

ACTIONS
Board of Supervisors Meeting of October 10, 2007

October 15, 2007

<u>AGENDA ITEM/ACTION</u>	<u>ASSIGNMENT</u>
<p>1. Call to Order.</p> <ul style="list-style-type: none"> Meeting was called to order at 2:34 p.m., by the Chairman, Mr. Boyd. All BOS members were present. Also present were Bob Tucker, Larry Davis, Ella Jordan, and Meagan Hoy. 	
<p>2. Work Session: Review of Revenue Alternatives.</p> <ul style="list-style-type: none"> Removed road impact fees and stormwater service districts from consideration. Continue to look at stormwater utility service district and transportation service district. Consensus to project revenue based on EMS Revenue Recovery and Cash Proffer Policy. 	
<p>Non Agenda Item:</p> <ul style="list-style-type: none"> ADOPTED the attached Resolution to Continue Albemarle County's Commitment to Address Community Mobility Challenges. 	<p><u>Clerk:</u> Forward copy of resolution to Charlottesville City Council. (Attachment 1)</p>
<p>3. SP-2007-00025. First Christian Church (Signs #1&2)</p> <ul style="list-style-type: none"> APPROVED SP-2007-0025, by a vote of 6:0, subject to the nine conditions recommended by the Planning Commission. 	<p><u>Clerk:</u> Set out conditions of approval. (Attachment 2)</p>
<p>4. CPA-2006-003 and ZMA-2006-00019. Willow Glen. (Signs #27&29).</p> <ul style="list-style-type: none"> APPROVED CPA-2006-003 as recommended by staff to change the land use from industrial to residential and be made a part of Places29. APPROVED ZMA-2006-019, by a vote of 6:0, as proffered dated September 17, 2007. 	<p><u>Clerk:</u> Set out applicant's proffers. (Attachment 3)</p>
<p>5. CPA-2007-04 Cash Proffer Policy.</p> <ul style="list-style-type: none"> APPROVED CPA-2007-04, by a vote of 6:0. 	<p><u>Clerk:</u> Set out policy. (Attachment 4)</p>
<p>5:15 p.m. - Recess.</p> <ul style="list-style-type: none"> Recessed at 5:16 p.m., and Reconvened at 6:03 p.m. 	
<p>9. Recognition: Proclamation recognizing October 15 through October 19, 2007 as Teen Driver Safety Week.</p> <ul style="list-style-type: none"> Chairman read and presented proclamation to Gary Albert, State Farm Agent. 	<p>(Attachment 5)</p>
<p>10. From the Board: Matters Not Listed on the Agenda. <u>David Wyant:</u></p> <ul style="list-style-type: none"> Handed out to Board members copies of a petition with 1,771 signatures of residents in support of retaining the porch on the La Cocina del Sol/Modern Barber Building in Crozet. 	
<p>11. From the Public: Matters not Listed on the Agenda.</p> <ul style="list-style-type: none"> Pat Cook, of Impact, encouraged the Board to set aside money in next year's budget to implement/support an affordable housing program. Tom Toomey, of Impact, thanked the Board for being a part of the task force to address the affordable housing issue, and he urged the Board 	

	to set aside funds in next year's budget to further address affordable housing.	
12.2	Amendment to Commission on Children and Families (CCF) Agreement. <ul style="list-style-type: none"> • APPROVED the amendment of the operational Agreement and AUTHORIZED the Chairman of the Board to execute the attached Agreement to replace the existing July 2006 Agreement regarding the Commission on Children and Families. 	<u>County Attorney's Office:</u> Provide Clerk with copy of fully executed agreement. (Attachment 6)
13.	<u>ZMA-2006-00015. Glenmore – Livengood. (Sign # 26&30)</u> <ul style="list-style-type: none"> • APPROVED ZMA 2006-015, by a vote of 6:0, subject to acceptance of the applicant's proffers, dated October 10, 2007 and signed October 9, 2007, and the amended application plan dated September 10, 2007. 	<u>Clerk:</u> Set out applicant's proffers. (Attachment 7)
	Recessed at 8:17 p.m., and Reconvened at 8:30 p.m.	
	Recessed at 10:31 p.m., and Reconvened at 10:38 p.m.	
14.	<u>Water Protection Ordinance; applicability of erosion impact area; agreements in lieu of plans; stream buffers on other rural land.</u> <ul style="list-style-type: none"> • MOVED to adopt only section 17-200, Applicability, of the proposed Water Protection Ordinance amendment. Motion FAILED by a vote of 3:3. • MOVED to reconsider the failed vote of the Water Protection Ordinance. APPROVED by a vote of 6:0. 	
15.	<u>ZTA-2007-00003. Zoning Ordinance; critical slopes; safe and convenient access.</u> <ul style="list-style-type: none"> • No action taken. 	
16.	<u>STA-2007-00002. Subdivision Ordinance; family divisions; contour intervals; individual lot grading.</u> <ul style="list-style-type: none"> • No action taken. 	
17.	From the Board: Committee Reports. <ul style="list-style-type: none"> • There were none. 	
18.	Adjourn to October 11, 2007, 4:00 p.m., Joint Meeting with School Board. <ul style="list-style-type: none"> • The meeting was adjourned at 12:26 a.m. to October 11, 2007 at 4:00, room 235, County Office Building. 	

ewj/mrh

Attachment 1 – Resolution to Continue Albemarle County's Commitment to Address Community Mobility Challenges

Attachment 2 – Conditions of Approval on Planning items

Attachment 3 – Proffers – ZMA-2006-019. Willow Glen

Attachment 4 – CPA-2007-04. Cash Proffer Policy

Attachment 5 – Proclamation recognizing October 15 through October 19, 2007 as **Teen Driver Safety Week.**

