

PROFFER FORM

Date of Proffer Signature: _____
ZMA # 2007-00005 Avon Park II
Tax Map 90 Parcel Number 31

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

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 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 the equivalent of four (4) residential dwelling units as affordable housing for lease or sale. In addition, the Owner shall make a \$9550 cash "comparable contribution" in lieu of .5 affordable unit payable prior to or at the time of issuance of the first building permit for the first affordable dwelling unit.

- A. The four (4) 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 four (4) 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 (PITI) 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 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 unit.

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 1Bi 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 5B. 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.

2. **CASH PROFFER**

The Owner shall contribute a total of **\$343,000** cash to the County for the purpose of mitigating impacts from this development. The cash contribution shall be used for transportation improvements, schools, libraries, fire and rescue, parks or any other public use serving Neighborhoods 4 & 5 as identified in the Comprehensive Plan (hereinafter, "Capital Improvement Project").

- A. Contributions shall be payable as follows:

- i. For market rate attached townhome/condominium units: **\$11,900** each for 20 units payable prior to or at the time of issuance of the building permit for each unit.
 - ii. For new market rate detached single family units: **\$17,500** each for 6 units payable prior to or at the time of issuance of the building permit for each unit.
- B. If the cash contribution has not been exhausted by the County for the stated purpose within (5) five years from the date of the County's receipt of the final contribution, all unexpended funds shall be refunded to the Owner.
- C. Annual Adjustment of Cash Proffers. Beginning January 1, 2010, the amount of each cash contribution required herein shall be adjusted annually until paid, to reflect any increase or decrease for the preceding calendar year in the Marshall and Swift Building Cost Index (the "MSI"). In no event shall any cash contribution be adjusted to a sum less than the amount initially established by these proffers. The annual adjustment shall be made by multiplying the proffered cash contribution amount for the preceding year by a fraction, the numerator of which shall be the MSI as of December 1 in the year preceding the calendar year most recently ended, and the denomination of which shall be the MSI as of December 1 in the preceding calendar year. For each cash contribution that is being paid in increments, the unpaid incremental payments shall be correspondingly adjusted each year.

Weather Hill Development, LLC
by: Marc C. Powell, Manager

Printed Names of All Owners

September, 2007
Date

Agent for Current Owners of TMP 90-31
Randy E. Fox and Diane M. Fox
and Contract Purchaser

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