

| ACTIONS | |
|---|--|
| Board of Supervisors Meeting of November 14, 2007 | |
| November 19, 2007 | |
| <u>AGENDA ITEM/ACTION</u> | <u>ASSIGNMENT</u> |
| 1. Call to Order. <ul style="list-style-type: none"> Meeting was called to order at 3:30 p.m., by the Chairman, Mr. Boyd. All BOS members were present. Also present were Bob Tucker, Larry Davis, Ella Jordan, and Meagan Hoy. | |
| 2. <u>Work Session:</u> Five Year Financial Plan. <ul style="list-style-type: none"> HELD. DIRECTED staff to check the VRS rates in the latest VML Newsletter, to bring back how the Governmental CPI compares to the projected figure used by Albemarle County, and DISCUSSED various assumptions in the 5 year financial plan. Scheduled further discussion for December 12, 2007. | <u>County Executive/OMB:</u> Proceed as directed. |
| 4. Recess. <ul style="list-style-type: none"> At 5:37 p.m., the Board went into closed session under subsection (7) to consult with legal counsel and staff regarding specific matters requiring legal advice relating to an interjurisdictional agreement. | |
| 5. Call to Order. <ul style="list-style-type: none"> Meeting was called back to order at 6:08 p.m., by the Chairman, Mr. Boyd. | |
| NonAgenda. <ul style="list-style-type: none"> Motion was immediately offered to certify the Closed Session which passed by a vote of 6:0. | |
| NonAgenda. <ul style="list-style-type: none"> ADOPTED Resolution supporting YMCA facility. | Clerk: Forward copy of signed resolution to City of Charlottesville and YMCA. (Attachment 1) |
| 8. From the Board: Matters Not Listed on the Agenda. <u>Ken Boyd:</u> <ul style="list-style-type: none"> Suggested drafting letter from Board to State Legislators requesting they consider limiting interest percentage charged for pay day loans. Consensus of Board to support. | <u>County Executive's office:</u> Research issue and draft letter for Chairman's signature. |
| 9. From the Public: Matters not Listed on the Agenda. <ul style="list-style-type: none"> Rosia Parker, member of Transformation Ministries, First Baptist Church, a member of IMPACT, asked the Board to include in its budget for next year funds to address affordable housing needs in the community. John Giuliano expressed concerns about an additional tower installed on John Adams property in the County. Discussed potential health concerns caused by radiation exposure to cell towers. (Dennis Rooker asked staff to see if the tower violates the County's Ordinance.) John Martin, a resident of Free Union, requested that County staff be involved in the cost-sharing negotiations between the City and County for future water supply. | <u>Amelia McCulley:</u> Determine if tower violates County ordinance. |
| 11. <u>SP-2006-0031. Glen Oaks Stream Crossing.</u> | Clerk: Set out conditions of approval. |

