

ACTIONS	
Board of Supervisors Meeting of December 12, 2007	
December 17, 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 2:03 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. Work Session: Five Year Financial Plan, continued discussion. <ul style="list-style-type: none"> HELD. 	
3. Code of Governance. <ul style="list-style-type: none"> HELD. 	
4. Closed Session. <ul style="list-style-type: none"> At 5:28 p.m., the Board went into closed session 	
5. Call to Order. <ul style="list-style-type: none"> Meeting was called back to order at 6:09 p.m., by the Chairman, Mr. Boyd. 	
5a. Certify Closed Session. <ul style="list-style-type: none"> Motion was immediately offered to certify the Closed Session which passed by a vote of 6:0. 	
Non Agenda Item: Appointments. <ul style="list-style-type: none"> APPOINTED Alan Collier (Rivanna), David Cooke (Jack Jouett), Rosa Hudson (Scottsville), C. Marshall Thompson (Rio), and Alice Nye Fitch (Samuel Miller) to the Equalization Board with said terms to expire December 31, 2008. 	<u>Clerk:</u> Prepare appointment/reappointment letters, update Boards and Commissions book, update webpage, and notify appropriate persons.
8. From the Board: Matters Not Listed on the Agenda. <u>Sally Thomas:</u> <ul style="list-style-type: none"> Due to the drought, the Board encouraged citizen's on private wells to conserve water. The Board DIRECTED staff to bring back wording for a resolution requesting voluntary compliance with a similar set of guidelines required for public water users for well water users. <u>Lindsay Dorrier:</u> <ul style="list-style-type: none"> APPROVED, by a vote of 6:0, drafting a resolution to commend the MHS Football team for winning the State Championship. <u>Ken Boyd:</u> <ul style="list-style-type: none"> ADOPTED, by a vote of 6:0, resolution in opposition to the practice of Payday Loan Lending. 	<u>Clerk:</u> Draft Resolution for January 9, 2008 agenda. <u>Clerk:</u> Draft resolution and forward to School Board Office. <u>Clerk:</u> Forward signed resolution to Peter Perdue and appropriate individuals. (Attachment 1)
9. From the Public: Matters not Listed on the Agenda. <ul style="list-style-type: none"> Veronica Wilson of IMPACT addressed the Board regarding the need for affordable housing. Peter Perdue thanked the Board for adopting the Payday Loan Resolution. Harvey Wilcox urged the Board to correct the lapse in enforcement of a conservation easement located on Turner Mountain Wood in Ivy. Valerie Long, representing the owners of the Turner Mountain Wood property, asked to be notified when this item comes before the Board 	

