

Original Proffer _____
Amended Proffer _____
(Amendment # _____)

PROFFER FORM

Date: July 20, 2006

ZMA # 2002-004

Tax Map and Parcel Number(s) Tax Map Parcel 62-25; Tax Map 78 Parcels 59 and 59A;
and Tax Map Parcel 78E-H1

60.8 Acres to be rezoned from RA/R6 to NMD in accordance with the
Cascadia Code of Development prepared by Cline Design and dated July 12, 2006

Pursuant to Section 33.3 of the Albemarle County Zoning Ordinance, the Owner, or its duly authorized agent, hereby voluntarily proffers the conditions listed below which shall be applied to the property, if rezoned. These conditions are proffered as a part of the requested rezoning and it is agreed that: (1) the rezoning itself gives rise to the need for the conditions; and (2) such conditions have a reasonable relation to the rezoning request.

- 1) **Affordable Housing:** The Owner shall provide a number of affordable dwellings that is equal to or greater than fifteen percent (15%) of the total residential units constructed in Cascadia. The affordable dwellings shall be in the form of "for-sale" townhouses and condominiums and "for rent" townhouses, condominiums, apartments, accessory units, and Special Single-Family Dwelling and Duplex Units as defined by the Cascadia Code of Development. The affordable dwellings shall be reasonably dispersed throughout the property, subject to the requirements of the General Development Plan and the Code of Development.

A. Designation of Affordable Dwellings

1. The Owner shall designate individual affordable dwelling lots, units, and/or unit(s) within a townhouse block during final design. Where final design is pursued through the site plan process, the lot or unit shall be designated on the final site plan. All affordable dwellings designated on the final site plan shall be platted such that the responsibility for this proffer and sale/ rental of the designated affordable dwelling is consistent with the approved final site plan. Where final design is pursued through the subdivision platting process to create separate building lots, the affordable dwellings shall be designated on the preliminary plat. The responsibility for this proffer and the sale/ rental of any affordable dwelling shall be clearly designated with the final plat.
2. When required by paragraph A1, the Owner shall designate a minimum of fifteen percent (15%) of the aggregate number of lots or units on that site plan or subdivision plat as affordable dwellings. Notwithstanding the foregoing, the Owner may "carry-over" or "bank" credits for affordable dwellings in the event an individual site plan or subdivision plat designates affordable dwellings that in the aggregate exceed the

fifteen percent (15%) minimum for such site plan or subdivision plat, and such additional affordable dwelling may be allocated toward the fifteen percent (15%) minimum on any future site plan or subdivision plat, provided however, that the maximum number of affordable dwellings that may be carried over or banked shall not exceed fifteen percent (15%) of the total units on the site plan or subdivision plat.

3. After a lot, unit, or unit(s) within a townhouse block has been designated as containing an affordable dwelling, the requirement to provide the affordable unit shall run with that parcel and the responsibility for constructing and selling/ renting the affordable dwelling shall be with the then-current owner of the individual lot or unit.

B. Mixture of Types of Affordable Dwelling Units

1. At least thirty-three percent (33%) of the required affordable dwellings shall be for-sale units.
2. For purposes of this proffer, no more than thirty-three percent (33%) of the required affordable dwelling units may be Special Single-Family Dwelling and Duplex Units; however, nothing, except the maximum number of dwellings established in the Cascadia Code of Development, shall prohibit the Owner or its assigns from creating additional Special Single-Family Dwelling and Duplex Units.
3. The remainder of the required affordable dwellings shall be “for rent” townhouses, condominiums, apartments as defined in paragraph 1D.

C. For Sale Affordable Dwellings

For purposes of this proffer, a “for-sale affordable dwelling” shall be defined as a dwelling affordable to households with incomes less than eighty percent (80%) of the area median income such that housing costs consisting of principle, interest, real estate taxes, and homeowners insurance (PITI) do not exceed thirty percent (30%) of the gross household income.

All purchasers of the for-sale affordable units shall be approved by the Albemarle County Housing Office or its designee. The subsequent owner/builder shall provide the County or its designee a period of ninety (90) days to identify and prequalify for financing an eligible purchaser for the affordable unit. The ninety (90)-day period shall commence upon written notice from the then-current owner/builder that the unit(s) will be available for sale. If the County or its designee does not provide a qualified purchaser who executes a contract of purchase during this ninety (90)-day period, the then-current owner/builder shall have the right to sell the unit(s) without any restriction on sales price or income of the purchaser(s), provided, however, that any unit(s) sold without such restriction shall nevertheless be counted toward the number of affordable units required to be provided pursuant to this terms of this paragraph 1C. The requirements of this paragraph 1C shall apply only to the first sale of each of the affordable units.

The Owner reserves the right to meet the for-sale affordable dwelling criteria on the market rate for-sale units by retaining a no interest, junior deed of trust that is acceptable to the primary mortgage lender. This junior deed of trust cannot exceed the difference between the sale price and the appraised value of the unit. This junior mortgage may be assigned to a third party.

