

<p style="text-align: center;">ACTIONS Board of Supervisors Meeting of June 8, 2016</p>		
		June 13, 2016
<u>AGENDA ITEM/ACTION</u>	<u>ASSIGNMENT</u>	<u>VIDEO</u>
1. Call to Order. <ul style="list-style-type: none"> Meeting was called to order at 2:59 p.m. by the Chair, Ms. Palmer. All BOS members were present. Also present were Tom Foley, Greg Kampner and Travis Morris. 		Link to video
2. Review of 2016 Legislative Priorities. <ul style="list-style-type: none"> Discussed. 		
3. Closed Meeting. <ul style="list-style-type: none"> At 4:06 p.m., the Board went into Closed Meeting pursuant to Section 2.2-3711(A) of the Code of Virginia under Subsection (1): 1. To consider appointments to boards, committees, and commissions in which there are pending vacancies or requests for reappointments; and 2. To conduct the annual performance review of the County Executive; and Under Subsection (5) to discuss a possible grant application concerning a prospective business because there has been no previous announcement of the business's interest in locating in the County; and Under Subsection (7) to consult with and be briefed by legal counsel and staff regarding specific legal matters requiring legal advice relating to the negotiation of an agreement for court facilities. 		
4. Certify Closed Meeting. <ul style="list-style-type: none"> At 6:05 p.m., the Board reconvened into open meeting and certified the closed meeting. 		
5. Boards and Commissions: Vacancies and Appointments. <ul style="list-style-type: none"> REAPPOINTED, Mr. Sean Moynihan and Mr. Stephen Davis to the Piedmont Virginia Community College Board with said terms to expire June 30, 2020. APPOINTED, Mr. Marcus Gaither to the Places 29 (Rio) Community Advisory Committee with said term to expire September 30, 2018. 	Clerk: Prepare appointment/reappointment letters, update Boards and Commissions book, webpage, and notify appropriate persons.	
6. Call back to Order. <ul style="list-style-type: none"> The Chair called the meeting back to order at 6:06 p.m. 		
9. Adoption of Final Agenda. <ul style="list-style-type: none"> Motion to remove agenda item #13 from action in lieu of VDOT's action to reduce the speed limit on Earlysville Road for trucks on the segment from Dickerson down to Woodlands Road, failed by lack of a second. By a vote of 5:1 (Sheffield), ADOPTED the final agenda. 		
10. Brief Announcements by Board Members. <u>Ann Mallek:</u> <ul style="list-style-type: none"> Handed out a flyer from the newly formed Rivanna Conservation Alliance. Announced that she had the opportunity to welcome the Charlottesville Municipal Band at 		

	<p>their concert held at Western Albemarle High School.</p> <p><u>Rick Randolph:</u></p> <ul style="list-style-type: none"> Acknowledged Robbi Savage for setting up a fly over of the Rivanna River watershed for him and Supervisor Dill and mentioned to the level of siltation visible from the air. 	
11.	<p>From the Public: Matters Not Listed for Public Hearing on the Agenda.</p> <ul style="list-style-type: none"> <u>Stacy Norris, President, Voice for Animals and Founder and Director of the HOWS Project</u>, addressed the Board and announced that she would be presenting a proposal to help improve the Companion Animal Codes in Albemarle County. <p><u>The following individuals spoke to agenda item #13., Earlysville Through Truck Restriction:</u></p> <ul style="list-style-type: none"> Richard Rys Eddie Gupton 	
12.2	<p>Resolution approving the issuance of revenue bonds in an amount not to exceed \$65,000,000 for Westminster-Canterbury of the Blue Ridge.</p> <ul style="list-style-type: none"> ADOPTED resolution. 	<p><u>Clerk:</u> Forward copy of signed resolution to EDA Office. (Attachment 1)</p>
12.3	<p>SUB-2016-00004 Briarwood variation request.</p> <ul style="list-style-type: none"> ADOPTED resolution approving special exception request. 	<p><u>Clerk:</u> Forward copy of signed resolution to Community Development and County Attorney. (Attachment 2)</p>
12.4	<p>Milton Landing Clifton Lake property to be conveyed to the County.</p> <ul style="list-style-type: none"> ADOPTED resolution to approve the County's acquisition of the property and AUTHORIZED the County Executive to sign all documents on behalf of the County necessary for the conveyance once they have been approved as to form and substance by the County Attorney. 	<p><u>Clerk:</u> Forward copy of signed resolution to Community Development and County Attorney. (Attachment 3)</p>
13.	<p>Earlysville Through Truck Restriction deferred from March 9.</p> <ul style="list-style-type: none"> Motion that In lieu of further considering the proposed through truck restriction at this time the Board of Supervisors, support VDOT's actions to reduce the speed limit for trucks on the segment of Earlysville Road from its intersection with Woodlands Road Route 676 heading north and terminating at the intersection of Dickerson Road Route 606 PASSED, by a vote of 4:1:1 (Mallek) (Sheffield, abstain). 	
14.	<p>Six Year Secondary Road Plan.</p> <ul style="list-style-type: none"> By a vote of 6:0, ADOPTED Resolution approving the FY17-22 Secondary Six Year Program (SSYP) and AUTHORIZED the County Executive to sign the SSYP. 	<p><u>Clerk:</u> Forward copy of signed resolution to Community Development and County Attorney's office. (Attachment 4)</p>
15.	<p><u>Pb. Hrg.: PROJECT: CLE-2016-00032 Rose Garden.</u></p> <ul style="list-style-type: none"> By a vote of 6:0, ADOPTED Resolution Approving Special Exception for CLE 2016-32 Rose Garden Family Day Home. 	<p><u>Clerk:</u> Forward copy of signed resolution to Community Development and County Attorney's office. (Attachment 5)</p>
	<p>The Board recessed at 8:17 p.m., and reconvened at 8:24 p.m.</p>	