| | |
|--|--|
| <ul style="list-style-type: none"> • APPROVED SP-2007-0031, by a vote of 6:0, subject to the four conditions recommended by the Planning Commission and a 5th condition added at the Board meeting. | (Attachment 2) |
| <p>12. <u>ZMA-2006- 016. Glenmore Section K2, Leake Property.</u></p> <ul style="list-style-type: none"> • APPROVED ZMA-2006-016, by a vote of 6:0, as proffered dated November 14, 2007, signed November 13, 2007, and the Application Plan dated November 14, 2007. | <p><u>Clerk:</u> Set out applicant's proffers. (Attachment 3)</p> |
| <p>13. <u>SP-2007-0026. Crozet Station.</u></p> <ul style="list-style-type: none"> • APPROVED SP-2007-0026, by a vote of 6:0, subject to the eight conditions recommended by the Planning Commission and modified at the Board meeting. | <p><u>Clerk:</u> Set out conditions of approval. (Attachment 2)</p> |
| <p>14. <u>ZMA-2007- 005. Avon Park II.</u></p> <ul style="list-style-type: none"> • APPROVED ZMA-2007-005, by a vote of 6:0, as proffered dated November 2, 2007 and application plan last revised October 19, 2007. | <p><u>Clerk:</u> Set out applicant's proffers. (Attachment 4)</p> |
| <p>15. <u>ZMA-2007- 012. Blue Ridge Cohousing.</u></p> <ul style="list-style-type: none"> • APPROVED ZMA-2007-012, by a vote of 5:1, as proffered dated November 14, 2007 and application plan dated October 19, 2007 which reflects waiver of building separation requirements of Section 19.8. • APPROVED, by a vote of 5:1, the private street request for Park View Drive, waivers of Sections 14-410 H regarding curb/gutter requirements for Park View Drive and waivers of Sections 14-422 A & D regarding the planting strip and sidewalk requirements for Park View Drive. • SET, by a vote of 6:0, public hearing on a request to amend the jurisdictional areas of the Albemarle County Service Authority to allow water and sewer service on this property for January 9, 2008. | <p><u>Clerk:</u> Set out applicant's proffers. (Attachment 5)</p> <p><u>Clerk:</u> Advertise and schedule public hearing on January 9th agenda.</p> |
| <p>16. From the Board: Committee Reports. <u>Dennis Rooker:</u></p> <ul style="list-style-type: none"> • Provided Board members with copies of materials he collected from various sessions at the recent VACo meeting. <p><u>Ken Boyd:</u></p> <ul style="list-style-type: none"> • Attended a session on Cool Counties at the VACo meeting. He will forward to Mr. Tucker materials on what other counties are doing. (Dennis Rooker stated that he would be making a motion to adopt a Cool Counties resolution at the next Board meeting.) <p><u>Sally Thomas:</u></p> <ul style="list-style-type: none"> • Discussed City Council's November 19, 2007 meeting in which they will be discussing the community's future water supply. | |
| <p>17. Adjourn to Tuesday, November 27, 2007, 12:00 noon, Room 235, Joint Meeting with Legislators.</p> <ul style="list-style-type: none"> • The meeting was adjourned at 10:17 p.m. | |

ewj/mrh

Attachment 1 – YMCA Resolution

Attachment 2 – Conditions of Approval on Planning items

Attachment 3 – Proffers – ZMA-2006-016. Glenmore Section K2, Leake Property

Attachment 4 – Proffers - ZMA-2007-005. Avon Park II
Attachment 5 – Proffers – ZMA-2007-012. Blue Ridge CoHousing

**RESOLUTION ENDORSING
YMCA FACILITY**

BE IT RESOLVED that the Albemarle County Board of Supervisors hereby supports a YMCA facility at either the Piedmont Virginia Community College or McIntire Park site subject to an acceptable agreement; and

BE IT FURTHER RESOLVED, that the Board of Supervisors intends to allocate funds from its Capital Improvements Program (CIP) that could be spent on a facility at either location; and

BE IT FURTHER RESOLVED, that the Board of Supervisors looks forward to working collaboratively and cooperatively with the City of Charlottesville and the YMCA in pursuant of this worthy undertaking.

CONDITIONS OF APPROVAL

PROJECT: SP-2006-0031. Glen Oaks Stream Crossing.