Attachment 6 – Amendment to Commission on Children and Families (CCF) Agreement

Attachment 7 – Proffers – ZMA-2006-015. Glenmore Livengood Expansion

**Resolution to Continue Albemarle County’s Commitment
To Address Community Mobility Challenges**

Whereas, the Charlottesville City Council has recently approved an important construction easement, with conditions, relating to the construction of the Meadow Creek Parkway; and

Whereas, the Charlottesville City Council further expressed the expectation that Albemarle County will:

- 1) commit to a continued and substantial increase in funding for public transit;
- 2) commit to making extensive pedestrian and bicycle improvements within the urban ring;
- 3) commit to building a transportation connector between Sunset Avenue and Fontaine Research Park/29-250 Bypass that would divert traffic from Old Lynchburg Road; and
- 4) commit to continued development of alignment and funding scenarios for the Eastern Connector; and

Whereas, Albemarle County has provided the following funding for JAUNT and CTS:

JAUNT		CTS	
FY03	\$418,481	FY03	\$174,729
FY04	\$443,481	FY04	\$234,751
FY05	\$487,741	FY05	\$241,793
FY06	\$555,663	FY06	\$299,344
FY07	\$622,579	FY07	\$367,374
Appropriated in FY08 \$704,382		Appropriated in FY08 \$666,248 and	

Whereas, Albemarle County has recently provided the following funding for additional Transit related projects:

- Alliance for Community Choice in Transportation (ACCT) \$ 6,500
- Regional Transit Authority Study \$50,000
- CTS Transit Study \$20,000 and

Whereas, Albemarle County has accepted transit proffers from Biscuit Run, North Pointe, Hollymead Town Center A-1, Martha Jefferson, and Albemarle Place valued well in excess of \$2,000,000; and

Whereas, Albemarle County has funded \$3,486,527.61 over the last five years for Pedestrian/Greenway/Biking Projects, including: Hillsdale Drive Safety Improvements (sidewalks & pedestrian crossings with raised medians); Rio Road Sidewalk Project; Route 20 North Sidewalk Project; and the Avon Street Sidewalk Project, and

Whereas, Albemarle County has, with respect to the Fontaine/Sunset Avenue Connector:

- worked with the Biscuit Run project to get an alignment that would support the proposed alignment of the Connector;
- accepted a proffer from the Biscuit Run applicant of \$1,550,000 towards the connector;
- included in the County’s Comprehensive Plan as a recommended road improvement project;
- the project is already identified in the County’s Primary Road Priority List; and
- staff will be including this project on the County’s “Strategic Priorities for Albemarle County Priority List for Secondary Road Improvements” and

Whereas, Albemarle County is funding half of the current \$500,000 Eastern Connector alignment study.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Supervisors of Albemarle County does hereby reaffirm its commitment to further significant investments in public transit; to making extensive pedestrian and bicycle improvements within the urban ring; to building a transportation connector between Sunset Avenue and Fontaine Research Park/29-250 Bypass that would divert traffic from Old Lynchburg Road; and to continued development of alignment and funding scenarios for the Eastern Connector.

CONDITIONS OF APPROVAL

SP-2007-00025. First Christian Church (Signs #1&2).

1. The church's improvements and the scale and location of the improvements shall be developed in general accord with the conceptual plan entitled "First Christian Church, Albemarle County, Virginia – Minor Amendment to the Special Use Permit" prepared by McKee Carson, and dated May 29, 2007;
2. The area of assembly shall be limited to a maximum three hundred and six (306)-seat sanctuary;
3. No grading or tree removal shall take place within the area marked "area not to be disturbed" on the conceptual plan or within the seventy-five (75)-foot setback adjacent to Route 250 East;
4. No erosion and sedimentation control plan nor building permit shall be approved for the area marked "area not to be disturbed" without prior approval of a tree conservation plan complying with section 32.7.9.4 of the Zoning Ordinance;
5. All parking setbacks and undisturbed buffers required by Zoning Ordinance section 21.7, Minimum Yard Requirements, shall apply if this use is developed;
6. All outdoor lighting shall be arranged or shielded to reflect light away from the abutting properties;
7. The existing prescriptive right-of-way along this parcel's Keswick Road (Route 731) frontage shall be replaced with a public right-of-way at least twenty-five (25) feet wide and dedicated to public use;
8. There shall be no day care center or private school on site without approval of a separate special use permit; and
9. 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 there under shall thereupon terminate.

PROFFER STATEMENT

Date: October 9, 2007

ZMA#: 2006-19 Willow Glen

Tax Map and Parcel Numbers: Map 32, parcels 49F, 49G, 49I, 49J and 49K

23.681 Acres to be rezoned from Rural Areas to Planned Residential Development in accord with the Application Plan entitled "Willow Glen" prepared by Terra Concepts, PC, dated September 17, 2007

Dickerson Ridge LLC, a Virginia limited liability company, is the fee simple owner (the "Owner") of Tax Map 32, Parcels 49F, 49G, 49I, 49J, and 49K (the "Property") which is the subject of the zoning map amendment application #ZMA-06-19 known as "Willow Glen." The Applicant for Willow Glen is Sugaray Two, LLC, a Virginia limited liability company. The Willow Glen community is herein referred to as the "Project."

Pursuant to Section 33.3 of the Albemarle County Zoning Ordinance, Owner hereby voluntarily proffers the conditions listed in this Proffer Statement, which shall be applied to the Property if the rezoning is approved by Albemarle County. These conditions are proffered as part of the rezoning and it is agreed that the conditions are reasonable.

1. **Affordable Housing.** The Owner shall provide affordable housing equal to fifteen percent (15%) of the total residential dwelling units within the Project in the form of for sale or lease affordable dwelling units (the "Affordable Dwelling Units" or "Affordable Units"). The Affordable Dwelling Units shall be comprised of one or more of the following unit types: single-family attached housing (townhouses or duplexes) or condominiums. The Owner or its successor in interest reserves the right to provide the Affordable Dwelling Units in a variety of ways, utilizing the above mentioned unit types alone or in combination as outlined below.

