

**ACTIONS**  
**Board of Supervisors Meeting of March 19, 2008**

March 20, 2008

| <u>AGENDA ITEM/ACTION</u>  | <u>ASSIGNMENT</u>  |
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| <p>4. Call to Order.</p> <ul style="list-style-type: none"> <li>Meeting was called to order at 6:00 p.m. by the Chairman, Mr. Boyd. All BOS members were present. Also present were Bryan Elliott, Larry Davis, Wayne Cilimberg, and Meagan Hoy.</li> </ul>  |  |
| <p>7. From the Board: Matters not listed on the Agenda.</p> <p><u>Ann Mallek:</u></p> <ul style="list-style-type: none"> <li>Updated the Board on her recent Town Hall meetings.</li> </ul> <p><u>Sally Thomas:</u></p> <ul style="list-style-type: none"> <li>She would like a summary of the General Assembly actions that will specifically affect Albemarle County.</li> </ul> <p><u>Ken Boyd:</u></p> <ul style="list-style-type: none"> <li>The Board would like to leave the fireworks in the proposed budget for further discussion.</li> <li>No decisions made at this time regarding the EMS Revenue Recovery Fees. Mr. Boyd and Ms. Mallek will attend a meeting on Monday March 24 for further discussion with the task force.</li> <li>Matthew Tucker of the Department on Rail and Public Transportation expressed to Mr. Boyd that he would be happy to meet with the Board to discuss rail enhancement funds in the County. There was a <b>CONSENSUS</b> of the Board to have staff arrange for Mr. Tucker to come to a future meeting.</li> </ul> |  |
| <p>8. From the Public: Matters not Listed on the Agenda.</p> <ul style="list-style-type: none"> <li>Paul Accad addressed the Board, and suggested that a task force be formed to review Revenue Sharing and Land Use Taxation.</li> </ul>  |  |
| <p>10. <b><u>Community Development Block Grant.</u></b></p> <ul style="list-style-type: none"> <li><b>APPROVED</b>, by a vote of 6:0, the two attached resolutions approving submission of the applications, and authorized the County Executive to execute the applications and required certifications and assurances for both proposals.</li> </ul>   | <p>(Attachments 1 and 2)</p> <p><u>Clerk:</u> Forward signed resolutions to Ron White.</p> |
| <p>11. <b><u>PROJECT: ZMA-2004-018. Fontana Phase 4C (Signs #37,45).</u></b></p> <ul style="list-style-type: none"> <li><b>APPROVED ZMA-2004-018</b>, by a vote of 6:0, the rezoning with proffered plan dated July 30, 2007 and proffers dated February 24, 2008 and signed March 13, 2008.</li> </ul>  | <p>(Attachment 3)</p> <p><u>Clerk:</u> Set out proffers.</p>                               |
| <p>12. <b><u>PROJECT: ZMA-2006-014. Professional Office Building at Hydraulic &amp; Georgetown Rds. (Signs #58&amp;65).</u></b></p> <ul style="list-style-type: none"> <li><b>APPROVED ZMA-2006-014</b>, by a vote of 6:0, inclusive of proffers dated and signed March 18, 2008, code of development dated February 25, 2008, and general development plan dated</li> </ul>   | <p>(Attachment 4 and 5)</p> <p><u>Clerk:</u> Set out proffers and waivers.</p>             |

