residential building permit within Rivanna Village, all unexpended funds shall be applied to fund for any public project or program serving the Village of Rivanna.

Annual Adjustment of Cash Proffers.

Beginning January 1, 2009, the amount of each cash contribution required herein shall be adjusted annually until paid, to reflect any increase or decrease for the preceding calendar year in the Marshall and Swift Building Cost Index ("MSI"). In no event shall any cash contribution amount be adjusted to a sum less than the amount initially established by these proffers. The annual adjustment shall be made by multiplying the proffered cash contribution amount for the preceding year by a fraction, the numerator of which shall be the MSI as of December 1 in the year preceding the calendar year most recently ended, and the denominator of which shall be the MSI as of December 1 in the preceding calendar year. For each cash contribution that is being paid in increments, the unpaid incremental payments shall be correspondingly adjusted each year.

3. **Route 250 and Eastern Entrance Improvements:** In order to mitigate traffic impacts, the Owner shall either construct left and right turn lanes on Route 250 at the eastern entrance to the Property or bond these improvements prior to approval of the first site plan or subdivision plat for the development.

   The Owner shall install the traffic signalization required by the Virginia Department of Transportation ("VDOT") at the intersection of Route 250 for the eastern entrance to the Property at such point in time that VDOT traffic signalization warrants are met and VDOT requests the installation of such signal, provided that such request from VDOT is made prior to the completion of Rivanna Village, which for the purposes of this paragraph shall be deemed to be the later of (i) the date of approval and recordation of the subdivision plat creating individual residential lots in the final block permitting residential lots or (ii) the date of final site plan approval for the final undeveloped block within the Property.

4. **Route 250 and Glenmore Way Improvements:** In order to mitigate traffic impacts, the Owner shall install any traffic signalization required by VDOT at the existing intersection of Route 250 and Glenmore Way at such point in time that VDOT traffic signalization warrants are met and VDOT requests the installation of such signal provided that such request from VDOT is made prior to the completion of Rivanna Village, which for the purposes of this paragraph shall be deemed to be the later of (i) the date of approval and recordation of the subdivision plat creating individual residential lots in the final blocks permitting residential lots or (ii) the date of final site plan approval for the final undeveloped block within the Property.

5. **Construction of Steamer Drive Improvements:** The Owner's obligation to construct the improvements on TMP 93-A1-2 (Block F), including the sidewalk and pedestrian pathway, shall be deemed satisfied when construction is complete or if the owners of TMP 93-A1-2 do not grant the required easements or other interests in the land so as to permit the construction and maintenance of such improvements prior to County approval of the final site plan or subdivision plat for the lands immediately adjacent to these improvements. Failure of the owners of TMP 93-A1-2 to grant the required easements shall not relieve the Owner of the obligation to provide stormwater management for Blocks C & G and, if the required easements are not provided, alternative stormwater management (to be consistent with the stormwater requirements for the overall project) will be provided which does not compromise the design of Blocks C & G.

6. **Construction and Dedication of Parks and Recreation Improvements:** In order to mitigate impacts on existing public facilities, the Owner, at its expense, shall, at the request of the County,

engineer, construct, and dedicate in fee simple to the County a park comprised of the land and improvements in Block I. Requirements for Block I and the improvements to be constructed in Block I are set forth in the Code of Development.

Provisions for the park shall be included with the first phase of the development. For the purposes of this proffer, "provisions" shall mean that the Block I parcel shall be platted with the initial plat for Rivanna Village. The park improvements described in the Code of Development shall be built or bonded prior to the issuance of the Certificate of Occupancy for the 174th residential unit within the Property.

The Owner shall dedicate the park to the County upon completion of the improvements or earlier upon request of the County. If dedicated prior to completion of the required improvements, the responsibility for implementation of this proffer shall run with the residue of the Property. The Owner and the County acknowledge that the County may assume responsibility for maintenance for completed portions of the park prior to dedication. The Owner and the County further acknowledge that the Owner proffers the park subject to the County passing a resolution concurrent with ZMA approval, whereby proffer number 2 of ZMA-79-016 is deemed satisfied.