	so that they can be involved in the discussion.	
11.	<p><u>SP-2007-0034. First Church of the Nazarene – Church.</u></p> <ul style="list-style-type: none"> • APPROVED SP-2007-00034, by a vote of 5:1 (Thomas), subject to the six conditions recommended by the Planning Commission, modified at the Board meeting, and a 7th condition added at the Board meeting. 	Clerk: Set out conditions of approval. (Attachment 2)
	The Board took a brief recess at 7:57 p.m. and reconvened at 8:04 p.m.	
12.	<p><u>ZMA-2004-022, Treesdale Park (Sign #33).</u></p> <ul style="list-style-type: none"> • APPROVED ZMA-2004-22, by a vote of 5:1 (Wyant), inclusive of Application Plan dated November 20, 2007, and proffers dated Dec. 12, 2007, signed December 3, 2007. 	Clerk: Set out applicant's proffers. (Attachment 3)
13.	<p><u>SP-2007-021. Beth Goldstein (Yoga Meditation Studio) – (Sign #46)</u></p> <ul style="list-style-type: none"> • APPROVED SP-2007-021, by a vote of 6:0, subject to the five conditions recommended by the Planning Commission and modified at the Board meeting. 	Clerk: Set out conditions of approval. (Attachment 4)
14.	<p><u>ZMA-2007-004. Oakleigh Farm (Sign #62).</u></p> <ul style="list-style-type: none"> • DEFERRED ZMA-2007-004, by a vote of 6:0, to the next appropriate meeting. 	Clerk: Schedule on future agenda.
15.	<p><u>ZMA-2007-006. Three Notch'd Center.</u></p> <ul style="list-style-type: none"> • APPROVED ZMA-2007-06, by a vote of 6:0, inclusive of the application plan dated August 15, 2007 and proffers dated December 11, 2007 and signed December 12, 2007. 	Clerk: Set out applicant's proffers. (Attachment 5)
16.	<p><u>ZMA-2007-011. Patterson Subdivision.</u></p> <ul style="list-style-type: none"> • REFERRED ZMA-2007-011, by a vote of 6:0, back to the Planning Commission for further review. 	Clerk: Reschedule on agenda when ready to come back to Board.
17.	<p><u>ZMA-2007-014. Liberty Hall Amendment (Sign # 36 & 39)</u></p> <ul style="list-style-type: none"> • APPROVED ZMA-2007-14, by a vote of 6:0, inclusive of the amended proffers dated and signed November 21, 2007. 	Clerk: Set out applicant's proffers. (Attachment 6)
18.	<p>From the Board: Committee Reports. Sally Thomas:</p> <ul style="list-style-type: none"> • Commented that if any Federal Funds are used in the construction of the Crozet Library, the property must go through Section 106 review. • The Southern Albemarle District has been added to the Historic Register. • The Historic Preservation Committee will be coming to the Board with suggestions on its membership. • Said she has reports on what Maryland is doing with the BRAC plans in their state. Albemarle might be able to use it as a model. • Invited Board members to TJPDC Open House on December 13, 2007. • The TJPDC asked each jurisdiction to present local reports at meetings. She thanked Albemarle County for the information on cash proffers. • She encouraged Board members to volunteer for 	

<p>VACO committees.</p> <ul style="list-style-type: none"> Chesapeake Bay Stewardship awards have gone to Charlottesville and UVA. She would like to work on Albemarle County being recognized as well. <p><u>Dennis Rooker:</u></p> <ul style="list-style-type: none"> There was a meeting on Charitable Land Trust. He suggested that the Housing Committee get a copy of the strategies that was presented at the meeting. Bill Edgerton, of the County Planning Commission, has the Power Point that was presented. <p><u>David Slutzky:</u></p> <ul style="list-style-type: none"> The Safer Chemicals Committee is close to presenting information to the Board. The Affordable Housing Task Force met, and there was a discussion of what the charge should be. He will share information individually with other each Board member. The MPO will be making a presentation to the Board on January 9, 2008. 	
<p>19. Adjourn to Wednesday, January 9, 2008, 9:00 a.m., Lane Auditorium.</p> <ul style="list-style-type: none"> The meeting was adjourned at 11:28 p.m. 	

ewj/mrh

- Attachment 1 – Resolution - Payday Lending Practices
- Attachment 2 – Conditions of Approval for SP-2007-0034 - First Church of the Nazarene
- Attachment 3 – Proffers – ZMA 2004-022. Treesdale Park
- Attachment 4 – Conditions of Approval for SP-2007-21 - Beth Goldstein (Yoga Mediation Studio)
- Attachment 5 – Proffers - ZMA-2007-006. Three Notch'd Center
- Attachment 6 – Proffers – ZMA-2007-014. Liberty Hall

**RESOLUTION
OF THE BOARD OF SUPERVISORS, ALBEMARLE COUNTY, VIRGINIA
TO REQUEST THAT THE GENERAL ASSEMBLY AND GOVERNOR OF VIRGINIA TAKE ACTION TO
PREVENT EXPLOITATIVE PAYDAY LENDING PRACTICES IN THE COMMONWEALTH**

WHEREAS, the Board of Supervisors of Albemarle County, Virginia, represents the citizens of the County of Albemarle, Virginia; and

WHEREAS, the Board of Supervisors of Albemarle County, Virginia, senses from the citizens of the County of Albemarle significant concern over what are perceived to be some exploitative payday lending practices in the County of Albemarle and elsewhere in the Commonwealth, including practices which may exploit dedicated, brave women and men who are called for deployment as part of the armed forces of our Nation both in the United States and various parts of the world in the cause of freedom and security of our Nation; and