16.	<u>Pb. Hrg: SP-2016-00006. Generations Montessori School.</u> <ul style="list-style-type: none"> By a vote of 6:0, ADOPTED Resolution Approving SP201600006 Generations Montessori School. 	<u>Clerk:</u> Forward copy of signed resolution to Community Development and County Attorney's office. (Attachment 6)
17.	<u>Pb. Hrg: SP-2016-00005. Southland Rivers Edge.</u> <ul style="list-style-type: none"> By a vote of 6:0, ADOPTED Resolution to approve SP201600005 Verizon Wireless "Southland"/River's Edge III, LLC. By a vote of 6:0, ADOPTED Resolution to approve Special Exception for SP 2016-05 Verizon Wireless "Southland"/River's Edge III, LLC. 	<u>Clerk:</u> Forward copy of signed resolutions to Community Development and County Attorney's office. (Attachment 7)
18.	<u>Pb. Hrg: ZMA-2016-00001. Hollymead Town Center (A-2).</u> <ul style="list-style-type: none"> By a vote of 6:0, ADOPTED Ordinance. 	<u>Clerk:</u> Forward copy of signed ordinance to Community Development and County Attorney's office. (Attachment 8)
19.	<u>Pb. Hrg: ZTA-2016-00005. Family Day Homes.</u> <ul style="list-style-type: none"> By a vote of 6:0, ADOPTED Ordinance. 	<u>Clerk:</u> Forward copy of signed resolution to Community Development and County Attorney's office. (Attachment 9)
20.	<u>Pb. Hrg: CPA-2016-00001. Comprehensive Plan – Cash Proffer Policy.</u> <ul style="list-style-type: none"> By a vote of 6:0, ADOPTED Resolution to Approve CPA-2016-00001 and to Repeal the Cash Proffer Policy. 	<u>Clerk:</u> Forward copy of signed resolution to Community Development and County Attorney's office.
21.	From the Board: Committee Reports and Matters Not Listed on the Agenda. <ul style="list-style-type: none"> There were none. 	
22.	From the County Executive: Report on Matters Not Listed on the Agenda. <ul style="list-style-type: none"> There were none. 	
23.	Adjourn to June 14, 2016, 6:00 p.m., Lane Auditorium. <ul style="list-style-type: none"> The meeting was adjourned at 9:46 p.m. 	

/tom

Attachment 1 – Resolution Approving Issuance of Revenue Bonds

Attachment 2 – Resolution to Approve Special Exception for SUB 2016-00004

Attachment 3 – Resolution to Authorize Acquisition of Property

Attachment 4 – Resolution Approving the FY17-22 Secondary Six Year Program (SSYP)

Attachment 5 – Resolution to Approve Special Exception for CLE 2016-32 Rose Garden Family Day Home

Attachment 6 – Resolution to Approve SP 2016-06 Generations Montessori School

Attachment 7 – Resolution to Approve SP 2016-05 Verizon Wireless and Resolution to Approve Special Exception for SP 2016-05

Attachment 8 – Ordinance No. 16-A(2)

Attachment 9 – Ordinance No. 16-18(6)

Attachment 10 – Resolution to Approve CPA 2016-00001 and to Repeal the Cash Proffer Policy

**RESOLUTION
OF THE BOARD OF SUPERVISORS OF
ALBEMARLE COUNTY, VIRGINIA**

WHEREAS, the Economic Development Authority of Albemarle County, Virginia (the "Authority") has approved the application of Westminster-Canterbury of the Blue Ridge (the "Borrower"), a nonstock, not-for-profit Virginia corporation, requesting that the Authority issue up to \$65,000,000 of its revenue bonds in one or more series at one time or from time to time (the "Bonds") to provide funds to the Borrower:

(1) to finance various capital improvements at the Borrower's continuing care retirement community campus at 250 Pantops Mountain Road in Albemarle County, Virginia (the "Community"), including, but not limited to, (a) the construction, renovation and equipping of (i) common areas and (ii) resident care areas and (b) improvements to signage and landscaping,

(2) to refund all or a portion of (a) the Borrower's obligations under the Authority's Residential Care Facility Mortgage Revenue Refunding Bonds (Westminster-Canterbury of the Blue Ridge), Series 2007 in the original principal amount of \$51,245,000, (b) the Borrower's obligations under the Economic Development Authority of the Town of Louisa, Virginia's Residential Care Facility Mortgage Revenue Refunding Bond (Westminster-Canterbury of the Blue Ridge), Series 2015A in the original principal amount of \$10,000,000 and (c) the Borrower's obligations under the Authority's Residential Care Facility Mortgage Revenue Refunding Bond (Westminster-Canterbury of the Blue Ridge), Series 2015B in the original principal amount of \$5,286,215, each of which financed the refunding of prior obligations of the Borrower, which prior obligations financed the acquisition, construction and equipping of improvements at the Community, and

(3) to finance capitalized interest on the Bonds, a debt service reserve fund for the Bonds and costs of issuance related to the issuance of the Bonds (collectively, the "Plan of Finance").