D. For Rent Affordable Dwellings

1. Rental Rates. The initial net rent for each for-rent affordable unit shall not exceed the then-current and applicable maximum net rent rate approved by the Albemarle County Housing Office. In each subsequent calendar year, the monthly net rent for each for-rent affordable dwelling 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.
 2. Affordable Term. Rents for such for-rent affordable dwellings shall not exceed the maximum rents established in paragraph 1D1 for a period of five (5) years from the date of issuance of a certificate of occupancy for that for-rent affordable dwelling, unless the dwelling is made available for-sale under the terms outlined in paragraph C.
 3. Conveyance of Interest. All deeds conveying any interest in the for-rent affordable dwellings during the Affordable Term shall contain language reciting that such dwelling is subject to the terms of this proffer. In addition, all contracts pertaining to a conveyance of any for-rent affordable dwelling, or any part thereof, during the Affordable Term shall contain a complete and full disclosure of the restrictions and controls established by this proffer. At least thirty (30) days prior to the conveyance of any interest in any for-rent affordable dwelling 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 the proffer have been satisfied.
 4. Reporting Rental Rates. During the Affordable Term, within thirty (30) day of each rental or lease term for each for-rent affordable dwelling, the then-current owner shall provide to the Albemarle County Housing Office a copy of the rental or lease agreement for each such dwelling rented that shows the rental rate for such dwelling 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.
- 2) **Route 20 Improvements**: In order to address the future potential improvements to Route 20, Stony Point Road, the Owner shall dedicate twenty (20) feet of public right of way along the edge of the existing Route 20 right of way with the first subdivision plat.
- 3) **Secondary Road Interconnections to Broadus Baptist Church**: The Owner shall provide for two (2) interconnections to Broadus Baptist Church (TMP 62-25C and 25C1).

For the first interconnection, the Owner shall provide Broadus Baptist Church with a thirty (30) foot wide easement that will allow the Church to construct a driveway within this easement. The easement shall start at the Cascadia property line shared with Broadus Baptist Church and run generally along the centerline of a Class A trail to the intersection of Cascadia Drive and Delphi Lane, as generally shown on the General Development Plan. The Owner shall reserve this easement for a period ten (10) years from the recordation date of the first plat for this area and provide the easement free of charge to the Church. If the Church

does not exercise its right to construct a private drive within this 10 year time period, the Owner's obligation to provide this easement shall be void.

For the second interconnection, the Owner shall provide Broadus Baptist Church with a first right of refusal to a lot within Cascadia that will provide reasonable access to the upper portions of TMP 62-25C and 25C1. The lot shall be wide enough to accommodate a public road. If any grading or drainage easements outside the lot are required to construct the second interconnection, the Owner shall grant these easements free of charge. If the Church does not exercise its first right of refusal at the time of sale of this lot, the Owner's obligation to provide for this interconnection shall be void.


- 4) **Cash Proffer for Capital Projects:** For each dwelling unit constructed with Cascadia, the Owner shall contribute cash to Albemarle County for the stated purpose of either funding school projects at Stony Point Elementary School, Sutherland Middle School, and Albemarle High School as identified in the County School's Capital Improvements Program or funding Capital Improvement Projects within or immediately adjacent to Neighborhood 3 as identified in the County's Capital Improvements Program. The cash contributions shall be at the following rates: \$3,000 for each single family detached unit, \$2,500 for each townhouse unit and \$2,000 for each multifamily unit. Dwellings defined as Special Single-Family Dwelling or Duplex Unit in the Code of Development and/ or designated as affordable dwellings under paragraph 1A shall be exempted from this proffer. The cash contribution for each dwelling unit shall be paid at the time of the issuance of the building permit for such dwelling unit. If the cash contribution has not been exhausted by the County for the stated purposes within ten (10) years from the date of the issuance of the last residential building permit within Cascadia, all unexpended funds shall be applied to fund for any public project or program within Neighborhood 3.
- 5) **Overlot Grading Plan:** The Owner shall submit an overlot grading plan meeting the requirements of this section (hereinafter, the "Plan") with the application for each subdivision of the single family detached 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 subdivision plat. 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 is not graded consistent with the approved grading Plan. The Plan shall satisfy the following:
 - A. The 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 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 shown to assure that surface drainage can provided adequate relief from the flooding of dwellings in the event a storm sewer fails.

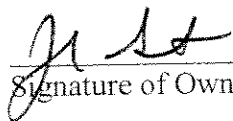
- D. Graded slopes on lots proposed to be planted with turf grasses (lawns) shall not exceed a gradient of three (3) feet of horizontal distance for each one (1) foot of vertical rise or fall (3:1). Steeper slopes shall be vegetated with low maintenance vegetation as determined to be appropriate by the 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 from one-half (1/2) acre of land or from three (3) lots 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 Plan shall demonstrate that driveways to lots will not be steeper than twenty (20) percent unless certified by an engineer that the driveway at the proposed steepness would be safe and convenient for vehicles (including emergency vehicles) to use the driveway, and shall include grading transitions at the street that the agent determines will allow passenger vehicles to avoid scraping the vehicle body on the driveway or the street. Additionally, the driveway grading shall provide an area in front of the proposed garage, or an area proposed for vehicle parking where no garage is proposed, that is not less than eighteen (18) feet in length that will be graded no steeper than eight (8) percent.
- 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 ten (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 engineer's report; (ii) a vicinity map showing a larger street network at a scale of 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 proffer 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 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 overlots grading regulations after the date ZMA 2002-004 is approved, any requirement of those regulations that is less restrictive than any requirement in this proffer shall supersede the corresponding requirement of this proffer, subject to the approval of the Director of the Department of Community Development.

<u>ROBERT M. HAUSER</u>	<u></u>	<u>7/29/06</u>
Signature of Owner	← Printed Name of Owner	Date

<u></u>	<u>Josh Goldschmidt</u>	<u>7/24/06</u>
Signature of Owner	Printed Name of Owner	Date

_____ Signature of Owner	_____ Printed Name of Owner	_____ Date
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