7. **Route 250 Landscape Buffer and Right of Way Dedication:** In order to establish a landscaped buffer along the Route 250 entrance corridor and accommodate potential future improvements to Route 250, the Owner shall establish a minimum ninety (90) foot reservation zone and landscape strip along Route 250 as shown on the General Plan of Development, the use and maintenance of which is described in the Code of Development. The first seventy (70) feet of the reservation zone and landscape strip immediately adjacent to Route 250 shall be reserved for public use and dedicated upon the request of the County.

   After dedication and until the subject regional transportation improvements are funded for construction, the Owner shall, at the request of the County, maintain the reservation zone and landscape strip until requested by the County to no longer do so; provided, however, during the period of Owner maintenance, the Owner shall enjoy the right of exclusive use of the reservation zone and landscape strip for purposes of landscaped open space, signage, utilities and/or other purposes described in the Code of Development. Upon being requested by the County to forego maintenance of the reservation zone and landscape strip, the Owner shall cease all use of the reservation zone and landscape strip and remove, to the extent requested by the County, all improvements constructed or installed by the Owner within the reservation zone and landscape strip.

8. **Landscape Strip Along Glenmore Way:** In order to mitigate impacts to Glenmore Way, the Owner shall provide a minimum fifty (50) foot landscape strip along Glenmore Way as shown on the General Plan of Development and regulated by the Code of Development.

9. **Affordable Housing:** In order to mitigate community impacts from the rising cost of housing, the Owner shall provide a minimum of 15% of the residential units as affordable. The affordable housing may be provided by constructing "for-sale" residential units, "for-rent" residential units and carriage houses, or payment of $16,500 in lieu of a required unit. The terms and conditions regulating the timing and distribution of the affordable units within Rivanna Village are set forth in the Code of Development.

The undersigned Owner hereby proffers that the use and development of the Property shall be in conformance with the proffers and conditions herein above, and these proffers shall supersede all other proffers and conditions made prior hereto.

GLENMORE ASSOCIATES LIMITED PARTNERSHIP
A Virginia Limited Partnership

BY: The Frank A. Kessler Declaration of Trust dated
November 18, 1996, as amended, General Partner

BY: (Signed) Peggy B. Kessler 06/11/07
Peggy B. Kessler Successor Trustee Date

BY: (Signed) Michael D. Comer 06/11/07
Michael D. Comer Successor Trustee Date

ATTACHMENT 4

Waivers and Modifications
FOR RIVANNA VILLAGE AT GLENMORE
BOARD OF SUPERVISORS PUBLIC HEARING JUNE 13, 2007

The following waivers have been requested for the project and recommended to the Board for approval by the Planning Commission. Waivers which do not require Board of Supervisors' approval have been removed from the list that went to the Planning Commission. The section from the Zoning Ordinance is referenced as well as the *requested change in language.* Staff's recommendation follows the requested change.

Waivers to Zoning Ordinance, Chapter 18, Section 4

4.6.3.a. LOTS, YARDS ADJACENT TO STREETS, ALLEYS, AND SHARED DRIVEWAYS:

The ordinance requirement is as follows:

Lots and yards adjacent to streets, alleys and shared driveways are subject to the following:

a. Front yards of the depth required in the district shall be provided across the full width of the lot adjacent to the public street or private road. The depth of a required front yard shall be measured from the right-of-way line of the public street or private road so that the building line is equidistant from the public street or private road right-of-way at all points. Areas in parking bays shall not be considered as part of the public street or private road for purposes of determining front yard setback. In addition, if a shared driveway traverses a front yard, each primary structure also shall be located at least ten (10) feet from the edge of the shared driveway easement; if a shared driveway is concurrent with the shared lot line of the lots served by the shared driveway, each primary structure also shall be located at least six (6) feet from the edge of the shared driveway easement. (Amended 7-1-81, 2-6-02)

The applicant has asked that the last the last portion of the requirement be modified to say*, "if a shared driveway is concurrent with the shared lot line of the lots served by the shared driveway, each primary structure also shall be located at least **three (3)** feet from the edge of the shared driveway easement."*

Staff comment: Because of the compact development proposed including very shallow setbacks for side and rear yards, 3 feet is viewed as acceptable and staff recommends approval.