A. **For-Sale Affordable Units.** The for-sale Affordable Dwelling Units shall be affordable to households with incomes up to 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 facilitate the provision of down payment assistance loans to reduce the out-of-pocket cash requirement costs to the homebuyer, such as, but not limited to a "silent" second lien Deed of Trust, so that the resultant first mortgage and housing costs remain at or below the parameters described herein. All financial programs or instruments described herein must be acceptable to the primary mortgage lender. Any "silent" second lien Deed of Trust executed as part of this paragraph shall be donated to the County of Albemarle or its designee to be used to address affordable housing. For purposes of calculating the price of the Affordable Dwelling Units, the value of Seller-paid closing costs shall be excluded from the selling price of such Affordable Dwelling Units.

B. **For-Lease Affordable Dwelling Units.**

(i) The initial net rent for each for-rent Affordable Unit shall not exceed the then-current and applicable maximum net rent as published by the County Housing Office. In each subsequent calendar year, the monthly net rent for each for-rent Affordable Unit may be increased up to three percent (3%). For purposes of this proffer statement, the term "net rent" means that the rent does not include tenant-paid utilities. The requirement that the rents for such for-rent Affordable Units may not exceed the

maximum rents established in this Proffer 1B shall apply for a period of ten (10) years following the date the certificate of occupancy is issued by the County for each for-rent Affordable Unit, or until the units are sold as affordable units as defined by the County's Affordable Housing Policy, whichever comes first (the "Affordable Term").

(ii). Conveyance of Interest - All instruments conveying any interest in the for-lease Affordable Dwelling Units during the Affordable Term shall contain language reciting that such unit is subject to the terms of this Paragraph 1(B). In addition, all contracts pertaining to a conveyance of any for-lease Affordable Dwelling Unit, or any part thereof, during the Affordable Term, shall contain a complete and full disclosure of the restrictions and controls established by this Paragraph 1(B). Prior to the conveyance of any interest in any for-lease Affordable Dwelling Unit during the Affordable Term, the then-current owner shall notify the County in writing of the conveyance and provide the name, address and telephone number of the potential grantee, and state that the requirements of this Paragraph 1(B)(ii) have been satisfied.

(iii). Reporting Rental Rates. During the Affordable Term, within thirty (30) days of each rental or lease term for each for-rent Affordable Unit, the then-current owner shall provide to the Albemarle County Housing Office a copy of the rental or lease agreement for each such unit rented that shows the rental rate for such unit and the term of the rental or lease agreement. In addition, during the Affordable Term, the then-current owner shall provide to the County, if requested, any reports, copies of rental or lease agreements, or other data pertaining to rental rates as the County may reasonably require.

C. Phasing of Affordable Units. Each subdivision plat and site plan for land within the Property shall designate the lots or units, as applicable, that will, subject to the terms and conditions of this proffer, incorporate Affordable Units as described herein, and the aggregate number of such lots or units designated for Affordable Units within each subdivision plat and site plan shall constitute a minimum of twelve percent (12%) of the lots in such subdivision plat or site plan. Notwithstanding the foregoing, however, the Owner may "carry-over" or "bank" credits for Affordable Units in the event an individual subdivision plat or site plan designates affordable units that in the aggregate exceed the twelve percent (12%) minimum for such subdivision plat or site plan, and such additional Affordable Units may be allocated toward the twelve percent (12%) minimum on any future subdivision plat or site plan, provided however, that the maximum number of Affordable Units that may be carried over or banked shall not exceed twelve percent (12%) of the total units on any subdivision plat or site plan.

D. Notification Period; County Cash Option.

(i). Notification Period. All purchasers of the Affordable Dwelling 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 or lease the Unit(s) without any restriction on sales or lease price or income of the purchaser(s), provided, however, that any Unit(s) sold or leased 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 Dwelling Units that are purchased. Nothing herein shall preclude the then-current owner/builder from working with the County Housing Department prior to the start of the notification periods described herein in an effort to identify qualifying purchasers for the Affordable Units.

(ii). County Option for Cash In Lieu of Affordable Units. 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 Dwelling 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 Dwelling 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 Nineteen Thousand One Hundred Dollars (\$19,100) in lieu of each affordable unit(s), then the

then-current owner/builder shall pay such cash contribution to the County prior to obtaining a certificate of occupancy for the unit(s) that were originally planned to be Affordable Dwelling 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 all or any portion of the cash contribution has not been exhausted by the County 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 Affordable Unit(s) will be available for sale.

E. Inspections. 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 paragraph 1.

2. Cash Proffer.

A. The Owner shall contribute cash to the County in the following amounts for each dwelling unit constructed within the Property that is not an Affordable Dwelling Unit. The cash contributions shall be used to address the fiscal impacts of development on the County's public facilities and infrastructure (i.e., schools, public safety, libraries, parks and transportation) identified in the County's Capital Improvements Program. The cash contributions shall be paid prior to issuance of a building permit for the category of units described in this paragraph 2 in the following amounts:

(i). Seventeen Thousand Five Hundred Dollars (\$17,500) for each single-family detached dwelling unit;

(ii). Eleven Thousand Nine Hundred Dollars (\$11,900) for each single family attached dwelling unit that is not an Affordable Dwelling Unit.

(iii). Zero Dollars (\$0.00) for each Affordable Dwelling Unit

The cash contribution for each such unit shall be paid prior to or at the time of issuance of the building permit for each unit, as applicable.