WHEREAS, the Authority held a public hearing on May 31, 2016;

WHEREAS, Section 147(f) of the Internal Revenue Code of 1986, as amended (the "Code"), provides that the governmental unit having jurisdiction over the issuer of private activity bonds and over the area in which any facility financed with the proceeds of private activity bonds is located must approve the issuance of the bonds and Section 15.2-4906 of the Industrial Development and Revenue Bond Act, Chapter 49, Title 15.2, Code of Virginia of 1950, as amended ("Act") sets forth the procedure for such approval;

WHEREAS, the Authority issues its bonds on behalf of Albemarle County, Virginia (the "County"), the facilities to be financed and refinanced with the proceeds of the Bonds are located in the County and the Board of Supervisors of Albemarle County, Virginia (the "Board"), constitutes the highest elected governmental unit of the County;

WHEREAS, the Authority has recommended that the County approve the Plan of Finance and the issuance of the Bonds; and

WHEREAS, a copy of the Authority's resolution approving the issuance of the Bonds, subject to the terms to be agreed upon, a certificate of the public hearing and a Fiscal Impact Statement have been filed with the Board.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF ALBEMARLE COUNTY, VIRGINIA:

1. The Board approves the issuance of the Bonds, in an aggregate principal amount up to \$65,000,000, by the Authority for the benefit of the Borrower, solely to the extent required by Section 147(f) of the Code and Section 15.2-4906 of the Act, to permit the Authority to assist in accomplishing the Plan of Finance.

2. The approval of the issuance of the Bonds does not constitute an endorsement to a prospective purchaser of the Bonds of the creditworthiness of the Plan of Finance or the Borrower. In accordance with Section 15.2-4909 of the Act, the Bonds shall not be deemed to constitute a debt or a pledge of the faith and credit or taxing power of the Commonwealth or any political subdivision thereof, including the Authority and the County.

3. This resolution shall take effect immediately upon its adoption.

NOW, THEREFORE, BE IT RESOLVED that, upon consideration of the foregoing, the executive summary prepared in conjunction with the application, and its supporting analysis, and all of the factors relevant to the special exception in Albemarle County Code §§ 18-8.5.5.3, 18-33.5, and 18-33.9, the Albemarle County Board of Supervisors hereby approves the special exception to modify the boundaries of Phase 4 and Phase 6, as depicted on the phasing plan prepared by Collins Engineering entitled “Briarwood Phasing Letter of Revision”, dated March 19, 2016 and attached hereto, by moving land from Phase 4 into Phase 6, but with the maximum number of dwelling units permitted within each phase unchanged.

[illegible]

**RESOLUTION TO AUTHORIZE
ACQUISITION OF PROPERTY**

WHEREAS, Charles Wm. Hurt, Trustee, and Shirley L. Fisher, Trustee, of the Virginia Land Trust (the "Owner") are the record owner of Parcel ID Number 07900-00-00-023C0 ("TMP 79-23C") consisting of 1.353 acres and located near the Milton boat landing along the Rivanna River; and

WHEREAS, the Owner proposes to donate TMP 79-23C to the County of Albemarle; and

WHEREAS, the Board finds it is in the best interest of the County to accept the donation of TMP 79-23C.

NOW, THEREFORE, BE IT RESOLVED that the Albemarle County Board of Supervisors hereby approves the acceptance of TMP 79-23C, and authorizes the County Executive to execute the Deed of Gift and all other documents necessary to acquire TMP 79-23C once the documents have been approved as to form and substance by the County Attorney.

RESOLUTION

WHEREAS, Virginia Code § 33.2-331 provides the opportunity for each county to work with the Virginia Department of Transportation in developing a Secondary System Six-Year Program; and

WHEREAS, the Board has previously agreed to assist in the preparation of this Program, in accordance with the Virginia Department of Transportation policies and procedures, and participated in a public hearing on the proposed Program (FY 17-22), after being duly advertised so that all citizens of the County had the opportunity to participate in said hearing and to make comments and recommendations concerning the proposed Program and Priority List; and

WHEREAS, Joel DeNunzio, the Resident Administrator of the Virginia Department of Transportation, appeared before the Board and recommended approval of the Secondary System Six Year Program (FY17-22); and

WHEREAS, the Secondary System Six Year Program (FY17-22) is in the best interest of the County and of the citizens of the County.

NOW, THEREFORE, BE IT RESOLVED that the Board hereby approves the Secondary System Six-Year Program (FY17-22) and authorizes the County Executive to sign the Secondary System Six-Year Program (FY 17-22).

BE IT FURTHER RESOLVED, that the clerk of the Board shall forward a certified copy of this resolution to the District Administrator of the Virginia Department of Transportation.

**RESOLUTION TO APPROVE SPECIAL EXCEPTION
FOR CLE 2016-32 ROSE GARDEN FAMILY DAY HOME (REBECCA GARSON)**

WHEREAS, Brian and Jennifer Prax are the owners of Tax Map and Parcel Number 07000-00-00-039E0 (the "Property"); and

WHEREAS, Rebecca Garson resides at the property, and filed a request for a special exception in conjunction with CLE 2016-32 Rose Garden Family Day Home (Rebecca Garson) to allow Rose Garden Family Day Home to care for six to twelve children.

NOW, THEREFORE, BE IT RESOLVED that, upon consideration of the foregoing, the executive summary prepared in conjunction with the special exception request, staff's supporting analysis included in the executive summary, and all of the factors relevant to special exceptions in Albemarle County Code §§ 18-5.1.56(b)(7)(b) and 18-33.9, the Albemarle County Board of Supervisors hereby approves the special exception to allow Rose Garden Family Day Home to care for six to twelve children in conjunction with CLE 2016-32, as described hereinabove, subject to the performance standards for this use in Albemarle County Code § 18-5.1.56(b) and the conditions attached hereto.