4.11.1 COVERED PORCHES, BALCONIES, CHIMNEYS AND LIKE FEATURES

The ordinance requirement is as follows:

Covered porches, balconies, chimneys, eaves and like architectural features may project not more than four (4) feet into any required yard; provided that no such feature shall be located closer than six (6) feet to any lot line. (Amended 9-9-92)

The applicant has requested that this section be modified to say, "*Covered porches, balconies, chimneys, eaves and like architectural features **may project into any required yard**; provided that no such feature shall be located closer than **three (3)** feet to any lot line."*

Staff Comment: Staff supports this request because it complements the other setback requests to provide for compact development.

4.11.2 STRUCTURES IN REQUIRED YARDS

The ordinance requirements are as follows:

No portion of any accessory structure shall be permitted in any required yard; except as herein expressly provided. (Amended 3-18-81)

4.11.2.1 ACCESSORY STRUCTURES

No structure shall be permitted in an easement in a way that adversely affects the easement. Accessory structures shall be erected no closer than six (6) feet to adjacent lot lines or, in the case of an alley easement or right-of-way or shared driveway easement, no closer than three (3) feet to the edge of the alley easement or right-of-way or the shared driveway easement. The director of planning and community development may authorize an accessory structure to be located closer to the edge of an alley easement or right-of-way if the director determines that, based upon the written recommendation of the county engineer, the proposed design incorporates features that assure public safety and welfare. The county engineer shall consider the provision of adequate access to required onsite parking and/or garages, unimpeded vehicular circulation along the alley, an adequate clear zone along the alley, and other safety issues deemed appropriate for the conditions. (Amended 1-1-83, 2-6-02)

The applicant has requested that this section be modified to allow for the following: addition: ***"In front and corner yards, accessory structure setbacks shall be the same as the established build-to line for that Building Block. In side yards, accessory structure setbacks shall be three (3) feet, except with garages and carports, where the side setback shall be zero (0) feet."***

Staff comment: Staff supports this request to allow for attached garages at the property line and recommends approval.

4.12.9 STREET AND ALLEY PARKING

The ordinance requirement is:

Street and alley parking may be provided as follows:

a. Street parking consists of parking spaces located in a public or private right-of way. Each parking space that is in a public or private right-of-way abutting the lot shall count as a parking space for the purpose of meeting the minimum parking space requirements in sections 4.12.6 and 4.12.7. Each parking space shall be on a paved area abutting the travelway, and if the parking space is in a public right-of-way it shall not be prohibited by the Virginia Department of Transportation.

The applicant has requested that the last sentence be modified to say, "*Each parking space shall be on a paved area **within five hundred (500) feet of** the travelway or public right-of-way."*

Staff Comment: Although this request requires that staff keep track of all parking areas adjacent to the street in terms of which uses may claim on-street parking, it is acceptable. Staff recommends that it be approved.

4.12.13 LOADING AREAS

The ordinance requirements are as follows:

Off-street loading areas shall be provided as follows:

a. Loading spaces shall be provided on the same lot with the use to which it is appurtenant and shall be adjacent to the structure it serves.

The applicant has requested the following change, "a. ***Except in Block E, l****oading spaces shall be provided on the same lot with the use to which it is appurtenant and shall be adjacent to the structure it serves.* ***In Block E, determination of loading space requirements shall be based on gross leaseable square footage for the Block and loading spaces shall be dispersed through out Block E in a logical fashion."***

e. Each site plan that depicts a commercial or industrial building of four thousand (4,000) gross square feet or more shall provide a dumpster pad that does not impede any required parking or loading spaces, nor any pedestrian or vehicular circulation aisles.

The applicant requests that this requirement be modified to say that, "*Each site plan that depicts a commercial or industrial building of four thousand (4,000) gross square feet or more shall provide a dumpster pad* ***within the block*** *that does not impede any required parking or loading spaces, nor any pedestrian or vehicular circulation aisles."*

Staff Comment: Zoning staff can accommodate these requests and recommends approval because it allows for loading and dumpster uses in Block E to be considered on the whole rather than as individual unrelated uses.