WHEREAS, the Board of Supervisors of Albemarle County, Virginia, shares these same significant concerns and wishes to express the collective sentiments of the people of the County of Albemarle, Virginia, that the General Assembly and Governor of Virginia, ought to take action to prevent further exploitative payday lending practices; and

WHEREAS, it is vital that the General Assembly and the Governor of Virginia give their earnest attention to these matters at the next regular session of the General Assembly and enact laws that will prevent further exploitative payday lending practices.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of the County of Albemarle, Virginia, that the General Assembly and the Governor of the Commonwealth of Virginia are requested to take action in connection with the next regular session of the General Assembly of Virginia to enact laws that will prevent further exploitative payday lending practices, including but not limited to:

1. Enactment of an annual interest rate cap of 36% for any consumer loans made in the Commonwealth of Virginia;
2. Prohibition of the use of a personal check or other method by a creditor to gain access to a consumer's bank account or method to gain title to a consumer's motor vehicle as collateral for a payday loan; and
3. Enactment of supplementary and complementary provisions which mirror the provisions of what is commonly referred to as the Talent-Nelson Amendment (Senate Amendment 4331), entitled "Terms of Consumer Credit Extended To Service Member's Dependent" and referenced on page S6352 of the June 22, 2006 Congressional Record—Senate, a copy of which is annexed to and incorporated by reference in this Resolution.

**CONDITIONS OF APPROVAL
SP- 2007-00034 First Church of the Nazarene**

- 1) The church's improvements and the scale and location of the improvements shall be developed in general accord with the conceptual plan entitled "Charlottesville First Church of the Nazarene", prepared by The McKnight Group, and dated November 20, 2007, provided that:
 - a) Entrance improvements shall be approved by VDOT prior to final site plan approval, and shall include a right-turn lane at the entrance;
 - b) All parking setbacks and undisturbed buffers required by Zoning Ordinance § 21.7, Minimum Yard Requirements, shall apply; and
 - c) The number of parking spaces shall not exceed one hundred fifty (150) without amendment of this special use permit. Relegated parking should be used to the greatest extent possible.
- 2) The area of assembly shall be limited to a maximum three hundred seventy-four (374)-seat sanctuary;
- 3) Facilities on the site shall be used for church activities and shall not be rented or used for separate commercial uses available to the public. A daycare facility shall require approval of an additional special use permit for that use;
- 4) All outdoor lighting shall be arranged or shielded to reflect light away from the abutting properties. A lighting plan reasonably limiting the amount of adverse outdoor light pollution shall be submitted to the Zoning Administrator for approval as a condition of preliminary site plan approval;
- 5) Virginia Department of Health approval of well and septic systems before final site plan approval;
- 6) If the use, structure, or activity for which this special use permit is issued is not commenced within the meaning of Zoning Ordinance § 31.2.4.4 by December 12, 2012, the permit shall be deemed abandoned and the authority granted thereunder shall thereupon terminate; and
- 7) The plans shall be in general accord with the architectural renderings presented by the applicant at this meeting (December 12, 2007), subject to modification by the Architectural Review Board.

Original Proffer: December 12, 2007

PROFFER FORM

Date: December 12, 2007

ZMA # 2004-022

Tax Map and Parcel Number(s): 61-182; 61-183; and 61-183A

6.646 Acres to be rezoned from R-4 to PRD (Planned Residential Development) in conjunction with the "Application Plan," sheet C-4.0 of the Treesdale Park ZMA Application Plan package prepared by the Cox Company, last revised on November 20, 2007 and with Proffer Attachment 1 (see Sheet A-1.0 on page 7 of these proffers).

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. Maximum Residential Density. The number of residential dwelling units that may be developed in Treesdale Park shall not exceed 90 units.
2. Road Improvements. Applicant (also referred to herein as the "Owner") shall cause completion of the following road improvements:
 - A. Rio Road Improvements and Internal Connections. The Owner shall dedicate public right-of-way and construct all public road improvements and internal private connections to the signal at Pen Park Lane shown on Attachment 1 (Sheet A-1.0).