B. Annual Adjustment of Cash Proffers. Beginning January 1, 2008, 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 Comparative Cost Multiplier, Regional City Average, Southeast Average, Category C: Masonry Bearing Walls issued by Marshall Valuation Service (a/k/a Marshall & Swift) (the "Index") or the most applicable Marshall & Swift index determined by the County if publication of the specific index referenced herein is discontinued. 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 Index as of December 1 in the year preceding the calendar year most recently ended, and the denominator of which shall be the Index 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. Connection to Town Center Drive. The Owner shall complete construction of an extension of "Road D" as shown on the Application Plan as a vehicular connection to the future Town Center Drive in the area shown on the Application Plan, to the standards contained in Sections 14-410H and 14-422 of the County Code and shown on the sheet of the Application Plan entitled "Conceptual Road Sections" (the "Town Center Drive Connection"). The Town Center Drive Connection shall be completed by the later to occur of: (a) eighteen (18) months after issuance of a final site plan approval for the first phase of the Project; or (b) eighteen (18) months after the owner of tax map parcel 32-50 dedicates to public use the public right-of-way determined to be appropriate by VDOT and the County Engineer for the Town Center Drive Connection, and also dedicates to the Owner all drainage, construction and other easements necessary for the Owner to construct the Town Center Drive Connection. For purposes of this proffer 3, construction of the Town Center Drive Connection shall be deemed complete when it is ready to be recommended by the Albemarle County Board of Supervisors for acceptance into the state-maintained system, and the Owner has obtained from the County Engineer a written determination that the Town

Center Drive Connection is safe and convenient for traffic. The Town Center Drive Connection may be shifted from the area shown on the Application Plan to a location more suitable to both the Owner and the County which still provides access from Willow Glen to Town Center Drive, upon approval of the County Engineer and the Owner.

WITNESS the following duly authorized signatures:

Owner:
DICKERSON RIDGE LLC,
a Virginia Limited Liability Company
By: (Signed) George W. Ray, Jr.
Printed Name: George W. Ray, Jr.
Title: Manager

GR

OWTH MANAGEMENT AND FACILITIES PLANNING GOALS

ALBEMARLE COUNTY LAND USE PLAN
Growth Management

GOAL: Protect and efficiently utilize County resources by:

A. Emphasizing the importance of protecting the elements that define the Rural Area:

- 1) Agricultural and forestry resources
- 2) water supply resources
- 3) natural resources
- 4) scenic resources
- 5) historic and cultural resources
- 6) limited service delivery

Of these, the protection of agricultural and forestry resources is the highest priority.

B. Promoting the Development Areas as the place where a variety of land uses, facilities, and services exist and are planned to support the County's future growth, with emphasis placed on infill development.

Introduction

(As Amended July 10, 2002)

The County's primary growth management goal directs development into designated areas and conserves the balance of the County for rural areas and resource protection. Resource protection is the basic theme behind the County's growth management approach. To this ongoing theme are added new emphases on intelligent use of Development Areas, public facilities and resources. Thus, planning efforts aim to channel growth into designated areas to facilitate economical service delivery in those areas, to promote a sense of neighborhood-style development as the preferred design in those areas, and to conserve the Rural Areas.

Planning efforts also focus on means to discourage development in the Rural Areas and support activities consistent with the character of the Rural Areas. This is accomplished through education, incentives, and voluntary and regulatory measures. Agricultural and forestal resources have been identified as the most critical County resources and the desired primary land use in the Rural Area. Such uses play an important and long standing role in the environment, heritage, and economy of the County. Loss of these resources to development is irreversible and irreplaceable. Maintenance of these resources also provides an opportunity to conserve and efficiently use other resources such as: (1) water resources (with use of property conservation techniques); (2) natural, scenic, and historic resources with the maintenance of pasture land, farmland, and forested areas; and, (3) fiscal resources by limiting development and lessening the need to provide public services to wide areas of the County. In the interest of this growth management strategy, residential development is considered a secondary use in the Rural Areas.

It is important that this and future Comprehensive Plans make adjustments that can influence development patterns to better meet the growth management goals. Such adjustments can include more active County support of Development Areas development, adjustments to location and/or holding capacity, and additional protective or support measures for the Rural Areas. This plan emphasizes the County's role in providing necessary new and amended ordinances, regulations, support services and infrastructure for development, and more efficient use of Development Areas, including more urban and

pedestrian oriented development styles. It must be recognized that the desired increased densities in the Development Areas will also require an increased commitment by the County for public infrastructure improvements. It must also be recognized that provision of infrastructure that successfully implements the Development Areas is highly dependent on the availability of adequate funding from a variety of sources. Traditionally such infrastructure has been programmed in the County's Capital Improvements Program (CIP) and funded primarily through County property taxes on a pay as you go basis. But the scale and scope of the impacts of new development on this infrastructure necessitate greater financial participation by new development in addressing these needs. Furthermore, the provision of infrastructure that is more concurrent with needs may be best realized through longer term debt that utilizes the excellent bond rating of the County and can be financed through property taxes and funding commitments from new development.

Facilities Planning

GOAL: Strongly support and effectively implement the County's growth management priorities in the planning and provision of transportation infrastructure, public facilities and public utilities.

Introduction

Residents of the County expect high quality facilities and services. It is recognized that the provision of such facilities and services significantly affects the location, timing, and extent of development.

By their very nature, public facilities are capital-intensive, requiring significant funding not only for the initial development of the facility, but also for its continual maintenance and operation. It is becoming increasingly difficult for communities to find adequate fiscal resources to pay for new or improved facilities, as well as maintenance of existing facilities. Therefore, to provide facilities in a fiscally responsible and equitable manner, adequate planning is necessary to ensure that the highest benefit is provided to the citizens in exchange for the cost required to provide the service. The policies, objectives, and strategies presented in this chapter outline an active process to assure this success.

The Nature of Public Service Delivery (As Amended July 10, 2002)

The County's growth management goals are to be supported through the appropriate provision of transportation, public utilities, and public facilities and services to designated Development Areas. The provision of fire, rescue, and police protection, roads, utilities, school bus service, and other governmental activities and functions to a large, dispersed rural population is viewed as inefficient and contrary to the overall public interest in guiding new development to the designated Development Areas.