4.12.6 MINIMUM NUMBER OF REQUIRED PARKING SPACES FOR SCHEDULED USES

Section 4.12.6. provides the schedule of parking requirements for each use. The applicant has requested that *the individual uses in Block E not be subject to the parking schedule; rather, that the minimum number of parking spaces for non-residential uses shall be based 4.75 spaces per 1,000 gross leasable square feet for the total square footage within the Block E. Also, garage parking shall count towards the minimum parking requirements.*

Staff Comment: The Zoning Division generally approves of the first part of this request, but has recommended a more restrictive waiver to ensure that sufficient parking exists for each of the uses as they are begin. Staff recommends approval of use of the shopping center parking standard; however, each site plan would have to provide sufficient parking for the use until it reaches the threshold that allows for 4.75 spaces per 1,000 square feet. At that point, the entire block will be considered as a shopping center use and individual uses will not need to provide parking for each use. Staff recommends approval as follows:

When the SDP's are reviewed, the parking will be considered proportional to the size of the development proposed together with what exists. In other words, if during the rezoning it is determined that the nonresidential blocks can be calculated at 4.75 spaces per 1000sfgla, but the 1st SDP comes in with only 10,000sfgla, that site plan will be required to show the parking at 5.5 spaces per 1000sfgla. Later when a 2nd SDP is submitted and more square footage is added to the block, the parking generator will be reduced to include both the existing and what is proposed on that SDP.

4.15.5 SIGNS AUTHORIZED BY SPECIAL USE PERMIT

The Zoning Ordinance requires the following:

Except as provided in subsection (D), electric message signs, off-site signs, and signs in public rights-of-way may be authorized only by special use permit, as provided herein:

a. *Circumstances under which signs may be authorized*. The signs may be authorized only under the following circumstances:

1. *Off-site signs*. Off-site signs may be authorized by special use permit within any zoning district.

The applicant would like to be able to have off-site signage located within the development that relates to uses or locations of buildings within the development, without having to get a special use permit. The

language would be modified as follows: *"Off-site signs*. *Off-site* ***advertising and directional*** *signs* ***are allowed by-right in Rivanna Village at Glenmore provided that the uses to which the signs relate are located solely within the Rivanna Village at Glenmore development. This waiver does not apply to signs that are visible from Route 250 East and Glenmore Way."***

Staff comment: Staff recognizes that signage internal to the development is different than signage in areas for which there is no plan of development, such as in areas zoned C-1 or HC. Also, the applicant recognizes that, within the Entrance Corridor, the ARB has purview over decisions related to signage. Staff does not have problems with the request and recommends approval because the modification would not affect the ARB's ability to issue a Certificate of Appropriateness for signs visible from the Entrance Corridor.

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3. *Signs in public rights-of-way*. Signs in public rights-of-way; provided: (1) the subdivision or planned development to which the sign pertains abuts the public right-of-way; (2) the sign is either a subdivision sign or a sign identifying a planned development authorized by sections 19.0, 20.0, 25.0, 25A, and 29.0; (3) the freestanding sign regulations, other than setback regulations, applicable to the lot with the use to which the sign pertains shall apply; and (4) if the sign is located within an entrance corridor overlay district, a certificate of appropriateness is issued by the architectural review board.

The applicant would like to be able to have the ability to put a sign in the public right-of-way or have parts of a sign project into a public right-of-way if VDOT approves it and if it poses no threat to public safety. The applicant would like the following modification:

3. *Signs in public rights-of-way*. *Signs in public rights-of-way* ***are permitted without special use permit in Rivanna Village at Glenmore****; provided: (1) the subdivision or planned development to which the sign pertains abuts the public right-of-way;* ***(2) all VDOT standards and regulations are met;*** *(3)* ***the County Engineer has determined that an adequate clear zone for pedestrian traffic can be maintained on the sidewalks. An adequate pedestrian clear zone shall be defined as a reasonably straight path paralleling the road way that is a minimum of five (5) feet wide and seven (7) high); application of this requirement pertains to signs located in the right-of-way as if these signs were on the parcel or parcels to which they are immediately adjacent;*** *and (4) if the sign is located within an entrance corridor overlay district, a certificate of appropriateness is issued by the architectural review board.*

Staff Comment: Because Rivanna Village at Glenmore is a fully-contained development with an area similar to a 'downtown" where canopy and awning signs in the right-of-way (over the sidewalk) typically occur, staff supports the request. Staff notes that nothing in this waiver is intended to negate any of the other requirements of Section 4.15 for signs.