The Owner shall dedicate land fronting Rio Road from the northern property line to the Treesdale Park entrance for the construction of a deceleration/turn lane into the project. The Owner shall also dedicate land fronting Rio Road from the Treesdale Park entrance to the southern property line for the construction of a deceleration/turn lane which is shown on Attachment 1 (Sheet A-1.0).
 - B. Proposed Signal at the Stonewater Entrance and Rio Road/Pen Park Lane Intersection. Within 30 days after VDOT determines that a traffic signal is warranted at the intersection of the Stonewater Entrance and Rio Road/Pen Park Lane, the Owner shall make a cash contribution to the County equivalent to its one-third share of the total costs associated with the design, installation of all required signals at Rio Road and Pen Park Lane and all associated intersection improvements.
 - C. The Owner shall not request that a certificate of occupancy be issued for any building in Treesdale Park prior to the completion of the improvements and the dedication of land and public improvements delineated in Proffer 2(A) and shown on Attachment 1 (Sheet A-1.0).
3. Affordable Housing. The Owner shall provide affordable housing (as described herein) ("Affordable Units") equal to one hundred percent (100%) of the total residential units constructed on the Property, in the form of for-rent apartments. Each subdivision plat and site plan for the Property, other than those executed for purposes other than the creation of housing units, shall designate the units that will, subject to the terms and conditions of this proffer, incorporate Affordable Units as described herein.

Affordability; Rental Rates. For the purposes of this Proffer 3, “Affordable Units” shall mean rental units which have gross rents (rent plus tenant-paid utilities) that do not exceed 120% of Fair Market Rents published by the U.S. Department of Housing and Urban Development (HUD); provided that, 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 3, the term “net rent” means that the rent does not include tenant-paid utility costs.

Term. The requirement that the rents for such for-rent affordable units may not exceed the maximum rents established in this Proffer 3 shall apply for a period of fifteen (15) years following the date the certificate of occupancy is issued by Albemarle County for each for-rent affordable unit, or until the units are sold as low or moderate cost units qualifying as such under the County’s Affordable Housing Policy.

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 Proffer 3. 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 disclosure of the restrictions and controls established by this Proffer 3. At least thirty (30) days prior to the conveyance of any interest (other than for the securing of a mortgage or deed of trust) in any for-rent affordable unit during the Affordable Term, the then-current owner shall notify the Albemarle County Chief of Housing in writing of the conveyance and provide the name, address and telephone number of the potential grantee, and state that the requirements of this Proffer 3 have been satisfied.

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

4. Meadow Creek Parkway Greenway Trail Easement Dedication. The Owner shall dedicate to public use land within a 30-foot wide access easement to Albemarle County for a “greenway trail”. This greenway trail shall serve as a pedestrian path through the Property connecting to the section of the proposed Meadow Creek Parkway Greenway trail, and its alignment and layout shall be in general accord with the schematic design depicted on the Application Plan. The ultimate design and location of the trail shall be established by the Director of Planning in consultation with the Director of Parks and Recreation and shall provide access to the Meadow Creek Parkway Greenway. If the Greenway trail easement is not dedicated by the first final subdivision plat, the Owner shall be responsible for the cost of a survey and preparing the deed and plat to convey the Greenway trail easement to the County before the first final site plan approval. After it is dedicated to public use, the Greenway Trail and all land within the access easement shall continue to be included in the total area of open space and amenities within the Property.

If the owner of the adjacent property, Tax Map 61 Parcel 84, dedicates to public use a Greenway trail easement that would serve as a substitute for the Greenway trail easement described in this proffer to the satisfaction of the Director of Planning in consultation with the Director of Parks and Recreation prior to approval of the first final subdivision plat or site plan on the Property, then this proffer shall be deemed satisfied.

5. Transit Reservation Area. The Owner shall reserve an area for a bus pull-off from Rio Road within the northeast portion of the site, within the common open space area located directly to the east of Building 1 in general accord with the Application Plan. Should fixed-route bus service associated with the Charlottesville Transit Service (CTS) ever be extended to serve the section of Rio Road adjacent to the site, upon demand of the

County, the Owner, at its own expense, shall construct the bus stop to accommodate a bus pulling off Rio Road and picking up riders in a dedicated lane located within the Property. In conjunction with the bus pull-off area, the Owner shall also construct a small transit shelter to complete the bus stop. The specific design standards of the bus pull-off and the shelter shall be determined by VDOT, CTS, and the Director of Community Development within sixty days of the County's formal request for the transit stop. In the absence of any fixed-route service, Treesdale Park shall be designed to accommodate the CTS On-demand Link or JAUNT service within the community as a means of providing public access to residents per the existing programs.