Emphasis is placed on providing a level of public service delivery that will support development in, and direct development to, designated Development Areas. To accomplish this, service and facilities will be provided at a much higher level in the Development Areas than in the Rural Areas. Those persons living in the Rural Areas should not anticipate levels of public service delivery equal to services provided in the Development Areas.

Capital Improvements Program

The Capital Improvement Program (CIP) serves as the major financial planning guide for County expenditures towards capital facilities and equipment over a five-year period. It is primarily based on the physical needs of the County as identified in the Comprehensive Plan. It is one of the primary tools used to implement the Comprehensive Plan. Albemarle County adopted its first CIP on March 5, 1978. The CIP is reviewed annually by the Planning Commission, as authorized by Virginia Code § 15.2-2239, and is approved by the Board of Supervisors.

The CIP establishes a five-year funding schedule for the purchase, construction or replacement of the

physical assets of the community. A capital project typically requires a minimum expenditure of \$20,000 and has a useful life of a minimum of ten years. County departments and affiliated agencies initiate their capital project requests, which span the five-year period of the CIP. A CIP Technical Committee reviews all requests. Recommendations are then made by this Committee to the Planning Commission, which subsequently makes its recommendation to the Board of Supervisors for adoption as part of the County's budget.

In conjunction with the CIP process, the County develops a comprehensive long-range capital needs assessment that forms the basis for the county's five-year capital improvement plan. This ten-year needs assessment is updated every other year as part of the CIP process when departments are asked to submit capital requests spanning a ten-year planning period.

Impact of Development on Public Facilities

The CIP and capital needs assessment are a function of both the desire to provide facilities that support and implement the County's Comprehensive Plan and the need for such facilities in response to the impacts of new development. As such, the funding necessary to support this program must be a shared obligation of the County and new development creating the impacts. In an effort to determine how to appropriately and equitably pay for the cost of growth to the County, the County Board of Supervisors directed the County's Fiscal Impact Advisory Committee (FIAC) to analyze the fiscal impacts of development on the County's public facilities and infrastructure and make recommendations as to the appropriate cash proffers to offset these impacts. On May 2, 2007, the Board accepted the cash proffer methodology recommended by the FIAC to calculate the impacts of residential development resulting from re-zonings on a per-dwelling unit basis. With the exception of affordable housing, there is an expectation that all new re-zonings that include residential development will pay for the equivalent of their full impact as determined by the cash proffer methodology and as implemented pursuant to the County's cash proffer addendum to the Comprehensive Plan (**see Appendix B: ALBEMARLE COUNTY, VIRGINIA CASH PROFFER POLICY FOR PUBLIC FACILITIES**).

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COUNTY OF ALBEMARLE, VIRGINIA CASH PROFFER POLICY FOR PUBLIC FACILITIES

A. General

1. Authority: Virginia Code § 15.2-2303 enables the County to accept proffers as reasonable conditions to address the impacts resulting from a rezoning. This authority includes the authority to accept cash contributions to address impacts to public facilities generated by new residential development.

2. Policy: It is the policy of the County to require that the owner of property that is rezoned for residential uses to provide cash proffers equivalent to the proportional value of the public facilities deemed necessary to serve the proposed development on the property. Accordingly, the Board will accept cash proffers for rezoning requests that permit residential uses in accordance with this policy. However, the Board may also accept cash, land or in-kind improvements in accordance with County and State law to address the impacts of the rezoning.

3. Reasonableness: This cash proffer policy must meet a "reasonableness" test, which requires the Board to determine for each rezoning whether the amount proffered is reasonably related both in nature and extent to the projected impacts of the proposed development on public facilities. Through this policy, staff will recommend a maximum cash proffer in each case that meets this test of reasonableness.

4. Public facilities covered by this policy: The following public facilities will be funded by cash proffers: schools, transportation, parks, libraries and public safety. The County does not currently calculate a cash proffer value to fund public facilities such as water and sewer improvements, jails, landfills and other government facilities.

B. Maximum Per Unit Cash Proffer Amount

1. Maximum: The maximum cash proffer that the Board will accept for public facilities from residential rezoning applicants is \$17,500.00 per SFD; \$11,900 per SFA/TH; and \$12,400 per MF unit, to be adjusted annually without any further action by the Board according to the most applicable Marshall and Swift Building Cost Index, as determined by the Director of Community Development, and as expressly provided in the proffer statement.

2. Annual adjustment: Adjustments to the cash proffer amount due to projected public facilities costs may be considered every fiscal year. Staff will re-compute net costs based on the current methodology and recommend adjustments.

C. Calculation of Per Unit Cash Proffer Amount for a Rezoning

1. General: Pursuant to this policy, staff will (i) calculate the annual net cost of public facilities; (ii) calculate the fiscal impact of a rezoning request that permits residential uses on those public facilities; and (iii) administer the collection and expenditure of the proffered funds in accordance with State law.

2. Assumptions made in calculating the cash amount: Staff determines the cost of public facilities generated by new residential development by relying on the assumption that any revenue derived from growth (residential and commercial real estate taxes, sales taxes, fees, etc.) will pay the normal operating costs for services to residents of new developments and a percentage of the County's Capital Improvements Program (CIP).

3. Determining number of dwelling units in rezoning: A rezoning's impact on public facilities will be evaluated based on the gross number of proposed dwelling units. When calculating the gross number of dwelling units, staff will:

a. Use the upper end of the density range allowed by the rezoning.

b. Not give credits for those dwelling units permitted under existing zoning regulations (except as provided in sections C(6)(c) and (e)) or on agricultural lots, and will not consider the transferring of allowable units from other properties.

c. Exclude dwelling units qualifying as affordable housing under the County's definition of affordable housing.