* * * * *

CLE 2016-32 Rose Garden Family Day Home (Rebecca Garson) Special Exception Conditions

1. Hours of operation for the family day home shall be no earlier than 7:45 a.m. and no later than 3:45 p.m.
2. The applicant shall obtain a VDOT Land Use Permit and complete entrance and sight distance improvements to the satisfaction of VDOT prior to approval of a zoning clearance for the family day home.
3. Prior to approval of a zoning clearance for the family day home use, fencing shall be installed around the perimeter of playground areas. Any fencing shall satisfy the following:
 - A. Fencing shall be at least four (4) feet tall;
 - B. Fencing shall be non-climbable with no accessible openings, handholds, or footholds that can be used by children to climb the barrier;
 - C. There shall be no more than a two (2)-inch gap under any fencing; and
 - D. Any fence openings shall be small enough that a four (4) inch sphere shall not pass through.
4. Playground equipment shall not be located in the red areas (north side of house) as shown on the attached exhibit.

**RESOLUTION TO APPROVE
SP 2016-06 GENERATIONS MONTESSORI SCHOOL**

WHEREAS, Broadus Memorial Baptist Church (the “Owner”) is the record owner of Tax Map and Parcel Number 06200-00-00-025C0 and the Broadus Memorial Baptist Church building located thereon (collectively, the “Property”); and

WHEREAS, Rita Pace, Christina Pace, and the Church submitted an application for a Special Use Permit to operate a private school on the Property, and the application is identified as Special Use Permit 2016-00006 Generations Montessori School (“SP 2016-06”); and

WHEREAS, on May 3, 2016, after a duly noticed public hearing, the Albemarle County Planning Commission recommended approval of SP 2016-06 with conditions; and

WHEREAS, on June 8, 2016, the Albemarle County Board of Supervisors held a duly noticed public hearing on SP 2016-06.

NOW, THEREFORE, BE IT RESOLVED that, upon consideration of the foregoing, the staff report prepared for SP 2016-06 and all of its attachments, the information presented at the public hearing, and the factors relevant to a special use permit in Albemarle County Code §§ 18-10.2.2(5) and 18-33.8, the Albemarle County Board of Supervisors hereby approves SP 2016-06, subject to the conditions attached hereto.

* * * *

SP-2016-06 Generations Montessori School Special Use Permit Conditions

1. Use of site shall be in general accord with the concept plan “Generations Montessori School in Broadus Memorial Baptist Church” signed and dated by Rita Pace, 04/11/2016, as determined by the Director of Planning and the Zoning Administrator. To be in general accord with this plan, development and use of the site shall reflect the general size, arrangement and location of the existing church facility and outdoor play areas. Minor modifications to the plan which do not conflict with the elements above may be made to ensure compliance with the Zoning Ordinance;
2. Enrollment shall not exceed fifty (50) students; and
3. The hours of operation for the school shall not begin earlier than 7:30 a.m. and shall not end later than 5:30 p.m., each day, Monday through Friday, except that occasional school-related events may occur after 5:30 p.m.

**RESOLUTION TO APPROVE
SP 2016-05 VERIZON WIRELESS
“SOUTHLAND”/RIVER’S EDGE III, LLC**

WHEREAS, River’s Edge III, LLC is the owner of Tax Map and Parcel Number 078B0-01-00-10100 (the “Property”); and

WHEREAS, Dominion Virginia Power is the owner of an electric transmission tower (the “Tower”) located on the Property; and

WHEREAS, Cellco Partnership, trading as Verizon Wireless, filed an application for a special use permit to install a personal wireless service facility consisting of a monopole with an antenna array mounted on a platform on the Tower, and the application is identified as Special Use Permit 2016-05 Verizon Wireless “Southland” / River’s Edge III, LLC (“SP 2016-05”); and

WHEREAS, on May 10, 2016, after a duly noticed public hearing, the Albemarle County Planning Commission recommended approval of SP 2016-05 with the condition recommended by County staff ; and

WHEREAS, on June 8, 2016, the Albemarle County Board of Supervisors held a duly noticed public hearing on SP 2016-05.

NOW, THEREFORE, BE IT RESOLVED that, upon consideration of the foregoing, the staff report prepared for SP 2016-05 and all of its attachments, the information presented at the public hearing, and the factors relevant to a special use permit in Albemarle County Code §§ 18-22.2.2(14) and 18-33.8, the Albemarle County Board of Supervisors hereby approves SP 2016-05, subject to the condition attached hereto.

* * * *

SP-2016-00005 Verizon Wireless “Southland”/River’s Edge III, LLC Conditions

1. The monopole, platform, antennas, and all equipment shall be installed as depicted on the site plan entitled “Verizon Wireless Site Name: Southland”, prepared by Trent T. Snarr, P.E., and last revised on November 5, 2015.

**RESOLUTION TO APPROVE SPECIAL EXCEPTION
FOR SP 2016-05 VERIZON WIRELESS “SOUTHLAND”/RIVER’S EDGE III, LLC**

WHEREAS, River’s Edge III, LLC is the owner of Tax Map and Parcel Number 078B0-01-00-10100 (the “Property”) and Dominion Virginia Power is the owner of an electric transmission tower (the “Tower”) located thereon; ; and

WHEREAS, Cellco Partnership, trading as Verizon Wireless, filed an application for a special use permit to install a personal wireless service facility on the Tower (SP 2016-05, Verizon Wireless “Southland”/River’s Edge III, LLC); and

WHEREAS, Albemarle County Code § 18-5.1.40(b)(3) requires that the applicant submit a tree conservation plan showing tree protection measures, identifying trees to be removed, and identifying dead and dying trees, which may be waived by special exception; and

WHEREAS, Albemarle County Code § 18-5.1.40(b)(2)(c) requires that antennas be mounted so that in no case shall the farthest point of the back of the antenna be more than 18 inches from the facility, which may be modified by special exception; and

WHEREAS, the Applicant filed a request for a special exception in conjunction with SP 2016-05, Verizon Wireless “Southland”/River’s Edge III, LLC, to waive the requirements of County Code § 18-5.1.40(b)(3) and to modify the requirements of County Code § 18-5.1.40(b)(2)(c).