4.15.11 REGULATIONS APPLICABLE IN THE PUD AND NMD ZONING DISTRICTS

The Zoning Ordinance contains a table to which the following section applies:

The following regulations pertaining to the number of signs permitted per lot or establishment, the sign area, sign height, and setback requirements shall apply to each sign for which a sign permit is required within the Planned Unit Development (PUD) and Neighborhood Model (NMD) zoning districts:

The applicant would like all of the sign setbacks in this section waived as long as the County Engineer determines that the location would not compromise public health, safety, or welfare. The setbacks for each kind of sign are 5 feet, except for wall signs that share the setback of the building to which they are attached.

The following waiver language is proposed: "***In the Rivanna Village at Glenmore development the setback requirements of Section 4.5.11 do not apply provided that the County Engineer has***

determined that the proposed sign location would not compromise public health, safety, or welfare."

Staff Comment: Staff supports this waiver in recognition that the development is self-contained and that alternatives may be available that do not compromise safety.

4.16 RECREATION REGULATIONS

The Zoning Ordinance contains this requirement:

Developed recreational area(s) shall be provided for every development of thirty (30) units or more equal to or exceeding four (4) dwelling units per acre, except for single-family and two family dwellings developed on conventional lots. (Added 3-5-86)

More specific requirements are as follows:

4.16.2 MINIMUM FACILITIES

The following facilities shall be provided within the recreational area:

4.16.2.1 One (1) tot lot shall be provided for the first thirty (30) units and for each additional fifty (50) units and shall contain equipment which provides an amenity equivalent to:

One (1) swing (four (4) seats)
One (1) slide
Two (2) climbers
One (1) buckabout or whirl
Two (2) benches.

Substitutions of equipment or facilities may be approved by the director of planning and community development, provided they offer a recreational amenity equivalent to the facilities listed above, and are appropriate to the needs of the occupants. Each tot lot shall consist of at least two thousand (2,000) square feet and shall be fenced, where determined necessary by the director of planning and community development, to provide a safe environment for young children.

4.16.2.2 One-half (1/2) court for basketball shall be provided for each one hundred (100) units, consisting of a thirty (30) foot by thirty (30) foot area of four (4) inch 21-A base and one and one half (1 1/2) inches bituminous concrete surface, and a basketball backboard and net installed at regulation height.

4.16.3.3 Recreational facilities shall be completed when fifty (50) percent of the units have received certificates of occupancy.

The applicant would like to request that the requirement for these requirements to be waived because of the public park improvements being provided within the development which are different but are in excess of these requirements and because proffers for the park contain phasing which ensures that the park improvements will be constructed first in the development.

Staff Comment: Staff supports the applicant's request to waiver the specific requirements of Sections 4.16, and 4.16.3.3. because the Code of Development contains park improvements in excess of those required for residential developments and because the proffers contain more restrictive phasing requirements.

4.17.4 LIGHTING STANDARDS

The Zoning Ordinance requires:

The following standards shall apply to each outdoor luminaire:

b. Each parcel, except those containing only one or more single-family detached dwellings, shall comply with the following: (Added 10-17-01)

1. The spillover of lighting from luminaires onto public roads and property in residential or rural areas zoning districts shall not exceed one-half (½) foot candle. A spillover shall be measured horizontally and vertically at the property line or edge of right-of-way or easement, whichever is closer to the light source.
2. All outdoor lighting, regardless of the amount of lumens, shall be arranged or shielded to reflect light away from adjoining residential districts and away from adjacent roads.