4. Use of averages: In determining the net cost per dwelling unit of a public facility, staff relies on countywide averages, where possible. For certain public facilities, staff relies on averages established for geographic service areas or districts established in the County.

a. Parks, libraries and public safety facilities: Since parks, libraries, and public safety facilities serve the entire County, the geographic service districts for these facilities are determined to be countywide. Rezoning requests will be analyzed on a countywide basis to determine impacts on these facilities and proffers may be spent to fund these facilities countywide.

b. Schools: The impacts of a residential development on schools will be analyzed on a district basis to determine impacts on schools. In order to ensure that the cash proffered by an applicant is used to fund the public facilities impacted by or required for the development, the County is divided into three geographic service districts corresponding to the attendance zones of high schools. District 1 corresponds to the attendance zone for Albemarle High School, District 2 corresponds to the attendance zone for Western Albemarle High School, and District 3 corresponds to the attendance zone for Monticello High School. Funds collected from a development within a District will be spent on school improvements within that District or for any school improvement that provides relief for the District the development is in.

c. Transportation: With respect to transportation, the fiscal impact of rezoning requests will be analyzed on a countywide basis, with cash collected from a rezoning expended on

transportation projects in the County's Comprehensive Plan and associated Master Plans, CIP/CNA, Strategic Plan, or VDOT Six Year Improvement Plan that relate to the impacts resulting from the rezoning.

5. Consideration of demand, service level and cost: In addition to the use of averages, staff will consider the four "components" involved in calculating what a new dwelling unit will cost the County in terms of providing public facilities. These components are as follows:

a. Demand generators: Staff uses the average for single family detached (SFD), Single Family Attached / Townhouse/Condominium (SFA/TH) and Multi-Family/Apartment (MF) to determine the number of persons per dwelling unit, the number of students per dwelling unit (for elementary, middle and high schools) and the number of daily vehicle trips per dwelling unit to calculate demand generators (population, population portion of population plus jobs, pupils, and daily vehicle trips) associated with a new dwelling unit.

b. Service levels: Staff assumes that the public facilities contained in the County's CIP/Capital Needs Assessment (CNA) and Strategic Plan will accommodate ten years' worth of new development in a manner that will maintain present levels of service. Service levels are calculated on a per-person, per-pupil, and per-daily vehicle trip basis. (Service levels are calculated annually).

c. Gross cost of public facilities: Staff calculates the gross cost of public facilities. The term gross cost is used because a credit (described in C(5)(d) below) for anticipated future revenues from a new dwelling unit will be applied against the gross cost. For example, to calculate the gross cost of park facilities, the average persons per dwelling unit is multiplied by the County's per-capita CIP/CNA/Strategic Plan amount for park facilities.

d. Net cost: Staff calculates the net cost per public facility or maximum cash proffer. This is the gross cost [(C)(5)(c)] per public facility minus the applicable credit [(C)(6)] per public facility.

6. Credits: Staff calculates a credit to apply against the gross cost for each public facility. The County has issued and plans to continue to issue general obligation bonds to finance the construction of public facilities. New development will generate real estate and other taxes to the County and staff assumes that a percentage of these taxes will go to help retire this debt. So that new dwelling units are not paying twice (once through payment of a cash proffer and again through real estate taxes) a credit is computed. For FY 08, that percentage is assumed to be 6%. Credits are authorized for the following:

a. Land and public infrastructure: In some cases, a rezoning applicant may wish to mitigate the development's calculated impact on public facilities by dedicating property or doing in-kind improvements in lieu of all or a portion of the cash proffer. The dedication of land and the construction of public facilities recommended by the County's CIP or its master plans, or otherwise identified as being necessary to address the impacts resulting from the proposed development. Land and improvements that are not identified in the CIP or in a master plan should be entitled to a credit only when it is found that the proposed development creates an immediate need for the land or improvement that is better addressed by the applicant dedicating the land or constructing the improvement than by receiving the cash equivalent. Credit for transportation may be allowed for off-site land dedication or improvements, as recommended by the Department of Facilities Development.

(1) Determining value: The value of donated land generally will be based on the current assessed value of the specifically proffered property (not the assessed value of the property as a whole), not to exceed the cost per acre used in the calculation of the proffer. The value of improvements shall be the estimated cost as if constructed by a governmental entity. If the dedication or in-kind improvement does not fully mitigate the development's calculated impact on public facilities, then the dedication and/or improvement's value may be applied as a credit against the development's calculated impact on the applicable public facility.

(2) Maximum credit: The credit cannot exceed the development's calculated impact on the applicable public facility.

b. Operational expenses: Operational expenses where the Board determines that the cash contribution reduces the demand for public facilities. For example, a cash proffer for the operational expenses of public transit that eliminates the need for planned road improvements could be entitled to a credit, which would be an amount comparable to the reduction in infrastructure costs.

c. No increase or small increase in density: In rezoning applications where there is a minimal increase in density, a credit may be given for the number of residential units allowed under the existing zoning and the cash proffer amount will be based only on the estimated density increase resulting from the rezoning. This credit may be allowed only for those rezoning applications where the rezoning seeks the design flexibility allowed by the Neighborhood Model zoning district or seeks to amend a prior rezoning with no increase in density. The credit should not be allowed if the rezoning application seeks to increase density in a conventional, rather than a planned, zoning district.

d. Small infill development with existing dwellings: In rezoning applications for small infill developments, a credit may be given for each existing dwelling that will remain. For example, if a rezoning application would rezone a lot with an existing house to allow three lots, only two new lots would be created allowing two new dwelling units. If the existing dwelling unit will remain after the rezoning, the cash proffer policy should apply only to the two new dwelling units.

e. Substantial upgrades to design/development standards: The Board may consider development proposals that include substantial upgrades to current design/development standards and ordinance requirements as justification for granting a credit to the pre-existing lot yield. Pre-existing lot yields will be calculated using average actual recorded lot yields provided the applicant has not otherwise submitted documentation indicating higher lot yields in conformance with existing ordinances and reflective of site specific physical features.

f. Unique circumstances: The County considers any unique circumstances about a proposed development that: (i) mitigate the development's projected impact on public facilities; and (ii) create a demonstrable reduction in capital facility needs. Unique circumstances may include, but not be limited to, such projects like an age-restricted housing project. Staff, the applicant or any other person may identify such mitigating circumstances.

