

COUNTY OF ALBEMARLE
Department of Community Development
401 McIntire Road, Room 227
Charlottesville, Virginia 22902-4596

Phone (434) 296-5832

Fax (434) 972-4012

October 24, 2005

Don Skelly
1412 Sachem Place
Charlottesville, VA 22901

**RE: ZMA 2004-07 Belvedere (Sign # 62,76,84) –
Tax Map 61 Parcels 154, 157, 158, 160 (portion) and 161, Tax Map 62
Parcels 2B, 2C, 5, and 6A, and Tax Map 62A3 Parcel 1**

Dear Mr. Skelly:

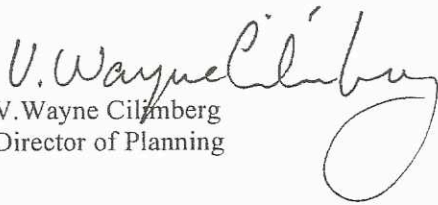
The Board of Supervisors approved your rezoning application on October 12, 2005. Your request to rezone 206.682 acres from R-4, Residential to NMD, Neighborhood Model District was approved in accordance with the Code of Development dated October 5, 2005 and the attached proffers corrected and dated October 12, 2005. An application plan/plan of development dated September 28, 2005 was approved as part of the rezoning. Please refer to these documents for any future applications and requests on this property.

Please be advised that although the Albemarle County Board of Supervisors took action on the project noted above, **no uses on the property as approved above may lawfully begin until all applicable approvals have been received and conditions have been met.** This includes:

- compliance with applicable PROFFERS;
- compliance with requirements of the CODE OF DEVELOPMENT;
- compliance with the APPLICATION PLAN;
- approval of and compliance with necessary SITE PLANS; and
- approval of a ZONING COMPLIANCE CLEARANCE.

If you have questions or comments regarding the above-noted action, please do not hesitate to contact Keith Lancaster at 296-5832.

Sincerely,


V. Wayne Cillenberg
Director of Planning

VWC/aer

Cc: Belvedere Station Land Trust; Robert M Hauser Etal Trustees C/O Hauser
1412 Sachem Place Suite 201
Charlottesville, VA 22901

Amelia McCulley
Tex Weaver
Chuck Proctor
Steve Allshouse
Keith Lancaster
Sarah Baldwin ✓
Bruce Woodzell (Real Estate)

PROFFER FORM

Date of Proffer Signature 10/10/2005

ZMA # 2004-00007

Tax Map 61, Parcels 154,157,158,160,161

Tax Map 62, Parcels 2A,2B,2C,3,5, 6A

Tax Map 62A3, Parcel 1

206.682 Acres to be rezoned from R-4 to Neighborhood Model District (NMD)

With respect to the property described in rezoning application #ZMA-2004-00007 (the "ZMA"), Belvedere Station Land Trust is the fee simple owner of the following parcels:

- TMP 61-00-00-154
- TMP 61-00-00-158
- TMP 61-00-00-160
- TMP 61-00-00-161
- TMP 62-00-00-5
- TMP 62-00-00-2C
- TMP 62-00-00-6A
- TMP 62A3-00-00-1

Belvedere Station Land Trust is the fee simple owner of a ½ interest, along with Charlotte G. and Jacob C. Levenson in a 5.40 acre Belvedere Road ROW associated with TMP 62-00-00-2A, which is wholly owned in fee simple by Charlotte G. and Jacob C. Levenson

Dunlora LLC is the fee simple owner of the following parcel:

- TMP 61-00-00-157

Robert Hauser Homes Inc. is the fee simple owner of the following parcel:

- TMP 62-00-00-2B

StoneHaus Inc. and Henry Nelson Sprouse are the fee simple owners of the following parcel

- TMP 62-00-00-3

The foregoing parties are collectively referred to herein as the "Owner," which term shall include any successors in interest. All of the parcels listed above are referred to collectively as the "Property."

Pursuant to Section 33.3 of the Albemarle County Zoning Ordinance (the "Ordinance"), Owner hereby voluntary proffers the conditions listed in this Proffer Statement, which shall

be applied to the Property if the ZMA is approved by Albemarle County. These conditions are proffered as part of the ZMA and it is agreed that: (1) the ZMA itself gives rise to the need for the conditions, and (2) such conditions have a reasonable relation to the rezoning requested.