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|     | <p>January 19, 2007, revised February 25, 2008.</p> <ul style="list-style-type: none"> <li>• <b>APPROVED</b>, by a vote of 6:0, the five waivers.</li> </ul>  |  |
| 13. | <p><b><u>PROJECT: SP-2007-27 Emmanuel Episcopal Church Amendment (Sign #4).</u></b></p> <ul style="list-style-type: none"> <li>• <b>APPROVED</b>, by a vote of 6:0, the ten conditions with one modification made at the Board Meeting.</li> </ul>  | <p>(Attachment 6)</p> <p><u>Clerk:</u> Set out conditions of approval.</p> |
| 14. | <p><b><u>PROJECT: ZMA 2007- 011 Patterson Subdivision. (Signs #43&amp;61).</u></b></p> <ul style="list-style-type: none"> <li>• <b>APPROVED</b>, by a vote of 5:1 (Mallek) inclusive of the proffers dated February 19, 2008 and signed March 18, 2008, which include the proffered concept plan.</li> </ul>  | <p>(Attachment 7)</p> <p><u>Clerk:</u> Set out proffers.</p>               |
| 15. | <p>From the Board: Matters Not Listed on the Agenda.</p> <p><u>Sally Thomas:</u></p> <ul style="list-style-type: none"> <li>• Updated the Board on Chesapeake Bay issues.</li> <li>• WINA will give a time slot to each Board Member for 10 minutes after each Board meeting on a rotating basis.</li> </ul> <p><u>Ann Mallek:</u></p> <ul style="list-style-type: none"> <li>• She hopes to get a response to her inquiry about accessory apartments.</li> <li>• Updated the Board on the burial of the asphalt in the rural area.</li> <li>• The Board discussed the cell phone tower policy, and Mr. Cilimberg informed the Board that the Planning Commission will have a work session on the tower policy, and they will include the Board as invitees.</li> <li>• Western Park will have a Community Kick Off Tuesday March 25<sup>th</sup> at 7:00 p.m.</li> </ul> <p><u>Ken Boyd:</u></p> <ul style="list-style-type: none"> <li>• Discussed the potential uses for Evergreen Church, a historic Church on Proffit Road. Board Members were invited to attend the Historic Preservation Committee meeting on Monday March 24<sup>th</sup> to discuss the Church.</li> </ul> |  |
| 16. | <p>Adjourn.</p> <ul style="list-style-type: none"> <li>• The meeting was adjourned at 9:14 p.m.</li> </ul>  |  |

/mrh

Attachment 1 – CDBG Resolution

Attachment 2 – CDBG Resolution

Attachment 3 – Proffers - ZMA-2004-018. Fontana Phase 4C

Attachment 4 – Proffers - ZMA-2006-014. Professional Office Building at Hydraulic & Georgetown Roads

Attachment 5 – Waivers - ZMA-2006-014. Professional Office Building at Hydraulic & Georgetown Roads

Attachment 6 – Conditions of Approval - SP-2007-27 Emmanuel Episcopal Church Amendment

Attachment 7 – Proffers - ZMA 2007- 011 Patterson Subdivision

**RESOLUTION**

**WHEREAS**, the County of Albemarle is committed to ensuring that safe, decent, affordable, and accessible housing is available for all residents and improving the livability of all neighborhoods; and

**WHEREAS**, pursuant to Public Hearings held February 6, 2008 and March 19, 2008 the County of Albemarle wishes to apply for \$700,000 in Community Development Block Grant funds to support the production of a ninety (90) unit rental development known as Treesdale Park; and

**WHEREAS**, other resources estimated in excess of \$20,000,000 including, but not limited to, Low-Income Housing Tax Credits, HOME funds, Federal Home Loan Bank, the Crozet Crossings Housing Trust Fund, and VHDA loans will be invested in the project; and

**WHEREAS**, one hundred percent (100%) of the population residing at Treesdale Park Apartments will be very-low and extremely-low income as required by the Internal Revenue Service for federal low-income housing tax credits; and

**WHEREAS**, the County of Albemarle has committed to providing twenty-one (21) project-based Housing Choice Vouchers; and

**WHEREAS**, the projected benefits of the project include:

- Development of ninety (90) affordable rental units benefiting approximately 250 persons annually, one-third of whom are expected to be children;
- Construction of a community center; and
- Provision of services including afterschool school programs.

**NOW, THEREFORE, BE IT RESOLVED** that Robert W. Tucker, Jr., County Executive, is hereby authorized to sign and submit all necessary and appropriate documents for the Treesdale Park Virginia Community Development Block Grant application.