6. Off-Site Improvements. The Owner shall provide stormwater management within the area depicted on the Application Plan which may also be used as a shared stormwater management and Best Management Practices (BMP) facility to serve both Treesdale Park and the development of Tax Map 61-84. No final site plan shall be approved until all easements necessary for the off-site improvements shown on the Application Plan have been recorded. These off-site improvements include grading, stormwater management, construction of an accessway to the stormwater management facility and transportation improvements to the intersection of Rio Road and Pen Park Lane.
7. EarthCraft Standards for Multifamily Development. The Owner shall cause all multifamily buildings within the Project to be designed and constructed so as to be rated a minimum of "Certified" under the EarthCraft Green Building Rating System for multifamily development, as set forth in the EarthCraft House Technical Guidelines, version November, 2006. Prior to the issuance of a building permit, the Owner shall submit a certification from the EarthCraft certified project architect to the Director of Community Development that the building plan meets the EarthCraft standards. Before the Owner requests a certificate of occupancy for any building for which a licensed architect rendered such a certificate, the Owner shall submit to the County's Director of Community Development documentation that the building is EarthCraft certified.
8. Erosion and Sediment Control Measures. In order to provide a higher level of Erosion and Sediment Control than is required by current State and Local regulations, the Owner shall adopt construction procedures and practices that provide additional soil stabilization measures to achieve permanent stabilization immediately upon reaching final grades, but no more than six months from the start of construction. These procedures and practices shall include:
 - A. Utilize wire reinforced silt fence rather than standard silt fence.
 - B. Immediately upon reaching final grade, utilize permanent seed and matting to stabilize all slopes steeper than 3H:1V.
 - C. Stabilize with temporary seeding all disturbed areas that are not at final grade but will remain dormant longer than 14 days.
 - D. Place fencing prior to the start of construction around areas to be conserved.
 - E. Other measures deemed better or equivalent by the County Engineer.

Submitted as of the 12th day of December, 2007, by:

ALBEMARLE HOUSING IMPROVEMENT PROGRAM, INC.

A Virginia nonstock, 501(c)3 non-profit corporation

By:

Its Executive Director

By: (Signed) Theresa L. Tapscott

Its: Executive Director

Date: 12-03-2007

CONDITIONS OF APPROVAL

SP-2007-021. Beth Goldstein (Yoga Mediation Studio)

- 1) The school use shall be limited to a school of yoga and meditation instruction, and the location and scale of improvements for that use shall be developed in general accord with the conceptual plan titled "Ms. Beth Goldstein/Yoga-Meditation Studio," prepared by Studio Elle, LLC, dated 8-2-07, and revised 10/3/07, provided that:
 - a) Staff approval of a revised landscape plan shall be required. Plantings for screening of the parking lot, to consist of a naturalistic pattern of multi-species trees and shrubs, as listed in the brochure titled "Native Plants for Conservation, Restoration, and Landscaping: Piedmont Plateau," published by the Virginia Department of Conservation and Recreation, are to extend along the northwest edge of the parking area from the property line to the existing framed shed shown on the conceptual plan. These plantings to be arranged in a density that would mitigate views of the parking area, with a spacing allowing the natural form/habit of the plant material to be recognized.
- 2) Maximum attendance on any day shall be eighteen (18) students;
- 3) No outdoor amplified sound systems shall be operated for the school use;
- 4) Classes shall take place on no more than twenty (20) days per calendar month. Hours of operation shall be no earlier than 8 a.m. and no later than 8 p.m.;
- 5) The use shall not commence and the zoning clearance for the use shall not be issued until:
 - a) The Virginia Department of Transportation approves the sight-distance easements and the construction of the entrance improvements;
 - b) The Virginia Department of Health approves well and septic systems; and
 - c) Community Development staff approves a revised landscaping plan for SDP-2007-00095 that satisfies Condition 1(a).