The applicant would like to allow for spillover on the internal streets within the development to promote greater pedestrian activity at night. The proposed modification would read: 1. ***Except for street lights internal to the development of Rivanna Village at Glenmore, t****he spillover of lighting from luminaires onto public roads and property in residential or rural areas zoning districts shall not exceed one-half (½) foot candle. A spillover shall be measured horizontally and vertically at the property line or edge of right-of-way or easement, whichever is closer to the light source.* ***For street lights permitted within Rivanna Village at Glenmore, VDOT standards shall be used to regulate public streets within the development. In addition, spillover along public streets internal to the development of Rivanna Village at Glenmore shall not exceed ½ foot-candle at the edge of the vehicle travelway which is the area between the parked cars and the travelway.***

2. **Except for street lights internal to the development of Rivanna Village at Glenmore, a**ll outdoor lighting, regardless of the amount of lumens, shall be arranged or shielded to reflect light away from adjoining residential districts and away from adjacent roads.

Staff Comment: Staff recommends approval of this waiver to encourage pedestrian activity at night in the mixed-use area.

Waivers to Zoning Ordinance, Chapter 18, Section 5

5.1.16 SWIMMING, GOLF, TENNIS CLUBS

The Zoning Ordinance requires the following:

Each swimming, golf or tennis club shall be subject to the following:

a. The swimming pool, including the apron, filtering and pumping equipment, and any buildings, shall be at least seventy-five (75) feet from the nearest property line and at least one hundred twenty-five (125) feet from any existing dwelling on an adjoining property, except that, where the lot upon which it is located abuts land in a commercial or industrial district, the pool may be constructed no less than twenty-five (25) feet from the nearest property line of such land in a commercial or industrial district;
b. When the lot on which any such pool is located abuts the rear or side line of, or is across the street from, any residential district, a substantial, sightly wall, fence, or shrubbery shall be erected or planted, so as to screen effectively said pool from view from the nearest property in such residential district;
c. **(Repealed 6-14-00)**
d. The board of supervisors may, for the protection of the health, safety, morals and general welfare of the community, require such additional conditions as it deems necessary, including but not limited to provisions for additional fencing and/or planting or other landscaping, additional setback from property lines, additional parking space, location and arrangement of lighting, and other reasonable requirements;
e. Provision for concessions for the serving of food, refreshments or entertainment for club members and guests may be permitted under special use permit procedures.

The applicant requests different setbacks because a swimming and tennis club would be located wholly within the development. The requested variation reads: *"Each swimming, golf or tennis club shall be subject to the following:*

a. The swimming pool, including the apron, filtering and pumping equipment, and any buildings, shall be at least ***one hundred seventy-five feet*** *(****175****) feet from* ***the closest property*** *line* ***that abuts the boundary of the Rivanna Village at Glenmore development*** *and at least* ***thirty*** *(****30****) feet from any* ***residential dwelling*** *b. When the lot on which any such pool is located abuts the rear or side line of, or is across the street from, any residential district, a substantial, sightly wall, fence, or shrubbery shall be erected or planted, so as to screen effectively said pool from view from the nearest property in such residential district;*

d. ***Standards for swimming and tennis clubs are contained in the Rivanna Village at Glenmore Code of Development.***

e. Provision for concessions for the serving of food, refreshments or entertainment for club members and guests **are regulated in the Rivanna Village at Glenmore Code of Development."**

Staff Comment: Staff recommends approval of this waiver as the swim club is intended for the residents of the development and would provide adequate protection for nearby residences.

Waivers to Zoning Ordinance, Chapter 18, Section 32

32.7.9.6 STREET TREES

The Zoning Ordinance requires that

c. Street trees shall be planted with even spacing in a row adjacent to the public street right-of-way.

The applicant has requested that street trees be allowed to be planted within or adjacent to the public street right-of-way as follows, *"Street trees shall be planted with even spacing in a row* ***within or*** *adjacent to the public street right-of-way…"*

Staff Comment: The Neighborhood Model supports trees adjacent to the street which would necessitate that their placement be allowed within the public right-of-way. Staff recommends approval of the waiver.