- 1) The stream crossing shall be built in general accord with the plan titled "SP 06-031 Application Plan," revised "Aug. 01, 2007," and prepared by Roudabush, Gale, & Associates, Inc.;
- 2) Any subdivision on the portion of the property designated as Rural Areas in the Comprehensive Plan shall be designed in general accord with the plan titled Glenoaks, dated "8/1/07", and prepared by "kg Associates." The development lots east of Limestone Creek and Lot 26 shall be developed as a Rural Preservation Development in accord with Section 10.3.3.3 of the Zoning Ordinance, with Lot 26 as the preservation tract. As part of the same subdivision, the applicant shall convey to the County a portion of Lot 10 (whose boundaries are approved by the Parks and Recreation department) for use as a greenway;
- 3) The dam shall allow for a continuation of the base flow in the stream; and
- 4) The following conditions shall be met prior to issuance of a grading permit to allow installation of the stream crossing or submittal of the final subdivision plat, whichever comes first:
 - a) The applicant must obtain a map revision, letter of revision, or letter of amendment as required from the Federal Emergency Management Agency (FEMA) and copy the County Engineer on all correspondence between the applicant and FEMA;
 - b) County approval of an erosion and sediment control plan for the stream crossing;
 - c) County approval of the final lane configuration over the stream crossing with the final road plans;
 - d) Natural Resources Manager approval of a stream buffer mitigation plan in general accord with the conceptual plan shown on the plan titled "SP 06-031 Application Plan," revised "Aug. 01, 2007," and prepared by Roudabush, Gale, & Associates, Inc.;
 - e) County approval of final design plans and hydrologic/hydraulic computations for the stream crossing;
 - f) Army Corp of Engineers, Virginia Department of Environmental Quality, and other necessary state and federal agency approvals must be obtained prior to issuance of grading permits; and
 - g) Approval of the final design of the dam by the Department of Conservation and Recreation, as necessary.
- 5) Prior to final plat approval of the private road across the creek, there shall be a private road maintenance agreement that includes provisions for maintenance, repair and future replacement of the dam, when necessary, in a form acceptable to the County as approved by the County Attorney. All costs of this maintenance or repair agreement shall be privately funded. The landowner's private responsibility for dam maintenance or repair shall be stated in every deed transferring ownership of the lots served by this crossing in a statement approved in form and content by the County Attorney. The County shall not be responsible for any costs of the maintenance, repair or future replacement of the private road or dam.

PROJECT: SP-2007-0026. Crozet Station.

1. Development shall be in general accord with the concept plan entitled, "Crozet Station, prepared by Atwood Architects, Inc. dated May 23, 2007 and last revised November 14, 2007", Sheet A/O and Sheets SP1-SP5;
2. The final site plan shall not be approved until the applicant has provided evidence that an easement has been executed to provide inter-parcel access to the property to the east;
3. There shall be no disturbance of the stream buffer;
4. Affordable and moderately-priced housing shall be provided as follows:
 - A. Affordable housing units. The Owner shall provide five (5) residential dwelling units as affordable housing for sale. The five (5) units shall be comprised of one (1) or more of the following unit types: single-family attached housing or multi-family condominiums. The Owner or his successor in interest reserves the right to achieve the five (5) affordable

units in a variety of ways, utilizing the above mentioned unit types alone or in combination as outlined below. The first subdivision plat or site plan for the Property shall designate the five (5) lots or units, as applicable, subject to the terms and conditions of this condition, that will be the affordable units as described herein. The Owner shall convey the responsibility of constructing the affordable units to any subsequent purchaser of the subject property. The current Owner or subsequent Owner shall create units affordable to households with incomes less than eighty percent (80%) of the area median income, such that housing costs consisting of principal, interest, real estate taxes and homeowner's insurance (PITI) do not exceed thirty percent (30%) of the gross household income, provided, however, that in no event shall the selling price of such affordable units be more than sixty-five percent (65%) of the applicable Virginia Housing Development Authority (VHDA) sales price/loan limits for VHDA's first-time homebuyer programs, provided that the selling price shall not be required to be less than One Hundred Ninety Thousand Four Hundred Dollars (\$190,400) at the beginning of the ninety (90) day identification and qualification period referenced below. The Owner or his successor in interest may provide down payment assistance in the form of secondary financing 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;