NOW, THEREFORE, BE IT RESOLVED that, upon consideration of the foregoing, the executive summary and staff report prepared in conjunction with the application, all of the factors relevant to the special exception in County Code §§ 18-5.1.40(b)(3), 18-5.1.40(b)(2)(c), and 18-33.9, and the information provided at the Board of Supervisors meeting, the Albemarle County Board of Supervisors hereby approves the special exception to authorize the waiver of County Code § 18-5.1.40(b)(3) and the modification of County Code § 18-5.1.40(b)(2)(c) as set forth above, subject to the condition attached hereto.

* * * *

SP-2016-00005 Verizon Wireless “Southland”/River’s Edge III, LLC Special Exception Condition

1. No antenna shall project more than seven feet ten inches (7’ 10”) from the monopole structure to the back of the antenna.

**ORDINANCE NO. 16-A(2)
ZMA 2016-00001 HOLLYMEAD TOWN CENTER
AREA A2 PROFFER AMENDMENT**

**AN ORDINANCE TO AMEND THE PROFFERS APPROVED WITH ZMA 2010-00006
FOR TAX MAP AND PARCEL NUMBERS 03200-00-00-04500 AND 03200-00-00-05000**

WHEREAS, the application to amend the proffers that were approved with ZMA 2010-00006 for Tax Map and Parcel Numbers 03200-00-00-04500 and 03200-00-00-05000 (the "Property") is identified as ZMA 2016-00001, Hollymead Town Center Area A2 Proffer Amendment ("ZMA 2016-00001"); and

WHEREAS, ZMA 2016-00001 proposes to amend Proffer #1 to reduce the amount of affordable housing proffered from 20% to 15%; and

WHEREAS, staff recommended approval of ZMA 2016-00001 provided that minor revisions were made to the proffers, and such revisions have since been made; and

WHEREAS, the Planning Commission held a duly noticed public hearing on ZMA 2016-00001 on June 7, 2016-0001.

BE IT ORDAINED by the Board of Supervisors of the County of Albemarle, Virginia, that upon consideration of the staff report prepared for ZMA 2016-00001 and its attachments, including the proffers dated May 27, 2016, the information presented at the public hearing, the material and relevant factors in Virginia Code § 15.2-2284, and for the purposes of public necessity, convenience, general welfare and good zoning practices, the Board hereby approves ZMA 2016-00001 with the proffers dated May 27, 2016.

* * * *

Original Proffer:
Amended Proffer: X

PROFFER FORM

Date: May 27, 2016
ZMA #: ZMA2016-001, Hollymead Town Center Area A-2
Tax Map Parcel Numbers: 32-45 and 32-50

44.5 Acres to be rezoned from NMD to NMD

In conjunction with the Application Plan entitled "ZMA Application Plan for NMD Portion of Hollymead Town Center A-2," dated March 13, 2006, revised August 31, 2007 (the "Application Plan" and the Amendment to the Application Plan entitled, "Amendment to the General Development Plan for ZMA 2007-001," dated November 1, 2010 (the "Amended Application Plan for Blocks B1, B2 and B4") and Hollymead Town Center Area A-2 ZMA 2010-006 Rezoning Application and the revised Code of Development approved in conjunction with ZMA 2010-006.

Tax Map Parcel Numbers: 32-45 and 32-50, comprising 44.5 acres and also identified as Hollymead Town Center Area A-2, are subject to rezoning application ZMA 2010-006 and to this Proffer Statement (the "Property"). The Property is described with more particularity on the Application Plan, which applies to all portions of the Property except for Blocks B1, B2 and B4, and the Amended Application Plan for Blocks B1, B2 and B4. The Application Plan and the Amended Application Plan for Blocks B 1, B2 and B4 are attached hereto as Exhibits A and B, respectively.

The Owner of the Property is Route 29 LLC, a Virginia limited liability company (the "Owner").

The Owner hereby voluntarily proffers that if the Albemarle County Board of Supervisors acts to rezone the Property to Neighborhood Model District (NMD) as requested, the Owner shall develop the Property in accord with the following proffers pursuant to Section 15.2-2303 of the Code of Virginia, 1950, as amended, and pursuant to Section 33.3 of the Albemarle County Zoning Ordinance. These conditions are voluntarily proffered as part of the requested rezoning, and the Owner acknowledges that the conditions are reasonable. These proffers supersede the proffers accepted in conjunction with ZMA 2007-001 and ZMA2010-006. If rezoning application ZMA 2016-001 is denied, these proffers shall immediately be null and void and of no further force and effect, and the proffers accepted in conjunction with ZMA 2007 -001, as well as the Application Plan and the Code of Development approved in conjunction with ZMA 2007-001, shall continue to apply to Hollymead Town Center Area A-2.

1. **Affordable Housing.** The Owner shall provide affordable housing equal to fifteen percent (15%) of the total residential units constructed on the Property, in the form of for-sale condominiums and townhouses, and for-rent condominiums, townhouses, apartments and

accessory units. At least 40% of the affordable units will be in the form of for sale condominiums and townhouses. Each subdivision plat and site plan for land within the Property shall designate the lots or units, as applicable, that will be 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%) minimum on any future subdivision plat or site plan, provided however, that the maximum number of affordable units that may be carried over or banked shall not exceed fifteen percent (15%) of the total units on any subdivision or site plan.