1. Plan Exhibits.

1.1 Exhibits not in the Code of Development. The following exhibits which are not part of the General Development Plans or the Code of Development are proffered as a part of this rezoning:

- Exhibit 14 Archaeological Survey Summary
- Exhibit 15 Architectural Reconnaissance Survey

2. Affordable Housing.

2.1 Cash Contribution. Owner shall contribute to Albemarle County a minimum of one thousand dollars (\$1,000) per single family detached dwelling unit, seven hundred fifty dollars (\$750) per single family attached or townhouse unit, and five hundred dollars (\$500) per multi-family condominium unit. The cash contribution shall be due and payable with each application for a building permit. This cash proffer shall not apply to Carriage House units or multi-family rental housing. This cash contribution shall be used for the purpose of funding affordable housing programs including those provided by nonprofit housing agencies within Albemarle County. If this cash contribution has not been exhausted by the County for the stated purpose within ten (10) years from the date of the last payment of the contribution, all the unexpended funds shall be refunded to the Owner.

2.2 Carriage House Units. Owner proffers to require through the lot sale contracts on the Property the construction of a minimum of 103 Carriage House Units on the Property that meet the requirements for a single family dwelling as defined in the Virginia Uniform Statewide Building Code. Each Carriage House Unit shall conform to the Code of Development, Appendix A, Carriage House Units, General Standards. Each Carriage House Unit shall be on the same parcel as the primary dwelling unit to which it is accessory. Carriage House Units may not be subdivided from the primary residence. The subdivision restriction shall be described on the plat creating such parcels and be incorporated into each deed conveying title to such parcels.

3. Open Space and Greenways.

3.1 Open Space The Owner shall restrict from development all open space areas which are areas not shown as development parcels on the General Development Plan. In no event shall the total area of open space areas, which include the preservation areas, conservation areas, greenway (defined in 3.2 below), buffer and park areas shown on Exhibits 5A, 5B and 5C of the General Development Plan, be less than twenty-five percent (25%) of the total land within the Property. These areas shall be for the use and enjoyment of the residents of the Property, subject to the restrictions that may be imposed by any declaration recorded as part of a conveyance of these areas to a homeowner's association.

3.2 Greenway: The Owner shall dedicate and convey to Albemarle County, upon demand by the County, a strip of land no less than one hundred (100) feet in width and adequate in width to accommodate the construction, maintenance and use of a ten (10) foot wide pedestrian trail along the Rivanna River from the Property's boundary with Dunlora Farm (Tax Map 62 Parcel 16-A) to the Property's boundary with the Southern Railway right-of-way (as it exists on November 19, 2004) (the "Greenway"). The precise location of the greenway shall be mutually agreed upon by the Owner and the County, and such agreement shall not be unreasonably withheld. The Greenway will be conveyed in the form of a general warranty deed and the Owner shall bear the cost of a survey and preparing the deed. Upon request by the County, the Owner shall also contribute ten thousand dollars (\$10,000) cash for application toward the cost of constructing the Greenway according to the County's current standards for a class B trail. Such contribution shall be made by Owner within 30 days of receipt of a written request by the County. If the request is not made within seven (7) years from the date of submission of the first final site plan for Phase I, this cash proffer shall become null and void. If such cash contribution is not fully expended for the stated purpose within two (2) years from the date the funds are contributed to the County, all unexpended funds shall be refunded to the Owner. If the greenway is not used for the purpose for which it is dedicated within ten (10) years from the date of dedication, the County shall transfer the land back to and for the use of the Owner to be used as open space. The Owner will provide a pedestrian connection to the Greenway through the Belvedere Community's internal trail system, as illustrated in Exhibit 5A, 5B, and 5C.

3.3 Greenway bridge: Within thirty (30) days following request by the County, Owner shall contribute ten thousand dollars (\$10,000) cash for application toward the cost of constructing a pedestrian bridge linking the Rivanna River Greenway in Dunlora (Tax Map Parcel 62F-A3) to RiverRun (Tax Map Parcel 62-D1-1A), thereby allowing neighborhood residents access to facilities in Pen Park and other portions of the Greenway system. If the request is not made within seven (7) years from the date of submission of the first final site plan for Phase I, this proffer shall become null and void. If such cash contribution is not expended for the stated purpose within two (2) years from the date the funds were contributed to the County, all unexpended funds shall be refunded to the Owner.

4. Road Construction and Reservation of Right-of-way.

4.1 North Free State Connector Road. The Owners shall dedicate upon demand by the County a one hundred (100) foot wide right-of-way to public use as shown on Exhibit 2B of the General Development Plan and labeled "Reserved Road ROW". Where less than one hundred (100) feet of right-of-way is available on the Owner's Property (Approximately the first 800 feet from Rio Road), the Owner shall dedicate the available right-of-way. Fee simple interest shall be dedicated by the Owner within six (6) months following receipt by the Owner of written notice of demand by the County. The Owner shall pay for the costs of surveying and preparing deeds necessary to complete such dedication. The County must accept the dedication within twelve (12) months following its demand for dedication.

