

PROFFER STATEMENT
OAKLEIGH AMENDMENT

Date: November 2, 2016
ZMA#: 2016-00015 Oakleigh Amendment #1
Tax Map Parcel #: 04500-00-00-026A0

**8.8 acres to be rezoned from Neighborhood Model Development (“NMD”)
to NMD to amend proffers**

Oakleigh Albemarle LLC, a Virginia limited liability company, is the fee simple owner (the “Owner”) of Tax Map 45, Parcel 26A (the “Property”) which is the subject of the zoning map amendment application #ZMA-2016-00015 known as “Oakleigh.” The Applicant for Oakleigh is Oakleigh Albemarle LLC, a Virginia limited liability company. The Oakleigh community is herein referred to as the “Project.”

Pursuant to Section 33.3 of the Albemarle County Zoning Ordinance, Owner hereby voluntary proffers the conditions listed in this Proffer Statement, which shall be applied to the Property if the rezoning is approved by Albemarle County. These conditions are proffered as part of the rezoning and it is agreed that the conditions are reasonable. This proffer statement shall supersede and replace in all respects the proffer statement approved by the Board of Supervisors in connection with ZMA-2007-00004.

1. Affordable Housing.

A. 15% Affordable Requirement. The Owner shall provide cash in lieu of affordable housing units equivalent to fifteen percent (15%) of the total residential dwelling units within the Project that is in excess of the number of units that were allowed by right under the zoning that was in existence prior to the approval of ZMA 2007-0004 (the “15% Affordable Requirement”). Prior to the approval of ZMA 2007-00004, the property was zoned R-6 Residential, and thus had by-right development yield of 52 dwelling units. Therefore, the cash contribution for compliance with the Affordable Housing Requirement shall begin after a certificate of occupancy for the 52nd dwelling unit within the Project is issued and prior to the Owner obtaining a certificate of occupancy for the 53rd dwelling unit within the Project.

B. Cash Proffer For Affordable Housing Requirement. If there are more than 52 dwelling units within the Project such that the 15% Affordable Housing Requirement is applicable, the Owner shall make a cash contribution to Albemarle County for the affordable housing program in the amount of Nineteen Thousand One Hundred Dollars (\$19,100) for each such unit (the “Affordable Housing Cash Proffer”). Any unit for which the Affordable Housing Cash Proffer is contributed as provided herein shall count as an Affordable Dwelling Unit for purposes of this Paragraph 1.

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 (a “Market Rate Unit”), and that is in excess of the number of units that were allowed by right under the zoning that was in existence prior to the approval of ZMA 2007-0004. Prior to the approval of ZMA 2007-00004, the property was zoned R-6 Residential, and thus had by-right development yield of 52 dwelling units. Therefore, the cash contribution for Market Rate Units shall begin after a certificate of occupancy for the 52nd dwelling unit within the Project is issued and prior to the Owner obtaining a certificate of occupancy for the 53rd dwelling unit within the Project. The cash contributions 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 in the following amounts:

(i). Seven Thousand Three Hundred and Thirty-Three and 18/100s Dollars (\$7,333.18) for each single-family detached dwelling unit;

(ii). Five Thousand Four Hundred and Forty-Seven and 57/100s Dollars (\$5,447.57) for each single family attached dwelling unit that is not an Affordable Dwelling Unit.

(iii). Seven Thousand Four Hundred and Nineteen and 91/100s Dollars (\$7,419.91) for each multifamily dwelling unit that is not an Affordable Dwelling Unit.

(iv). Zero Dollars (\$0.00) for each Affordable Dwelling Unit.

B. **Annual Adjustment of Cash Proffers.** Beginning January 1 of each year following the approval of this rezoning, the amount of each cash contribution required herein shall be adjusted annually until paid, to reflect any increase or decrease for the preceding calendar year in the Comparative Cost Multiplier, Regional City Average, Southeast Average, Category C: Masonry Bearing Walls issued by Marshall Valuation Service (a/k/a Marshall & Swift) (the “Index”) or the most applicable Marshall & Swift index determined by the County if publication of the specific index referenced herein is discontinued. 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 proceeding 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 (the “Annual Percentage Change”).

3. **Tree Preservation.** As part of the final site plan for the Project the Owner will submit a tree preservation plan (the “Tree Plan”) for thirteen (13) trees within the Project, as shown on the Application Plan, which specifies tree protection methods and procedures, including fertilizing, tree protection fencing, mulching, and site construction activities which shall be complied with during and after development of the Project. Prior to the final site plan approval, the Owner shall submit a bond or other form of surety in the total amount of _____ (\$_____). The bond or surety shall be submitted to

guaranty the replacement of those trees which are numbered 1, 1 A, 2, 3, 4, 4A, 5, 7, 8, 9, 30, 31, and 32 on the Application Plan (the “Bonded Trees”) in the event that any of the Bonded Trees die within a period of five (5) years after issuance of the last Certificate of Occupancy within the Project. The bond or other surety shall be in a form acceptable to the County Attorney.

4. **Pedestrian Easement.** The Declaration of Covenants and Restrictions for the Project shall contain a provision which grants a public right of pedestrian access over all sidewalks within the Project. This right shall be in perpetuity and the Declaration shall name the County of Albemarle, Virginia as a third-party beneficiary with the express right to enforce the provisions of such public right of access.

[SIGNATURE PAGE FOLLOWS]

WITNESS the following duly authorized signature:

Owner:

OAKLEIGH ALBEMARLE LLC,
a Virginia Limited Liability Company

By: _____

Printed Name: _____

Title: _____