**RESOLUTION**

**WHEREAS**, the County of Albemarle is committed to ensuring that safe, decent, affordable, and accessible housing is available for all residents and improving the livability of all neighborhoods; and

**WHEREAS**, pursuant to Public Hearings held February 6, 2008 and March 19, 2008 the County of Albemarle wishes to apply for \$700,000 in Community Development Block Grant funds to support the production of a thirty-eight (38) unit senior rental development known as Crozet Meadows; and

**WHEREAS**, other resources include Low-Income Housing Tax Credits and the Crozet Crossings Housing Trust Fund will be invested in the project; and

**WHEREAS**, one hundred percent (100%) of the population residing at Crozet Meadows will be very-low and extremely-low income as required by the Internal Revenue Service for federal low-income housing tax credits; and

**WHEREAS**, the County of Albemarle has committed to providing eight (8) project-based Housing Choice Vouchers; and

**WHEREAS**, the projected benefits of the project include:

- Development of thirty-eight (38) new affordable rental units benefiting approximately 50 senior persons annually; and
- Rehabilitation of twenty-eight (28) existing senior rental units benefiting approximately 36 persons annually.

**NOW, THEREFORE, BE IT RESOLVED** that Robert W. Tucker, Jr., County Executive, is hereby authorized to sign and submit all necessary and appropriate documents for the Crozet Meadows Virginia Community Development Block Grant application.

Original Proffer \_\_\_\_\_  
Amended Proffer \_\_\_\_\_  
(Amendment # I to ZMA 94-06)

**PROFFER FORM FOR FONTANA PHASE 4C**

Date: February 24, 2008  
ZMA#04-18  
Tax Map and Parcel Number Tax Map 78E, Parcel A  
17.15 Acres to be rezoned from Ri, R4, RA to R4

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. These conditions are proffered as a part of the requested rezoning and it is acknowledged that such conditions are reasonable.

1. **Conformity with Plans:** Fontana Phase 4C shall be developed in general accord with the plans entitled, "Fontana — Phase 4C Rezoning Plan," prepared by Terra Engineering and Land Solutions, dated, July 30, 2007, a copy of which is attached hereto as Exhibit A, (the "Plan"). No more than thirty-four (34) dwelling units shall be developed in Fontana Phase 4C.
  
2. **Final Grading Plan:** The Owner shall submit a final grading plan meeting the requirements of this section (hereinafter, the "Final Grading Plan") with the application for each subdivision of the residential units shown on the Plan identified in Proffer 1 above. The Final Grading Plan shall show existing and proposed topographic features to be considered in the development of the proposed subdivision. The Final Grading Plan shall be approved by the County Engineer prior to the approval of the first preliminary subdivision plat. The subdivision shall be graded as shown on the approved Final Grading Plan. No certificate of occupancy shall be issued for any dwelling on a lot where the County Engineer has determined the lot is not graded consistent with the approved Final Grading Plan. The Final Grading Plan shall satisfy the following:
  - A. The Final Grading Plan shall show all proposed streets, building sites, 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 Final Grading Plan shall be drawn to scale not greater than one (1) inch equals fifty (50) feet.
  - C. All proposed grading shall be shown at contour intervals not greater than two (2) feet.
  - D. All concentrated surface drainages over lots shall be clearly shown with the proposed grading. All proposed grading shall be shown to assure that surface drainage can provide adequate relief from flooding of dwellings in the event a storm sewer fails. Graded slopes on lots proposed to be planted with turf grasses (lawns) shall not exceed a gradient of three (3) feet 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 from one-half (1/2) acre of land or from three (3) or more lots, whichever is greater in area, shall be collected in a storm sewer or directed to a drainage way outside of the lots.