The Owner may "carry-over" or "bank" credits for affordable units in the event an individual subdivision plat or site plan designates affordable units that in the aggregate exceed the fifteen percent (15%) minimum for such subdivision plat or site plan, and such additional affordable units may be allocated toward the fifteen percent (15%) minimum on any future subdivision or site plan, provided however, that the maximum number of affordable units that may be carried over or banked shall not exceed fifteen percent (15%) of the total units on any subdivision or site plan. The Owner shall convey the responsibility of initially constructing the affordable units to the subsequent owners of lots within the Property. With the written approval of the County's Subdivision Agent, the Owner or its successors may revise which lots and unit-types are designated on the subdivision plat or site plan that will contain affordable units as provided under this proffer; provided that the number of the lots so designated shall not be reduced. The actual owner at the proposed time of construction shall offer units affordable to households with incomes less than eighty percent (80%) of the area median income such that housing costs consisting of principal, interest, real estate taxes and homeowners insurance (PITI) do not exceed thirty percent (30%) of the gross household income.

A. **For-Sale Affordable Housing Units.** Affordable units shall be affordable to households with incomes less than eighty percent (80%) of the area median family income (the "Affordable Unit Qualifying Income"), such that the housing costs consisting of principal, interest, real estate taxes and homeowners insurance (PITI) do not exceed thirty percent (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) 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 its successors in interest may at its option provide down payment assistance or soft seconds (silent second mortgages) to reduce the costs to the homebuyer so that the resultant first mortgage and housing costs remain at, or below, the parameters described above. All financial programs or instruments described above must be acceptable to the primary mortgage lender. Any soft second (silent second mortgage) executed as part of the affordable housing proffer shall be donated to the County of Albemarle (the "County") or its designee to be used to address affordable housing. Each dwelling unit qualifying under these parameters counts as one (1) affordable unit.

B. . Affordable Units.

(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 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 Proffer 1B 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 Proffer 2. 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 Proffer 1B. At least thirty (30) days prior to the conveyance of any interest (other than for the securing of a mortgage or deed of trust) 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 Proffer 1B(2) have been satisfied.

(3). **Reporting 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. **Road Improvements.** Within one (1) year after approval of ZMA 2007-001, the following streets shall be completed:

A. Meeting Street from the intersection of Town Center Drive to the northern boundary of Area A. Meeting Street will have two northbound and two southbound travel lanes, one northbound and one southbound bicycle lane. Initially, one lane in each direction may be utilized as on-street parking

B. Town Center Drive (Previously Access Road A) from the Eastern edge of the NMD zoning boundary at the intersection of Meeting Street to its intersection with State Route 606, also known as Dickerson Road. This section of Town Center Drive shall be constructed to accommodate two travel lanes, with a cross section approved by the county and VDOT in a minimum 60-foot wide right-of-way.

For purposes of this Proffer 2, construction of each street shall be deemed complete when it is ready to be recommended by the Albemarle County Board of Supervisors for acceptance into the state-maintained system, and the Owner has obtained from the County Engineer a written determination that the street is safe and convenient for traffic.

The road improvements listed herein shall be constructed in accordance with the NMD Code of Development as approved as part of ZMA 2010-006 (which with respect to the road improvements are the same as those contained in the Code of Development approved in conjunction with ZMA 2007-001), and with road plans submitted by the Owner and approved by the Virginia Department of Transportation ("VDOT").

3. **Public Transit Stop Construction.** The Owner shall construct two public transit stops within Hollymead Town Center Area A-2. The location of the public transit stops shall be identified on the Application Plan and retained in the County files. The locations shall be approved by the Director of Planning prior to approval of the first subdivision plat or site plan for Hollymead Town Center Area A-2. Construction of the public transit stops shall occur in conjunction with improvements for the subdivision plat or site plan or the public street plans which include the area for the transit stops. The design of each public transit stop shall be subject to approval by VDOT and the County Engineer, and shall include no less than 200 square feet of paved surface and two benches.

4. **Cash Proffer.** Beginning with the 151st Market Rate unit, the Owner shall contribute cash on a per dwelling unit basis for the purposes of funding Berkmar Drive Extended, other County infrastructure, transportation, public safety, school, parks and library improvements. The cash contributions shall be: \$12,400 cash for each attached/townhouse/condominium dwelling unit, other than an affordable dwelling unit ("Market Rate Unit"), and \$11,900 cash for each multifamily/apartment dwelling unit other than an affordable dwelling unit ("Market Rate Unit"). Such cash contribution shall be paid at the time of the issuance of the building permit for each new unit, unless the timing of the payment is otherwise specified by state law.

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 Comparative Cost Multiplier, Regional City Average, Southeast Average, Category C: Masonry Bearing Walls issued by Marshall Valuation Service (a/lc/a Marshall and Swift) (the "Index") or the most applicable Marshall & Swift index determined by the County if Marshall & Swift cease 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 calendar year most recently ended, and the denominator of which shall be the Index as of December 1 in the year preceding the calendar 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.

5. **Greenway.** The Owner shall dedicate in fee simple a minimum 7.6 acre "greenway" to Albemarle County for public use. The dedication is identified on the Application Plan as "Greenway Area dedication to Albemarle County," and shall include a strip of land that runs along Powell Creek with minimum width of 50 feet on the each side of Powell Creek, subject to the limitations of the Property boundary. The dedicated area will also include all flood plain area along Powell Creek within the Property boundary. The Owner shall complete the improvements shown on the Application Plan and shall dedicate the Powell Creek Greenway to the County at the time of the first site plan or subdivision plat approval. After it is dedicated to public use, the Greenway Area shall continue to be included in the total area of open space and amenities within the Property. If the Greenway is not dedicated by subdivision plat, the Owner shall be responsible for the cost if a survey and preparing the deed to convey the Greenway to the County.