7. Applicable policy: A rezoning's fiscal impact on public facilities shall be established under the cash proffer policy in effect on the date of the last public hearing prior to the Board of Supervisors' decision on the rezoning.

D. Timing of Contribution and Expenditure of Cash Contributed

1. Timing: Payment of the cash proffer for residential development must occur prior to release of a building permit. Timing for dedication of property or in-kind improvements should be specified in the proffer.

2. Expenditure: The cash contributions shall be expended in accordance with State law. Cash contributions received under this policy must be used for projects identified in the Comprehensive Plan and associated Master Plans, CIP/CNA, and/or Strategic Plan. For public facilities having a countywide service area (parks, libraries and public safety), the cash contribution may be spent countywide.

Teen Driver Safety Week

Whereas, *motor vehicle crashes are the leading cause of death for adolescents and young adults in the United States, and many of these deaths are preventable; and*

Whereas, *almost 7,500 drivers between the ages of 15 and 20 years were involved in fatal crashes in 2005 throughout the United States; and*

Whereas, *the fatality rate in the United States for drivers between the ages of 16 and 19 years, based on miles driven, is 4 times the fatality rate for drivers between the ages of 25 and 69 years; and*

Whereas, *the majority of teen driver crashes in the United States are due to driver error and speeding, and 15 percent of the crashes are due to drunk driving; and*

Whereas, *roughly two-thirds of the teenagers killed in motor vehicle accidents in the United States each year do not use seatbelts; and*

Whereas, *approximately 63 percent of teen passenger deaths in the United States occur while other teenagers are driving; and*

Whereas, *it is necessary to explore effective ways to reduce the crash risk for young drivers by focusing research and outreach efforts on areas of teen driving that show the most promise for improving safety; and*

Whereas, *the National Teen Driver Survey, developed with input from teenagers and administered by The Children's Hospital of Philadelphia, demonstrates a national need to increase overall awareness about the safe use of electronic handheld devices, the risk of nighttime and fatigued driving, the importance of consistent seatbelt use, and the practice of gradually increasing driver privileges over time as a young driver gains more experience under supervised conditions; and*

Whereas, *in 2005, 1,553 crash fatalities involving a teen driver occurred in the fall, when teenagers are in the first months of the school year and faced with many decisions involving driving, including whether to drive with peer passengers and other distractions; and*

Whereas, *designating the third week of October as **Teen Driver Safety Week** is expected to increase awareness of these important issues among teenagers and adults in communities throughout the United States, as additional research is conducted to develop and test effective interventions that will help teenagers become safer drivers;*

Now, Therefore, Be It Resolved, *that the Albemarle County Board of Supervisors does hereby support the goals and ideals of **National Teen Driver Safety Week** and encourage the residents of Albemarle County to observe the week with appropriate activities that promote the practice of safe driving among the state's licensed teenage drivers.*

**AGREEMENT BETWEEN THE
ALBEMARLE COUNTY BOARD OF SUPERVISORS
AND THE CHARLOTTESVILLE CITY COUNCIL ON
THE COMMISSION ON CHILDREN AND FAMILIES**

The Albemarle County Board of Supervisors (the “County”) and the Charlottesville City Council (the “City”) agree to join together to form the Commission on Children and Families (the “Commission”) whose sole responsibility shall be to plan, coordinate, monitor and evaluate a community wide system of children and family agencies. The intended goal of the Commission is to improve services to children, youth and families, to be accountable for the efficient use of public/private resources and to be responsive to the changing needs of the community. In doing so, we agree to the following:

- 1) With respect to the STRUCTURE OF THE COMMISSION, the City and the County agree that:
 - a) The Commission shall consist of twenty-eight voting members. Eleven of the voting members shall be citizen representatives (“Citizen Members”): five appointed by the County, five appointed by the City and one jointly appointed private service provider. Of the eleven citizen members, at least one appointee from each jurisdiction must be a parent, and at least one appointee from each jurisdiction must be a youth under the age of eighteen years at the time his or her appointment takes effect. Fourteen of the voting members shall be as follows (“Agency Members”): the School Division Superintendent from both the City and the County; one elected School Board member from both the City and the County; the Director of the Department of Social Services from both the City and the County; the Chief of Police from both the City and the County; the Director of Parks and Recreation from both the City and the County; the Director of the Sixteenth District Court Services Unit; the Director of the Thomas Jefferson Health District; the Director of Region Ten Community Services Board; a representative of the University of Virginia; an Albemarle Assistant County Executive; a City representative that represents senior management/leadership, as designated by the City Manager; and the President of the United Way – Thomas Jefferson Area.
 - b) Terms of Appointment. Each Citizen Member of the Commission shall be appointed for a term that shall expire three years from the first day of July of the year of appointment, except the youth Citizen Members shall be appointed for a term that shall expire one year from the first day of July of the year of appointment. With the exception of the private service provider representative, each Citizen Member shall be eligible for reappointment to one additional term of the same length as the initial appointment. The private service provider shall not be eligible for reappointment to a second term. Notwithstanding the foregoing, any Citizen Member, including the private service provider, who is initially appointed to fill a vacancy, may serve an additional successive term. Appointment shall be staggered for continuity. Each Agency Member of the Commission shall serve for as long as they hold their public office or until replaced by the appointing authority.
 - c) Manner of Appointments. The City and/or County shall appoint the specific individuals representing that locality who will serve on the Commission, unless the member is solely designated by his position or office, and by identifying the date upon which that individual’s appointed term will expire, if applicable. The representative of the University of Virginia will be jointly appointed by the City and the County.
- 2) With respect to the RESPONSIBILITIES OF THE COMMISSION, the City and the County agree that the Commission shall:
 - a) Adhere to the responsibilities of the Community Policy and Management Team set forth in the Virginia Code Section 2.2-5200 et seq.;