Original Proffer X
Amended Proffer _____
(Amendment # _____)

PROFFER FORM

Date: 12 /11/2007 ZMA # 2007 – 006 Tax Map Parcel(s) # 56 A(3) – 9, 11

2.32 Acres to be rezoned from LI to PD-SC
in accordance with the Application Plan prepared by NP Engineering dated 1/2/07 revised 8/15/07

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.

The development of the Property shall be limited to those uses allowed by right under Section 18-25.2.1 and those uses allowed by special use permit under Section 18-25.2.2 of the Albemarle County Code, excepting those by right uses delineated in Sections 18-22.2.1, 18-23.2.1 and 18-24.2.1 listed below, as all of those sections are in effect on December 12, 2007, copies of which are attached hereto. The following by right commercial and service establishments shall not be permitted on the Property:

- (1) The Permitted uses of the property, and/or uses authorized by special use permit, shall be only those uses allowed by Albemarle County Code Section 18-25.2 in effect on 12/12/2007. The by right uses permitted under Albemarle County Code Section 18-25.2.1.1, the C-1, CO, and HC uses cross-referenced therein shall include only those commercial and service establishments allowed in Albemarle County Code Sections 18-22, 18-23, and 18-24 in effect on 12/12/2007 except the following:
 - A. Cemeteries: 18-22.2.1.b3, 18-23.2.1.4, 18-24.2.1.5
 - B. Fire & rescue squad stations: 18-22.2.1.b6, 18-24.2.1.13
 - C. Indoor theaters: 18-22.2.1.b9, 18-24.2.1.38
 - D. Libraries, museums: 18-22.2.1.b12, 18-23.2.1.5
 - E. Automobile service stations 18-22.2.1.b16, 18-24.2.1.5
 - F. Automobile, truck repair shop, excluding body shop: 18-22.2.1.b22, 18-24.2.12
 - G. Hotels, motels and inns: 18-24.2.1.20
 - H. Mobile home and trailer sales: 18-24.2.1.23
 - I. Modular bldg sales: 18-24.2.1.24
 - J. Motor vehicle sales, service and rental: 18-24.2.1.25
 - K. Building material sales: 18-24.2.1.4
 - L. Light warehousing: 18-24.2.1.21
 - M. Machinery and equipment sales, service, and rental: 18-24.2.1.22
 - N. New automotive parts sales: 18-24.2.1.26
 - O. Sale of major recreational equipment and vehicles: 18-24.2.1.32
 - P. Wholesale distribution: 18-24.2.1.34
 - Q. Heating oil sales and distribution: 18-24.2.1.39
 - R. Indoor athletic facilities: 18-22.2.1.b24, 18-24.2.1.42

Copies of Albemarle County Code Sections 18-22.2.1, 18-23.2.1, 18-24.2.1, and 18-25.2 on 12/12/2007 are attached as Exhibit A.

(Signed) Jeffrey S. Sprouse
Signatures of All Owners

Jeffrey S. Sprouse (TMP 56A3-11)
Printed Names of All Owners

Date

(Signed) Jeffrey Sprouse

Jeffrey Sprouse (TMP 56A3-9)

12/12/07

Original Proffer _____
Amended Proffer X**AMENDED PROFFER FORM**Date of Proffer Signature: 11/21/2007
ZMA #2007-00014
Tax Map Parcels: 56-97A; 56-97A18.01 Acres to be rezoned from NMD (Neighborhood Model District) with Proffers [ZMA 2005-00051 to NMD (Neighborhood Model District) with Amended Proffers