- B. 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 subject property which includes one (1) 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 dwelling units at the time that the then-current Owner/builder expects the units to be completed, and that the County will instead accept a cash contribution to the County to support affordable housing programs in the amount of Nineteen Thousand One Hundred Dollars (\$19,100) in lieu of each affordable unit, then the then-current Owner/builder shall pay such cash contribution to the County prior to obtaining a certificate of occupancy for the units that were originally planned to be affordable units, and the then-current Owner/builder shall have the right to sell the units without any restriction on sales price or income of the purchasers.
- C. Work force housing units. The Owner shall provide twenty-five (25) residential dwelling units for a sales price not to exceed three hundred thousand dollars (\$300,000) for the first sale of each unit. The first subdivision plat or site plan for the Property shall designate the twenty-five (25) lots or units, as applicable, subject to this condition; and
- D. Qualification period. All purchasers of for-sale affordable units shall be approved by the Albemarle County Office of Housing or its designee. The Owner shall provide the County or its designee a period of ninety (90) days to identify and pre-qualify an eligible purchaser for the units. The ninety (90) day period shall commence upon written notice from the Owner that the units will be available for sale. This notice shall not be given more than one hundred twenty (120) days prior to the anticipated receipt of the certificate of occupancy. If the County or its designee does not provide a qualified purchaser during this ninety (90) day period, the Owner shall have the right to sell the units without any restriction on sales price or income of purchaser(s); provided, however, that any units 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 condition. If these units are sold, this condition shall apply only to the first sale of each unit. 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 affordable units.
- E. Inspection of records. 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 condition.

5. Residential amenities such as an outdoor plaza, paved path to the greenway, or civic green area shall be provided, to the satisfaction of the Planning Director as shown on the concept plan entitled, "Crozet Station, prepared by Atwood Architects, Inc. dated May 23, 2007 and revised October 29, 2007", Sheets SP2 and SP3;
6. Street trees shall be provided along the Route 240 frontage. The street trees shall meet the minimum size, types of species, and spaced as determined by the County's Architectural Review Board;
7. The final site plan shall not be approved until the applicant has provided an access area to the greenway dedication in the north-west section of the property as shown on Sheet SP 2 of the Concept Plan entitled, "Crozet Station, prepared by Atwood Architects, Inc. dated May 23, 2007 and revised October 29, 2007"; and
8. Water quality and water quantity treatment shall be based on an assumed pre-existing cover of twenty percent (20%) for the site.

Original Proffer X

Amended Proffer

(Amendment #)

PROFFER FORM

Date: November 14, 2007

ZMA # 2006-016

Tax Map and Parcel Number(s) Tax Map 93 Parcels A1-1, A5-1 and Tax Map Parcel 94-74
 and portions of Tax Map 94 Parcels 15, 16, 16A.

 111.73 Acres to be rezoned from PRD/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 K-2", dated June 15, 2007, last revised November 14, 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" and the "County") as those Sections are in effect on November 14, 2007, copies of which are attached hereto. The residential development on the Property shall not exceed one-hundred ten (110) single family units. Of the one-hundred ten (110) single family dwelling units, seventy-six (76) single family dwelling units are in addition to, and not counted as part of, the eight hundred thirteen (813) units authorized in Glenmore PRD by ZMA 99-016; thirty-four (34) single family dwelling units are counted as part of the the eight hundred thirteen (813) units authorized in Glenmore PRD by ZMA 99-016.
2. In order to establish a future public greenway trail for the County along the Rivanna River, within one (1) year after the date of approval of ZMA 2006-1016, the Owner shall dedicate in fee simple to the County for public use no less than 43.45 acres in greenway area, as shown on Attachment A, entitled "Glenmore Greenway Trail, Final Exhibit," prepared by Roudabush, Gale, and Associates, Inc. and dated June 18, 2007 (the "Greenway Trail Area"). Such Greenway Trail Area may be increased as mutually agreed by the Owner and the County and includes the greenway area originally intended to be included in the greenway pursuant to proffer no. 6 of "ZMA 79-16" (such proffer correctly identified as proffer no. 6 of "ZMA 97-16) and the additional area comprising a minimum of 14.98 acres proffered pursuant to this ZMA 2006-016.
 - a. Prior to dedication of the Greenway Trail Area to the County, no buildings shall be constructed, or erected within the Greenway Trail Area without the consent of the County and it shall be otherwise preserved in its natural state except for establishing pedestrian

- c. Utilize permanent seed and matting to stabilize all slopes steeper than 3H:1V.
- d. Modifications to the above may be granted by the Program Authority due to special circumstances during review of the E&S plan.