- F. All drainage from streets shall be carried across lots in a storm sewer to a point beyond the rear of the building site.
  - G. The Final Grading Plan shall demonstrate that an area at least ten (10) feet in width, or to the lot line if the distance is less than ten (10) feet, from the portion of the structure facing the street has grades no steeper than ten (10) percent adjacent to possible entrances that shall 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.
  - H. Any requirement of this condition 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 engineer's 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 five hundred (500) 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,
  - I. 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.
3. **Affordable Housing:** The Owner shall contribute \$2,809.00 cash per dwelling unit, up to an aggregate maximum contribution of \$95,500.00 (equivalent to \$19,100 cash per unit as cash in lieu of five (5) affordable dwelling units) to the County for the purpose of affordable housing. Each cash contribution shall be due and payable with each application for a building permit. Each cash contribution shall be used for the purpose of funding affordable housing programs in Albemarle County. If this cash contribution has not been exhausted by the County for the stated purpose within ten (10) years after the last payment of the contribution, all unexpended funds shall be applied to any public use serving Neighborhood 3 Pantops.
4. **Trees:** At least one hundred-seventy (170) trees shall be planted or retained on the subdivided lots. Trees shall be distributed among all lots with a minimum of 5 trees per lot. The five trees to be counted on each lot shall be marked in the field for inspection purposes. The owner shall not request a certificate of occupancy until a final zoning inspection is performed and all required trees are in place.

**Standard for trees to be retained:** Deciduous trees to be retained shall be at least a 1 1/2 inch caliper d.b.h. and non-deciduous trees shall be at least four (4) feet in height. All trees to be retained shall be identified on erosion and sediment control plans, final grading plans, and road plans. A tree conservation plan in accordance with Section 32.7.9.4. of the Zoning Ordinance shall be submitted and approved prior to approval of any erosion and sediment control permit for grading.

**Standards for trees to be planted:** All trees shall be planted in accordance with either the standardized landscape specifications jointly adopted by the Virginia Nurserymen's Association, the Virginia Society of Landscape Designers and the Virginia Chapter of the American Society of Landscape Architects, or the road and bridge specifications of the Virginia Department of Transportation.. At planting, deciduous trees shall be at least a 1 1/2 inches in caliper d.b.h.; non-

deciduous trees shall be at least four (4) feet in height.

5. **Pedestrian Paths:** Pedestrian paths shown on the Plan shall be constructed according to the standards for Class A Type I pedestrian paths in the Albemarle County Design Standards Manual. The Owner shall not request that the County issue the ninth (9th) building permit until the paths have been completed to the satisfaction of the County Engineer.
6. **Cash proffer:** The Owner shall contribute \$17,500 cash to the County for each unit constructed within the Property for the purpose of mitigating impacts from the development. Each cash contribution shall be used for improvements for schools, libraries, public safety, parks and transportation as identified in the County's Capital Improvements Program. The cash contribution shall be paid in increments of \$17,500 for each unit prior to or at the time of issuance of a building permit for each unit. If this cash contribution has not been exhausted by the County for the stated purpose within five (5) years after the date, all unexpended funds shall be applied to any public use serving Neighborhood 3 Pantops.
7. **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 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 preceding calendar year, and the denominator of which shall be the Index as of December 1 in the year preceding the calendar year most recently ended. For each cash contribution that is being paid in increments, the unpaid incremental payments shall be correspondingly adjusted each year.
8. **Final Approval:** The Owner shall not submit an application for an erosion and sediment control permit for grading until improvements have been completed for phases 1, 2, 3, and 4A and 4B of the Fontana Subdivision and all bonds held by the County in conjunction with subdivision, stormwater management, and erosion control for prior phases have been released by the County.
9. **Architectural Standards:** The Owner shall require as part of the covenants for Fontana Phase 4C that all structures be constructed using medium shaded earth-tone colors for façade treatment of the buildings and dark, non-reflective materials for roofs. The colors for the façade treatments and the colors and materials for the roofs shall be subject to prior approval by the Director of Planning.
10. **Plan for Pedestrian Paths for Phases 1 2,3, 4A and 4B of Fontana Subdivision:** The Owner shall construct pedestrian paths in accordance with the plan entitled "Fontana Pedestrian Path Plan," prepared by Glenn Brooks 2-25-08, pages 1, 2 and 3. These paths shall be completed to the satisfaction of the County Engineer prior to grading in Phase 4C.