- b) Provide comprehensive short and long range planning for children and family services within the Charlottesville/Albemarle community;
 - c) Make program and funding recommendations to the City and County governing bodies within the budgetary procedures and guidelines set by each jurisdiction;
 - d) Review and evaluate current service delivery systems to ensure that the needs of children and families are being met effectively and efficiently;
 - e) Identify and encourage new and innovative approaches to program development for children and families;
 - f) Identify additional public and private funding sources for children and youth programs;
 - g) Participate in the yearly evaluation of the director of Commission staff;
 - h) Provide structured opportunities for community input and participation on the needs of families, e.g. public hearings workshops focus groups and work teams;
 - i) Provide an annual report to the Board of Supervisors and City Council to insure that the County and City are in agreement with the policy and direction set by the Commission.
- 3) With respect to STAFFING OF THE COMMISSION, the City and the County agree that:
- a) Staff will be hired, supervised and evaluated as mutually agreed upon by the City and the County with assistance and input from the Commission;
 - b) Staff will be employees of the County of Albemarle subject to all personnel policies and entitled to all its benefits; provided, however, that one current CCF employee will remain a City employee, subject to all City policies and benefits, until his retirement.
- 4) With respect to FUNDING OF THE COMMISSION, the City and the County intend to:
- a) Provide an annual contribution as mutually agreed upon for the operation of the Commission;
 - b) Direct the Commission on Children and Families to actively seek funding for children and family projects from other sources, including public and private grants, local service groups and the business community;
 - c) Pool all Comprehensive Services Act (CSA) administrative funds for the operations of the Commission. Each jurisdiction will continue to provide the required matching funds for CSA services according to the state formula subject to annual appropriation;
 - d) The County of Albemarle will provide fiscal and legal services to the Commission for an administrative fee equal to one percent (1%) of the Commission's operating budget for a period of five (5) years beginning January 1, 2007. At the conclusion of the five year period the City and County will negotiate a fiscal agent fee consistent with the fee charged for other joint City – County agencies.

Original Proffer X
 Amended Proffer
 (Amendment #)

PROFFER FORMDate: October 10, 2007 ZMA # 2006-015 Tax Map and Parcel Number(s) Tax Map Parcel 94-1 and 80-48 32.24 Acres to be rezoned from RA to PRD

The Owner hereby voluntarily proffers that if the Albemarle County Board of Supervisors acts to rezone the Property from the RA to the PRD zoning district as requested, the Owner shall develop the Property in accord with the following proffered development conditions (each, a "Proffer," and collectively, the "Proffers"), which the Owner acknowledges are reasonable, pursuant to Section 15.2-2303 of the Code of Virginia, 1950, as amended, and pursuant to Section 33.3 of the Albemarle County Zoning Ordinance. If rezoning application ZMA 2006-015 is denied, these proffers shall immediately be null and void and of no force and effect.

This Proffer Statement shall relate to the Application Plan entitled "Master Plan, Glenmore", dated November 2, 1990, and prepared by Clower Associates, Inc., the Application Plan entitled "Glenmore Planned Residential Development Application Plan for ZMA 99-016, dated April 12, 2000, and more specifically the plan entitled, "Glenmore Section S-5 Rezoning Plan", dated May 10, 2007, last revised September 10, 2007, and prepared by Roudabush, Gale, and Associates, Inc.

1. The development of the Property shall be limited to those uses allowed by right under Section 19.3.1 (1), (5), (6), (7), (8), (9), (10) and (11) and those uses allowed by special use permit under Section 19.3.2(2), (4), (8), (9), (10) and (11) of the Zoning Ordinance of Albemarle County, Virginia (hereinafter referred to as the Zoning Ordinance) as that Section is in effect on October 10, 2007, a copy of which is attached hereto. The residential development on the Property shall not exceed forty-three (43) single family units. These forty-three (43) single family dwelling units are in addition to, and not counted as part of, the eight hundred thirteen (813) units authorized in Glenmore RPD by ZMA 99-016.
2. To offset public expenditure on Capital Improvement Projects, the Owner shall contribute seventeen-thousand five-hundred dollars (\$17,500) in cash for each dwelling lot on the Property for the purposes of funding transportation, public safety, school, parks and library improvements. The per lot cash contribution shall be paid to Albemarle County prior to the issuance of a building permit for each lot.
3. To provide capital for Albemarle County's Affordable Housing Program, the Owner shall contribute two-thousand six-hundred sixty-five dollars (\$2,665) in cash for each dwelling lot on the Property. The per lot cash contribution shall be paid to Albemarle County prior to the issuance of a building permit for each lot.
4. Beginning January 1, 2008, the amount of cash contribution required by Proffer number 2 shall be adjusted annually until paid, to reflect any increase or decrease for the preceding calendar year in the Comparative Cost Multiplier, Regional City Average, Southeast Average, Category C: Masonry Bearing Walls issued by Marshall Valuation Service (a/k/a Marshall & Swift) (the "Index") or the most applicable Marshall & Swift index determined by the County if Marshall & Swift ceases publication of the Index identified herein. 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 Index as of December 1 in the year preceding the calendar year most recently ended, and the denominator of which shall be the Index 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.

<u>(Signed) Robert D. Livengood</u>	<u>Robert D. Livengood</u>	<u>10/9/2007</u>
Signatures of All Owners	Printed Names of All Owners	Date
<u>(Signed) Carolyn s. Livengood</u>	<u>Carolyn S. Livengood</u>	<u>10/9/2007</u>
Signatures of All Owners	Printed Names of All Owners	Date