-Signature Page Follows-

**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: _____(SEAL)
Michael D. Comer, Successor Trustee
Date: _____

BY: _____(SEAL)
Peggy B. Kessler, Successor Trustee
Date: _____

PROFFER FORM***Date of Proffer Signature: November 2, 2007***ZMA # 2007-00005 Avon Park II
Tax Map 90 Parcel Number 31

5.17 Acres to be rezoned from R-1 to R-6
in accordance with the Application Plan of Terra Concepts, P.C.
dated April 30, 2007, last revised October 19, 2007)

Weather Hill Development, L.L.C., a Virginia limited liability company, is the owner (the "Owner") of Tax Map 90, Parcel 31 (the "Property") which is the subject of rezoning application ZMA 2007-00005 known as "Avon Park II" (the "Project").

Pursuant to Section 33.3 of the Albemarle County Zoning Ordinance, the Owner hereby voluntarily proffers the conditions listed below which shall be applied to the Property, if rezoned with the offered plans approved for development. These conditions are proffered as a part of the requested rezoning and it is agreed that 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 lease or for sale affordable dwelling units (the "Affordable Dwelling Units" or "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 fifteen percent (15%) of the lots in such subdivision plat or site plan.

In the event that the number of Affordable Dwelling Units to achieve 15% results in a fractional unit, the Owner shall contribute cash to the County in a proportionate amount based on the amount of \$19,100. For example, if 15% equates to 4.5 Affordable Units, the Owner shall provide 4 Affordable Units pursuant to the terms described herein, and shall contribute cash to the County in the amount of \$9,550 be paid prior to issuance of a building permit for the first Affordable Dwelling Unit.

A. The Affordable Dwelling Units shall be comprised of one or more of the following unit types: single-family attached housing (townhouses), condominiums or apartments/flats. The Owner or his successor in interest reserves the right to achieve the 15% Affordable Dwelling Units in a variety of ways, utilizing the above mentioned unit types alone or in combination as outlined below. The Owner shall convey the responsibility of constructing the affordable units to any subsequent purchaser of the Property. The current Owner or subsequent Owner shall create units affordable to households with incomes less than 80% of the area median family income (the "Affordable Unit Qualifying Income"), such that housing costs consisting of principal, interest, real estate taxes and homeowner's insurance (PITI) do not exceed 30% of the Affordable Unit Qualifying Income; provided, however, that in no event shall the selling price of such Affordable Units be more than sixty-five percent (65%) of the applicable Virginia Housing Development Authority (VHDA) sales price/loan limits for VHDA's first-time homebuyer programs provided that the selling price shall not be required to be less than One Hundred Ninety Thousand Four Hundred Dollars (\$190,400) 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.

i. For-Sale Affordable Units - All purchasers of for-sale Affordable Units shall be approved by the Albemarle County Office of Housing or its designee. The Owner shall provide the County or its designee a period of ninety (90) days to identify and pre-qualify an eligible purchaser for the Affordable Units. The 90-day period shall commence upon written notice from the Owner that the units will be available for sale. This notice shall not be given more than 120 days prior to the anticipated receipt of the certificate of occupancy. If the County or its designee does not provide a qualified purchaser during this ninety (90) day period, the Owner shall have the right to sell the Unit(s) without any restriction on sales price or income of purchaser(s); provided, however, that any Units(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. If these Units are sold, this proffer shall apply only to the first sale of each unit. 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 Affordable Units.

ii. For-Rent Affordable Units

1. Rental Rates For-Lease Affordable Units The initial net rent for each for-rent Affordable Unit when the Unit(s) is available for occupancy 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 paragraph 1A(ii)(1) 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”).