6. **Pocket Park.** In conjunction with the subdivision plat or site plan that includes the land described in this Proffer 6, the Owner shall establish an approximately 10,000 square foot pocket park (the "Pocket Park") located on the northern edge of Block B1 fronting Town Center Drive as shown on the Amended Application Plan for Blocks B1, B2, and B4, and shall include all such improvements, landscaping and other features identified in the Code of Development. The Pocket Park shall be included in the total area of open space and amenities within the Property. The subdivision plat or the site plan shall include a note stating that the Pocket Park is reserved for future dedication to the County of Albemarle and, upon the request of the County; the Owner shall dedicate in fee simple the Pocket Park to the County. If the Pocket Park is not dedicated by subdivision plat, the Owner shall pay the costs of surveying the Pocket Park, preparing one or more plats thereof and preparing and recording one or more deeds of dedication.

7. **Recycling Center or Other Community Facility.** Upon the request of the County, the Owner shall dedicate in fee simple a two (2) acre parcel of land for use by the County or its designee as a Recycling Center, or other community facility identified in the CIP, to be located in an area most appropriate for such use as agreed by the County and the Owner. If the land for the Recycling Center or Community Facility is not dedicated by subdivision plat, the Owner shall pay the costs of surveying the land, preparing one or more plats thereof and preparing and recording one or more deeds of dedication.

8. **Recreational Facilities.** The owner shall contribute \$500.00 cash per residential unit, to be paid at the time of issuance of each building permit unless the timing of the payment is otherwise specified by state law, for the purpose of funding the expansion or new development of regional outdoor recreational facilities as determined by the County Parks and Recreation Department.

9. **Critical Slopes, Erosion and Sediment Control and Stormwater Management.**

- A. Critical Slopes. The owner shall apply for critical slope waivers for any roads located in critical slopes governed by § 18-4.2 et seq. of the Albemarle County Code.
- B. Erosion and Sediment Control. The Owner shall, to the maximum extent practicable as determined by the County's Program Authority, provide additional erosion and

sediment controls to achieve a sediment removal rate of eighty percent (80%) for the Property. (As a reference, current regulatory structural measures achieve a 60% optimal removal rate.)

- C. **Revegetation.** Within nine (9) months after the start of grading under any erosion and sediment control permit, permanent vegetation shall be installed on all denuded areas, except for areas the Program Authority determines are otherwise permanently stabilized or are under construction with an approved building permit. A three (3) month extension for the installation of permanent vegetation may be granted by the Program Authority due to special circumstances including but not limited to weather conditions.
- D. **Stormwater.** The Owner shall, to the maximum extent practicable as determined by the County's Program Authority, provide additional stormwater management to achieve a removal rate 20% better than would otherwise be required by the Water Protection Ordinance (Albemarle County Code § 17-100 et seq.) up to a maximum of an eighty percent (80%) removal rate for each phase.

10. **LEED Standards for Core and Shell Development.** The Owner shall cause the commercial and mixed-use buildings in the Project to be designed and constructed to meet minimum standards for certification (twenty-three (23) credit points) under LEED Green Building Rating System for Core and Shell Development as set forth in the U.S. Green Building Rating System, Version 2.0, and July 2006. Prior to the issuance of a building permit the Owner shall submit a certification from the LEED certified architect to the Director of Community Development that the building meets LEED standards. Before the Owner requests that a certificate of occupancy for any building for which a licensed architect rendered such a certificate, the Owner shall submit to the County's Director of Community Development a written statement for the architect that the building was built to the plans on which the certificate was based.

11. **Phasing Plan.** Prior to the issuance by the County of a building permits that would authorize the construction of any square feet of gross floor area (aggregate) of commercial and office gross floor area within the Property, building permits shall have been issued for at least 100 dwelling units. Prior to the issuance by the County of a building permit that would authorize construction of up to 200,000 sq ft of gross floor area (aggregate) of commercial and office gross floor area with the Property, building permits shall have been issued for at least 600 dwelling units.

12. **Willow Glen Connection.** Upon the request of the County, the Owner shall dedicate for public use a public right-of-way determined to be appropriate by VDOT and the County Engineer, extending from Town Center Drive to the Property's boundary with the purposed Willow Glen development, as shown on the Application Plan and within Block C6 as shown on the Block Plan (the "Willow Glen Connection"). Upon the request of the County, the Owner shall grant all necessary drainage easements required for the Willow Glen Connection and all temporary construction easements to appropriate parties, including developer of the proposed Willow Glen Development, to allow the construction of the Willow Glen Connection. Approval of the County Engineer and the owner for the location of the connection to Willow Glen may be shifted from the

area shown in the Application Plan to a more suitable location to both the Owner and the County which still provides access from Willow Glen to Town Center Drive.

13. **Community Development Authority.** Upon the request of the County, Owner shall petition for and consent to a Community Development Authority ("CDA") established pursuant to Section 15.2-5152, et seq. of the Code of Virginia ("Code") to be created, excluding residential property within the Property, for the purpose of financing, funding, planning, establishing, constructing, enlarging, extending, or maintaining (except to the extent VDOT maintains any public improvements) Route 29, and roads and other improvements associated therewith.