(Signed) A. M. Nichols  
Signature of Owner

A. M. Nichols, Trustee  
Fontana Land Trust

3/13/08  
Date

**PROFFER FORM**

Date of Proffer Signature: 03-18-2008  
ZMA: #06-014  
Tax Map and Parcel Number: 60F-3  
1.051 Acres to be rezoned from C-I to NMD

Pursuant to Section 33.3 of the Albemarle County Zoning Ordinance, the owner, or its duly authorized agent, hereby voluntarily proffers the conditions listed below which shall be applied to the property, if rezoned with the offered plans approved for development. These conditions are proffered as a part of the requested rezoning and it is acknowledged that the conditions are reasonable.

1. The Owner shall install a permanent 5-bike bicycle rack as shown on the revised plan entitled, "General Development Plan page 2 of 4", dated 1-19-07 and last revised 2-25-08, hereinafter referred to as the "Plan". Installation of the bicycle rack shall be completed prior to the issuance of the certificate of occupancy for the building to be erected on the property.
2. The Owner shall construct one bus shelter as shown on the Plan with the dimensions as follows: nine foot (9') - wide shelter with six foot (6') all metal bench with back. Construction of the bus shelter shall be completed prior to the issuance of the certificate of occupancy for the building to be erected on the property. If VDOT and the County transportation planner do not determine the location of the bus shelter prior to final site plan approval, then upon the subsequent determination of the shelter location by VDOT and the County transportation planner, and upon written request by the County, the Owner shall construct the shelter and metal bench in the selected location at its sole expense, but not to exceed seven thousand eight hundred dollars (\$7,800). The Owner shall complete construction of the shelter and bench within 90 days after the date of the written request by the County.
3. Each building to be constructed on the property shall be rated a minimum of "Certified" (or demonstrated to the County's Director of Community Development's satisfaction to be eligible to receive such certification) under the LEED-NC Green Building Rating System for New Construction and Major Renovations, Version 2.2 (October 2005) or the LEED Green Building Rating System for Core & Shell Development, Version 2.0 (July 2006), as applicable (collectively, the "LEED Compliant Commercial Space"). Prior to issuance of the building permit for any proposed LEED compliant space, the Owner shall provide to the County Director of Community Development a certification from a LEED certified architect that such space, if constructed in accordance with the building plans, is designed to achieve the minimum "Certified" rating under LEED provided in this Proffer 3. Before the Owner requests a certificate of occupancy for any building for which a LEED certified architect rendered such a certificate, the Owner shall submit to the County's Director of Community Development a written statement from the architect that the building was built to the plans on which the opinion was based. For each building containing LEED compliant space, the Owner shall provide a copy of the LEED certification to the County's Director of Community Development within one (1) year after the date the certificate of occupancy was issued for that building.
4. The preliminary and final site plan shall delineate the Conservation and Preservation Areas on the property. The Owner shall replace trees that must be removed in Conservation Areas. Replacement shall be two (2) trees of similar species or quality for each removed or destroyed tree. All tree replacement shall be in accord with the final landscape plan for the final site plan for the Property. The Owner's obligation to replace trees within the Conservation Areas shall be completed within the following planting season. The trees to be replaced must be in excess of 12" dbh and shall be replaced with trees of the same or a similar species or quality of not less than

2.5" dbh, as determined by the County's Director of Community Development.

CKW2 LLC  
(Signed) Chris Kabbach  
By: Chris Kabbash  
Its Member

03/18/2008

**Waivers - ZMA-2006-014. Professional Office Building at Hydraulic & Georgetown Roads**

1. Waiver of Section 8.4 of the Zoning Ordinance allowing this Planned Development in the Rural Areas (permitted by Section 8.2);
2. Reduction of the rear setback adjacent to RA from 50' to 47.5';
3. Critical slopes waiver;
4. Waiver of Section 20A.8 to allow one use rather than a mixture of uses and housing types; and
5. Waiver of Section 20A.9.b to allow reduction of amenities from the required 20% to 11% of the site.