2. Conveyance of Interest – All instruments conveying any interest in the for-rent affordable units during the Affordable Term shall contain language reciting that such unit is subject to the terms of this paragraph 1A. In addition, all contracts pertaining to a conveyance of any for-rent affordable unit, or any part thereof, during the Affordable Term shall contain a complete and full disclosure of the restrictions and controls established by this paragraph 1A(ii). At least thirty (30) days prior to the conveyance of any interest in any for-rent affordable unit during the Affordable Term, the then-current owner shall notify the County in writing of the conveyance and provide the name, address and telephone number of the potential grantee, and state that the requirements of this paragraph 1A(ii) have been satisfied.

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

B. 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 subject property which includes one or more for-sale Affordable Dwelling Units, the County’s 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 County will instead accept a cash contribution to the County 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). 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 Units(s) will be available for sale.

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 contribution 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. Eleven Thousand Nine Hundred Dollars (\$11,900) for each attached town home/condominium unit that is not an Affordable Dwelling Unit
- ii. Seventeen Thousand Five Hundred Dollars (\$17,500) for each single family detached dwelling unit.
- iii. Zero Dollars (\$0.00) for each Affordable Dwelling Unit

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 Marshall and Swift Building Cost Index (the "MSI"). In no event shall any cash contribution 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. EROSION AND SEDIMENT CONTROL

A. The Owner shall, to the maximum extent practicable as determined by the County's Program Authority, provide additional erosion and sediment controls to achieve a sediment removal rate of eighty percent (80%) for the Property. (As a reference, current regulatory structural measures achieve a 60% optimal removal rate).

[Signature Page Follows]

Weather Hill Development, L.L.C.

By: _____
Marc C. Powell, Manager

PROFFER FORM**“Blue Ridge Cohousing”****Date of Proffer Signature: November 14, 2007**

ZMA # 2007-00012

Tax Map Parcel- 56-67A and 56-67B (Portion)

**6.15 Acres to be rezoned from RA to PRD
in accordance with the Application Plan of Blue Ridge Cohousing dated
June 25, 2007 and resubmitted and revised September 11, 2007 and October 19, 2007**

Pursuant to Section 33.3 of the Albemarle County Zoning Ordinance, the Owner hereby voluntarily proffers the conditions listed below which shall be applied to the property, if rezoned with the offered plans approved for development. These conditions are proffered as a part of the requested rezoning and the Owner acknowledges that the conditions are reasonable.

1. AFFORDABLE HOUSING

The Owner shall provide four (4) residential dwelling units as affordable housing for sale. The four (4) units shall be comprised of one or more of the following unit types: single-family attached housing, single-family detached or multi-family condominiums. The Owner or his successor in interest reserves the right to achieve the four (4) affordable units in a variety of ways, utilizing the above mentioned unit types alone or in combination as outlined below. The first subdivision plat or site plan for the Property shall designate the four (4) lots or units, as applicable, that will, subject to the terms and conditions of this proffer, that will be the affordable units as described herein. The Owner shall convey the responsibility of constructing the affordable units to any subsequent purchaser of the subject property. The current Owner or subsequent Owner shall create units affordable to households with incomes less than eighty percent (80%) of the area median income, such that housing costs consisting of principal, interest, real estate taxes and homeowner's insurance (PITI) do not exceed thirty percent (30%) of the gross household income, provided, however, that in no event shall the selling price of such affordable units be more than sixty-five percent (65%) of the applicable Virginia Housing Development Authority (VHDA) sales price/loan limits for VHDA's first-time homebuyer programs **provided** that the selling price shall not be required to be less than One Hundred Ninety Thousand Four Hundred Dollars (\$190,400) at the beginning of the 90-day identification and qualification period referenced below. The Owner or his successor in interest may provide down payment assistance in the form of secondary financing 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.