4.2 Future North Free State Connector Extension Road. The Owner shall dedicate a one hundred (100) foot strip of land along the Property boundary with the Norfolk Southern Railroad as shown on Exhibit 2C of the General Development Plan and labeled "100' Reserved Road ROW" for dedication upon demand by the County for the purpose of constructing a road that extends the North Free State Connector Road northward across the

Rivanna River. The Owner shall dedicate right-of-way within six (6) months following written notice of demand by the County. Such reservation shall remain in place through December 31, 2025. The County must accept the dedication within twelve (12) months following its demand for dedication. Should this road be removed from the Albemarle County Comprehensive Plan, said reservation shall become null and void, and the Owner or Successors shall retain fee simple ownership of the parcel.

4.2.1 North Free State Connector Extension Road Design. The Owner shall demonstrate to the satisfaction of the County Engineer and VDOT that the North Free State Connector Extension Road can be accommodated by the Block 2 Development Plan. Approval by VDOT and the County Engineer must be secured prior to final platting and road plan approval in Block 2.

4.3 Free State Road Right-of-way. The Owner shall dedicate, upon demand by the County, a fifty (50) foot wide right-of-way along portions of the existing Free State Road that are on the Owner's Property from its proposed intersection with Belvedere Blvd between Road C and Road K to its intersection with Loring Run Road. Where the road is only partially on the Property, the Owner shall dedicate sufficient right-of-way width to ensure a total right-of-way of not less than fifty (50) feet inclusive of the existing prescriptive right-of-way. The right-of-way shall be conveyed within six (6) months following receipt of written notice by the County, in the form of a general warranty deed and the Owner shall bear the cost of a survey and preparation of the deed. If the dedicated land is not used for the purpose for which it was dedicated within two (2) years from the date of dedication, the County shall transfer the land back to, and for the use of, the Owner.

4.4 Connection to Dunlora Farm. The Owner shall dedicate upon demand by the County, a fifty (50) foot wide right-of-way extending from Road D to the property line at the eastern terminus of Road J, as shown on Exhibit 2C of the General Development Plan. The right-of-way shall be conveyed within six (6) months following receipt of written notice by the County, fee simple, in the form of a general warranty deed and Owner shall bear the cost of a survey and preparation of the deed. The County must accept the dedication within twelve (12) months following its demand for dedication. If the dedicated land is not used for the purpose for which it was dedicated within ten (10) years from the date of dedication, the County shall transfer the land back to, and for the use of, the Owner.

4.5 Fairview Access. The Owner agrees to provide to Fairview Swim Club, ~~owner of~~ a fifty (50) foot wide access easement from Belvedere Drive to the edge of the Fairview Swim Club Property, (Tax Map Parcel 61-160B and 61-160C) to facilitate vehicular access to the existing Fairview entrance or in other such location that is mutually agreeable to the parties and in conformance with applicable County and VDOT regulations. The Owner shall grant easement within sixty (60) days following approval of final road plan for Belvedere Boulevard in Phase 1.

5. Overlot Grading Plan

5.1. Subdivision Plans. The Owner shall submit an overlot grading plan meeting the requirement of this section (hereinafter, the "plan") with the application for each subdivision of 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 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.

6. Preservation of Historic Structures, Sites and Archaeological Sites.

6.1 Archaeological Survey. A Phase I Archaeological Study for the Property shall be submitted by the Owner to the Director of Planning for his review and approval prior to issuance of a grading permit. An archaeological resource treatment plan shall be submitted by the Owner to, and approved by, the Director of Planning for all sites in the Phase I study that are recommended for Phase II evaluation, and/or identified as being eligible for inclusion on the National Register of Historic Places. If a Phase II study is undertaken, such a study shall be approved by the Director of Planning and a treatment plan for said sites shall be submitted to, and approved by, the Director of Planning for sites that are determined to be eligible for inclusion the National Register of Historic Places and/or those sites that require a Phase III study. If, in a Phase II study, a site is determined to be eligible for nomination to the National Register of Historic Places and said site is to be preserved in place, the treatment plan shall include nomination of the site to the National Register of Historic Places. If a Phase III study is undertaken for said sites, such studies shall be approved by the Director of

Planning prior to land disturbance within the study area. All Phase I, Phase II, and Phase III studies shall meet the Virginia Department of Historic Resources' Guidelines for Preparing Archaeological Resource Management Reports and the Secretary of the Interior's Standard and Guidelines for Archaeological Documentation, as applicable, and shall be conducted under the supervision of a qualified archaeologist who meets the qualifications set forth in the Secretary of the Interior's Professional Qualification Standards. All approved treatment plans shall be incorporated into the plan of development for the site and shall be adhered to during the clearing, grading, and construction activities thereon.