**SP-2007-27 Emmanuel Episcopal Church Amendment**

1. There shall be no day care or private school on site without a separate special use permit;
2. Approval from the Health Department for the septic system and well shall be required prior to approval of an issuance of a building permit;
3. Future burials in the cemetery shall be limited to areas outside the one hundred (100)-year flood plain;
4. Expansion of the mausoleum structure shall require amendment to this special use permit. Tombs inside may be added;
5. Any future expansion of the church structures and/or size of assembly area shall require amendment of this special use permit;
6. Special Use Permit SP-2007-27 Emmanuel Episcopal Church shall be developed in general accord with the concept application plan, provided by the applicant and received December 21, 2007 (Attachment A). However, the Zoning Administrator may approve revisions to the concept application plan to allow compliance with the Zoning Ordinance;
7. Construction of the new building and columbarium, as identified on the concept site plan (Attachment A) shall commence on or before March 19, 2018, or this special use permit shall be deemed abandoned and the authority granted hereunder shall be thereupon terminate;
8. Tree protection measures shall be required on the erosion and sediment control plan in accordance with the Virginia Erosion and Sediment Control Handbook and the tree protection measures shall be installed prior to any land disturbing activity;
9. The parking lot shall be paved using prime and double seal surface or, at the option of the permittee, another surface material approved by the County Engineer deemed equivalent or better than a prime and double seal surface in regard to strength, durability, sustainability and long-term maintenance; and
10. 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 site plan approval.

**PROFFER FORM**

Date of Proffer Signature: February 19, 2008  
ZMA # 2007-00011  
Tax Map 55 Parcel Number 63

3.521 Acres to be rezoned from R-1 to R-6  
Patterson Subdivision

Emile Bethanne Patterson is the owner (the "Owner") of Tax Map 55, Parcel 63 (the "Property") which is the subject of rezoning application ZMA 2007-00011 known as "Patterson Subdivision" (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 acknowledged 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 1.8 Affordable Units, the Owner would provide 1 Affordable Unit pursuant to the terms described herein, and would contribute cash to the County in the amount of \$15,280 to be paid prior to issuance of a building permit for the first Affordable Dwelling Unit. The Owner reserves the right, however, to provide two (2) Affordable Units and concede, or gift, the fractional monetary interest, (2 Affordable Units minus 1.8 Affordable Units required equaling a 0.2 affordable overage) to Albemarle County, to meet the County's Affordable Housing Policy.

A. The Affordable Dwelling Units shall be comprised of single-family attached housing (townhouses) or single family detached houses at the Owner's option. 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 required to be less than the greater of One Hundred Ninety Thousand Four Hundred Dollars (\$190,400.00) 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 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 second lien Deed of Trust executed as part of this paragraph for the 15% required affordable housing 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 often (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 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). 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 that is not an Affordable Dwelling Unit.
  - iii. Zero Dollars (\$0.00) for each Affordable Dwelling Unit
- B. Beginning January 1, 2008, the amount of cash contribution required by Proffer Number 2 shall be adjusted annually until paid, to reflect 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 preceding calendar year, and the denominator of which shall be the Index as of December 1 in the year preceding the calendar year most recently ended. For each cash contribution that is being paid in increments, the unpaid incremental payments shall be correspondingly adjusted each year.

3. Total Number of Dwelling Units and Unit Types. There shall be no more than 10 dwelling units within the development. Of the 10 dwelling units permitted there shall be no more than two single-family attached units.
4. The property shall be developed in general accord with the "Concept Plan" dated February 19, 2008 attached hereto.

By: (Signed) Emile Bethanne Patterson  
Emile Bethanne Patterson (Owner)  
Date: 3/18/08