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. The Owner shall contribute \$137,600 (\$3,200 per unit for 43 units) cash to the County's capital improvement program for the purpose of mitigating impacts from this development. The cash contribution shall be used for transportation improvements (i.e. Eastern Avenue), schools, libraries, fire and rescue, parks or any other public use serving the Community of Crozet as identified in the Crozet Master Plan. Contributions shall be payable under one of the following methods, which shall be designated by the County: (1) ninety (90) days after receipt of written notice by the Owner from the County identifying a Capital Improvement Project within the Community of Crozet for which the cash would be applied, provided that contributions for a Capital Improvement Project shall not exceed \$50,000 during any sixty (60) day period and said request is after the County's approval of the first final site plan or subdivision plat within the Project, or (2) in increments of \$3,200 cash per lot, for any market-rate townhouse or new detached single family dwelling unit prior to or at the time of issuance of a building permit for any improvement thereon. If the cash contribution has not been exhausted by the County for the stated purpose within (10) ten years from the date of the County's receipt of the final contribution, all unexpended funds shall be applied to a project(s) identified in the County's Capital Improvements Program for the Community of Crozet.
2.
 - A. The Owner shall provide eight (8) units of affordable housing for lease or sale as identified on the General Development Plan produced by Timinons Group, dated August 15, 2005 and last revised April 6, 2006, entitled "Application Plan — Figure 2". The eight (8) units shall be comprised of one or more of the following unit types: single-family attached housing (townhouses), condominiums or apartments/flats for rental. The Owner or his successor in interest reserves the right to achieve the eight (8) equivalent affordable 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 subject property. The current Owner or subsequent Owner shall create units affordable to households with incomes less than 80% of the area median income, such that housing costs consisting of principal, interest, real estate taxes and homeowner's insurance (PITT) do not exceed 30% of the gross household income.
 - 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/Builder shall provide the County or its designee a period of 180 days to identify and pre-qualify an eligible purchaser for the affordable units. The 180-day period shall commence upon written notice from the Owner that the units will be available for sale. This notice shall

not be given more than 120 days prior to the anticipated receipt of the certificate of occupancy. If the County or its designee does not provide a qualified purchaser during this period, the Owner shall have the right to sell the unit(s) without any restriction on sales price or income of purchaser(s). If these units are sold, this proffer shall apply only to the first sale of each of the eight (8) units.

ii. For-Rent Affordable Units

1. **Rental Rates For-Lease Affordable Units** The gross lease amount, including tenant paid utilities, shall not exceed one-hundred twenty (120%) percent of the fair market value of rentals published by the Department of Housing and Urban Development that is in effect when the Unit(s) is available for occupancy. 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 1b(i) 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 low or moderate cost units qualifying as such under either the Virginia Housing Development Authority, Farmers Home Administration, or Housing and Urban Development, Section 8, whichever comes first (the “Affordable Term”).
2. **Conveyance of Interest** — All deeds conveying any interest in the for-rent affordable units during the Affordable Term shall contain language reciting that such unit is subject to the terms of this paragraph 1. 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 SB. 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 1b(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.

3. Within 30 days after VDOT determines that a traffic signal is warranted at the intersection of Radford Lane and Route 250 or at the intersection of Eastern Avenue and Route 250, the Owner shall make a cash contribution to the County to pay for its share of the cost to install a traffic signal by others. The Owner's cash contribution shall be based upon the traffic volume generated by this site at the intersection, as compared to the total traffic volume at the intersection creating the need for the traffic signal, as determined by VDOT, Albemarle County, or the Owner's traffic consultant with the review and approval by VDOT and Albemarle County, and be determined by Albemarle County using an equitable method for determining the Owner's pro-rata share of the cost. This proffer shall be in effect until December 31, 2013.
4. The Owner shall dedicate and convey to Albemarle County, prior to the first final site plan approval, a 10-ft wide access easement to accommodate the construction, maintenance, and use of a Class B primitive trail connecting a sidewalk at the northern end of "Road D" to the property line adjacent the 20' sewer easement on TMP 56-97 as shown on the General Development Plan. The access easement shall be shown on the subdivision plat or site plan for the underlying or adjacent lands within the Project and constructed by Owner in conjunction with the improvements for that subdivision plat or site plan. The primitive trail shall be designed and constructed in accordance with the standards identified in the Albemarle County Comprehensive Plan, Appendix A — Greenway Plan. If the primitive trail access easement is not dedicated as part of a subdivision plat, the Owner shall pay all costs of surveying and preparing legal documents in a form acceptable to the County Attorney necessary to dedicate the easement.
5. Overlot grading Plan — Plats: The Owner shall submit an over-lot grading plan (hereinafter the "Plan") meeting the requirements of Proffer 5 with the application for each subdivision of the Property into single family detached lots and single family attached dwelling units shown on the General Development Plan. The Plan shall show existing and proposed topographic features to be considered in the development of the proposed subdivision. The Plan shall be approved by the County Engineer prior to final approval of the site plan or subdivision plat. The Property within the subdivision shall be graded as shown on the approved Plan. No certificate of occupancy shall be issued for any dwelling on a lot where the County Engineer has determined the lot grading is not consistent with the approved grading Plan. The Plan shall satisfy the following:
 - A. The Plan shall show all proposed streets, building sites, setbacks, surface drainage, driveways, trails, and other features the County Engineer determines are needed to verify that the Plan satisfies the requirements of this proffer.
 - B. The Plan shall be drawn to a scale not greater than one (1) inch equals fifty (50) feet.
 - C. All proposed grading shall be shown with contour intervals not greater than two (2) feet. All concentrated surface drainage over lots shall be clearly shown with the proposed grading. All proposed grading shall be designed to assure that surface drainage can provide adequate relief from the flooding of dwellings in the event a storm sewer fails.