- A. For Sale Affordable Units. All purchasers of for-sale affordable units shall be approved by the Albemarle County Office of Housing or its designee. The Owner shall provide the County or its designee a period of ninety (90) days to identify and pre-qualify an eligible purchaser for the affordable units. The 90-day period shall commence upon written notice from the Owner that the units will be available for sale. This notice shall not be given more than one hundred twenty (120) days prior to the anticipated receipt of the certificate of occupancy. If the County or its designee does not provide a qualified purchaser during this ninety (90) day period, the Owner shall have the right to sell the units without any restriction on sales price or income of purchaser(s); provided, however, that any units 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. If these

units are sold, this proffer shall apply only to the first sale of each unit. 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 affordable units.

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.

- B. 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 subject 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 dwelling units at the time that the then-current owner/builder expects the units to be completed, and that the County will instead accept a cash contribution to the County to support affordable housing programs in the amount of Nineteen Thousand One Hundred Dollars (\$19,100) in lieu of each affordable unit, then the then-current owner/builder shall pay such cash contribution to the County prior to obtaining a certificate of occupancy for the unit that were originally planned to be affordable units, and the then-current owner/builder shall have the right to sell the units without any restriction on sales price or income of the purchasers.

2. **CASH PROFFER**

The Owner or his successor in interest shall contribute a total of **\$286,200** cash to the County for the purpose of mitigating impacts from this development. The cash contribution shall be used for transportation improvements, schools, libraries, fire and rescue, parks or any other public use serving Neighborhoods 4 & 5 as identified in the County's adopted capital improvements program.

- A. Contributions shall be payable as follows:
- i. For new market rate attached townhome/condominium units: **\$11,900** each for **14** units payable prior to or at the time of issuance of the building permit for each unit.
 - ii. For new market rate attached multifamily units: **\$12,400** each for **4** units payable prior to or at the time of issuance of the building permit for each unit.
 - iii. For new market rate detached single family units: **\$17,500** each for **4** units payable prior to or at the time of issuance of the building permit for each unit.
- 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 Marshall & Swift ceases publication of the Index identified herein. In no event shall any cash contribution 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. **TRANSPORTATION IMPROVEMENTS**

- A. Park View Drive Improvements. In order to mitigate traffic impacts resulting from the Project, the Owner shall design and construct to standards established by the County Engineer, in the location shown on the Application Plan of Blue Ridge Cohousing, Sheet 6 of 7, dated June 25, 2007, last revised October 19, 2007, (hereinafter, the "Application Plan") a private road upgrade of Parkview Drive. The improvements as shown on Sheet 4 of 7 includes an eighteen (18) foot wide paved road and an eight (8) foot wide bike trail adjacent to the road. Construction of all improvements required by this Proffer shall be completed and accepted by the County Engineer prior to the issuance of the first Certificate of Occupancy for new dwellings.
- B. Intersection Improvements to Park View Drive/Route 240. The Owner shall design and construct to Virginia Department of Transportation road standards, an intersection that meets the requirements for road intersections as stated in VDOT's Road Design Manual - Subdivision Street Guide, in the location shown on the Application Plan, Sheet 6 of 7. Construction or installation of all improvements required by this Proffer shall be completed and accepted by VDOT prior to the issuance of the first Certificate of Occupancy for new dwellings.

| Signatures of All Owners | Printed Names of All Owners | Date |
|-------------------------------------|-----------------------------|-------------------|
| <u>(Signed) Martin Schulman</u> | <u>Martin Schulman</u> | <u>11/05/2007</u> |
| <u>(Signed) Barbara S. Schulman</u> | <u>Barbara S. Schulman</u> | <u>05/11/2007</u> |