6.2 Potential Artifacts. Should Phases I or II or III studies yield objects or artifacts of archaeological significance, these objects shall be conveyed to the Virginia Department of Historic Resources (VDHR) for long term preservation. Should Phase III fieldwork yield subsurface architectural features and artifacts related to 18th or early 19th-century domestic occupations at Free State, and should these sites be deemed archaeologically significant by archaeologists with the Digital Archaeological Archive of Comparative Slavery (DAACS) based at the Thomas Jefferson Foundation, these artifacts will be submitted to the archaeologists at the Thomas Jefferson Foundation for analysis and entry into DAACS prior to being conveyed to the VDHR. The Owner will be solely responsible for conveying all artifacts analyzed by DAACS to the VDHR within thirty (30) days of receipt of such artifacts.

6.3 Roadside Markers. Upon request by the County, the Owner shall contribute up to five thousand dollars (\$5,000) cash to fund the cost of creating and installing two roadside historical markers as described in section 5 of the Code of Development. If the request is not made within one (1) year from the date of approval of the first final site plan for Phase I, this proffer shall become null and void. If such cash contribution is not expended for the stated purpose within two (2) years from the date the funds were contributed to the County, all unexpended funds shall be refunded to the Owner.

7. Phasing and Mitigation of Impact.

7.1 Phasing. Phases of Belvedere infrastructure will be constructed sequentially beginning with Phase 1, then 2, etc. This proffer shall not restrict the Owner's ability to develop multiple phases concurrently nor shall it require the completion of all buildings and other improvements in one phase before beginning construction on the next.

7.2 Mitigation of Construction Traffic Impact. The Owner shall neither establish, nor allow to be established, ingress or egress for any vehicle, heavy equipment, or farm machinery or farm equipment to and from the Property except at the intersection of the alignment of Belvedere Boulevard and East Rio Road, as shown on Exhibit 2B, and from the northern segment of Free State Road that crosses Free State Bridge, as shown on Exhibit 1, of the General Development Plan, or on any public street shown on a final subdivision plat that has been constructed and accepted by VDOT or bonded for acceptance by VDOT. For purposes of this proffer, the term "vehicle" means every device on or by which any person or property is or may be transported or drawn on a highway, except devices moved by human power or used exclusively on stationary rails or tracks, that are used in the construction on or below the Property, including all improvements placed on the property by the Owner, its contractors, subcontractors or agents. The term "heavy equipment" means self-propelled, self-powered or pull-type equipment and machinery, including engines, weighing five

thousand (5,000) pounds or more, primarily employed for construction, industrial, maritime, mining and forestry uses.

8 Code Enforcement

8.1 Architectural Standards – The Owner shall prepare and record a declaration of covenants, conditions and restrictions that, among other things, establishes architectural standards equal to or more stringent than the architectural standards in the Code of Development, and establishes an Architectural Standards Committee ("ASC"). The declaration shall include among the powers and duties of the ASC the authority and responsibility to determine that each structure within the Property complies with all applicable architectural standards before submitting the proposal to the County to conduct its review for compliance with the architectural standards established in the Code of Development.

Signatures of All Owners:

Printed Names of All Owners:

Date:


Belvedere Station Land Trust: Trustee

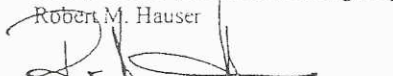
ROBERT M. HAUSER

10-10-05


Dunlora LLC by
Robert Hauser Homes Inc. Manager by:
Robert M. Hauser

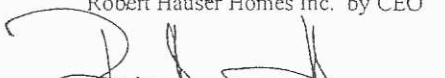
ROBERT M. HAUSER

10-10-05


Robert Hauser Homes Inc. by CEO

ROBERT M. HAUSER

10-10-05

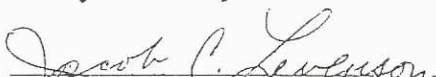

StoneHaus, Inc. by CEO

ROBERT M. HAUSER 10-10-05


Henry Nelson Sprouse

HENRY NELSON SPROUSE

10-10-05


Jacob C. Levenson

JACOB C. LEVENSON

10/11/05


Charlotte G. Levenson

Charlotte G. Levenson

10/11/05

Signature of Attorney-in-Fact

Printed Name of Attorney-in-Fact