32.7.9.8 SCREENING

The Zoning Ordinance says the following:

The following requirements shall apply to screening:

c. Screening shall be required in the following instances:
   1. Commercial and industrial uses shall be screened from adjacent residential and rural areas districts. (32.8.6.3.a, 7-10-85)
   2. Parking lots consisting of four (4) spaces or more shall be screened from adjacent residential and rural areas districts. (32.8.6.3.b, 7-10-85; Amended 5-1-87)
   3. Objectionable features including, but not limited to, the following uses shall be screened from adjacent residential and rural areas districts and public streets:
      - loading areas
      - refuse areas
      - storage yards
      - detention ponds

- recreational facilities determined to be of objectionable character by the agent other than children's play areas where visibility is necessary or passive recreation areas where visibility is desirable.

The applicant would like to modify these requirements for clarification and to use the land within Rivanna Village at Glenmore more efficiently to provide density. The modification would read,

"1. ***Within Rivanna Village at Glenmore, commercial and other non-residential uses shall not be required to be screened from adjacent residential uses."***

2. Parking lots consisting of four (4) spaces or more shall be ***buffered*** *from adjacent* ***residential properties and public and private streets by use of a three (3) foot hedge, an opaque wall or fence of three (3) feet in height, or other features designed to reduce the visibility of parking lots from the street, adjacent residential uses or rural area districts. Vegetation provided to meet this requirement shall not be counted toward the interior landscaping requirement in Section 32 of the Zoning Ordinance.***

3. Objectionable features including, but not limited to, the following uses shall be screened from adjacent residential and rural areas districts and public streets:
- loading areas
- refuse areas
- storage yards
- detention ponds
- recreational facilities determined to be of objectionable character by the agent other than children's play areas where visibility is necessary or passive recreation areas where visibility is desirable ***through use of a hedge, opaque wall or fence at least one (1) foot taller than the highest part of the objectionable feature but no taller than six (6) feet***

4. The agent may require screening of any use, or portion thereof, upon determination that the use would otherwise have a negative visual impact on a property listed on the Virginia Historic Landmarks Register."

Staff Comment: Because of the internal orientation of the development, staff supports the alternative measures requested for screening and buffering of parking and objectionable features and recommends approval within the development. It does not recommend approval between the development and adjoining properties.

ATTACHMENT 5

RESOLUTION

WHEREAS, Proffer 2 of ZMA 1999-016 (Glenmore), originally accepted as a proffer for the rezoning of Glenmore in ZMA 1990-019, states that, upon the request of the County made prior to April 12, 2010, the owner, Glenmore Associates, will donate approximately 27 acres of land to the County or its designee for a public school or other public use facilities as the County may select, together with an appropriate right of way; and

WHEREAS, because the County has not requested that Glenmore Associates donate the land as described hereinabove, Proffer 2 of ZMA 1999-016 has not yet been satisfied; and

WHEREAS, Proffer 6 of ZMA 2001-008 (Rivanna Village at Glenmore) states that one of the owners, Glenmore Associates, will at its expense and at the request of the County, engineer, construct, and dedicate in fee simple to the County a park comprising approximately 18 acres, which will be platted with the first plat for Rivanna Village at Glenmore, and all of the park improvements described in the Code of Development will be built or bonded prior to the issuance of the Certificate of Occupancy for the 174th residential unit within Rivanna Village; and

WHEREAS, the County desires the park proffered in Proffer 6 of ZMA 2001-008 to serve the residents of Albemarle County; and

WHEREAS, the land referred to in Proffer 2 of ZMA 1999-016 is part of the land rezoned under ZMA 2001-08 and, as a result of such rezoning, the land offered by Proffer 2 of ZMA 1999-016 is no longer available for public facilities uses.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Supervisors finds that the land and improvements proffered in Proffer 6 of ZMA 2001-008 provide the public facilities envisioned by Proffer 2 of ZMA 1999-016 and that such land and improvements are deemed to satisfy Proffer 2 of ZMA 1999-016 to at least an equivalent degree; and

BE IT FURTHER RESOLVED that neither Glenmore Associates nor its successors nor assigns shall have any further obligation with respect to Proffer 2 of ZMA 1999-016.