- D. Graded slopes on lots proposed to be planted with turf grasses (lawns) shall not exceed a gradient of three (3) feet of horizontal distance for each one (1) foot of vertical rise or fall (3:1). Steeper slopes shall be vegetated with low maintenance vegetation as determined to be appropriate by the County's program authority in its approval of an erosion and sediment control plan for the land disturbing activity. These steeper slopes shall **not** exceed a gradient of two (2) feet of horizontal distance for each one (1) foot of vertical rise or fall (2:1), unless the County Engineer finds that the grading recommendations for steeper slopes have adequately addressed the impacts.
- E. Surface drainage may flow across up to three (3) lots before being collected in a storm sewer or directed to a drainage way outside of the lots.
- F. No surface drainage across a residential lot shall have more than one-half (1/2) acre of land draining to it.
- G. All drainage from streets shall be carried across lots in a storm sewer to a point beyond the rear of the building site.
- H. The Plan shall demonstrate that an area at least ten (10) feet in width, or to the lot line if it is less than (10) feet, from the portion of the structure facing the street, has grades no steeper than ten (10) percent adjacent to possible entrances to dwellings that will not be served by a stairway. This graded area also shall extend from the entrances to the driveways or walkways connecting the dwelling to the street.
- I. Any requirement of this proffer may be waived by the County Engineer by submitting a waiver request with the preliminary plat. If such a request is made, it shall include: (i) a justification for the request contained in a certified engineers report; (ii) a vicinity map showing a larger street network at a scale no smaller than one (1) inch equals six hundred (600) feet; (iii) a conceptual Plan at a scale no smaller than one (1) inch equals two hundred (200) feet showing surveyed boundaries of the property; (iv) topography of the property at five (5) foot intervals for the property being subdivided and on abutting lands to a distance of one hundred (100) feet from the boundary line or a lesser distance determined to be sufficient by the agent; (v) the locations of streams, stream buffers, steep slopes, floodplains, known wetlands; and (vi) the proposed layout of streets and lots, unit types, uses, and location of parking, as applicable. In reviewing a waiver request, the County Engineer shall consider whether the alternative proposed by the Owner satisfies the purpose of the requirement to be waived to at least an equivalent degree. In approving a waiver, the County Engineer shall find that requiring compliance with the requirement of this condition would not forward the purposes of the County's Subdivision and Water Protection Ordinances or otherwise serve the public interest; and granting the waiver would not be detrimental to the public health, safety or welfare, to the orderly development of the Project, and to the land adjacent thereto.
- J. The Owner may request that the Plan be amended at any time. All amendments shall be subject to the review and approval by the County Engineer.
- K. In the event that the County adopts overlot grading regulations after the date ZMA 2005-00005 is approved, any requirement of those regulations that is less restrictive than any requirement of Proffer 5 shall supersede the corresponding requirement of this paragraph, subject to the approval of the Director of the Department of Community Development.

Signature of Owner:
(Signed) Marc C. Powell
Marc C. Powell, Manager
Weather Hill Development, LLC

Date: 11/21/2007