WITNESS the following signature:

Route 29 LLC,
A Virginia Limited Liability Company
P.O. Box 5548
Charlottesville, VA 22905

By: [Signature]
Operating Manager

COMMONWEALTH OF VIRGINIA,
CITY/COUNTY OF Albemarle, to-wit

The forgoing instrument was acknowledged before me this 27th day of May, 2016,
By Wesley W. Wood, Operating Manager of Route 29 LLC, a Virginia limited liability company.

My Commission expires: April 30, 2017 [Signature]
Notary Public

Notary registration number: 102181

ORDINANCE NO. 16-18(6)

AN ORDINANCE TO AMEND CHAPTER 18, ZONING, ARTICLE II, BASIC REGULATIONS, OF THE CODE OF THE COUNTY OF ALBEMARLE, VIRGINIA

BE IT ORDAINED By the Board of Supervisors of the County of Albemarle, Virginia, that Chapter 18, Zoning, Article II, Basic Regulations, is hereby amended and reordained as follows:

By Amending:

Sec. 5.1.56 Family day homes

Chapter 18. Zoning**Article II. Basic Regulations****Sec. 5.1.56 Family day homes**

Each family day home shall be subject to the following:

- a. *Care for four or fewer children.* Each family day home providing care for four (4) or fewer children under the age of thirteen (13), exclusive of the provider's own children and any children who reside in the home, shall be regulated as a single-family residential use.
- b. *Care for not fewer than five but not more than twelve children.* Each family day home providing care for not fewer than five (5) but not more than twelve (12) children under the age of thirteen (13), exclusive of the provider's own children and any children who reside in the home, shall be subject to the following:
 1. *Traffic.* The additional traffic generated by a family day home, excluding trips associated with the dwelling unit, shall not exceed twenty-four (24) vehicle round trips per day. For the purposes of this section, a "vehicle round trip" means one vehicle entering and exiting the site. The limitation on the number of vehicle round trips per day may be waived or modified by special exception. In acting on a special exception, the board shall consider whether the waiver or modification of the number of vehicle round trips per day will change the character of the neighboring agricultural area or the residential neighborhood, as applicable, and whether the additional vehicle trips per day will be a substantial detriment to abutting lots. Notice of the application for a special exception shall be posted as provided in section 33.4(m)(2).
 2. *Parking.* Each family day home shall provide one (1) parking space plus one (1) parking space for each additional employee. The parking spaces may be located on-site, on the street where authorized by law, or in a parking lot safe and convenient to the family day home.
 3. *Entrance and access.* In conjunction with each application for a zoning clearance, the zoning administrator shall identify, if necessary, the applicable design and improvements required that are at least the minimum necessary to protect public health and safety by providing safe ingress and egress to and from the family day home site, safe vehicular and pedestrian circulation on the site, and the control of dust as deemed appropriate in the context of the use. The zoning administrator may consult with the county engineer or the Virginia Department of Transportation regarding the minimum design and improvements for the entrance and access.
 4. *State licensure.* Each family day home shall acquire and maintain the required licensure from the Virginia Department of Social Services. The owner or operator of the family day home shall provide a copy of the license to the zoning administrator. The owner or operator's failure to provide a copy of the license to the zoning administrator shall be deemed to be willful noncompliance with the provisions of this chapter.
 5. *Inspections by fire official.* The Albemarle County fire official is authorized to conduct periodic inspections of the family day home. The owner or operator's failure to promptly admit the fire official

onto the premises and into the dwelling unit to conduct an inspection in a manner authorized by law shall be deemed to be willful noncompliance with the provisions of this chapter.

6. *Waivers or modifications by special exception.* Except as provided in subsection (b)(1), no requirement of this section may be waived or modified.
7. *Zoning clearance and notice of request.* No family day home shall commence without a zoning clearance issued under section 31.5, subject to the following:
 - a. *Notice to abutting lot owners.* At least thirty (30) days prior to acting on the zoning clearance, the zoning administrator shall provide written notice of the application for a zoning clearance to the owner of each abutting lot under different ownership than the lot on which the proposed family day home would be located. The notice shall identify the proposed family day home, its size and capacity, its location, and whether a special exception under subsection (b)(1) is requested. The notice shall invite the recipient to submit any comments before the zoning clearance is acted upon. The notice shall be mailed or hand delivered at least thirty (30) days prior to the action on the zoning clearance. Mailed notice shall be sent by first class mail. Notice mailed to the owner of each lot abutting the site shall be mailed to the last known address of the owner, and mailing the notice to the address shown on the current real estate tax assessment records of the county shall be deemed to be compliance with this requirement.
 - b. *Special exception.* If the zoning administrator receives a written objection to the family day home from the owner of an abutting lot within thirty (30) days after the notice was mailed or delivered, the zoning clearance shall not be approved until after the applicant obtains a special exception for the family day home as provided in sections 33.5 and 33.9. In acting on a special exception, the board shall consider whether the proposed use will be a substantial detriment to abutting lots.
8. *Relationship to other laws.* The provisions of this section are supplementary to all other laws and nothing herein shall be deemed to preclude application of the requirements of the Virginia Department of Social Services, Virginia Department of Health, Virginia State Fire Marshal, or any other local, state or federal agency.

(§ 5.1.0.6, 12-10-80; Ord. 01-18(6), 10-3-01; § 5.1.56, Ord. 13-18(5), 9-11-13)

This ordinance shall be effective on and after July 1, 2016.

**RESOLUTION TO APPROVE CPA 2016-00001
AND TO REPEAL THE CASH PROFFER POLICY**

WHEREAS, Senate Bill 549, which was passed by the General Assembly in 2016, and which is to be codified as Virginia Code § 15.2-2303.4 effective July 1, 2016, changes the law pertaining to proffers addressing impacts resulting from rezoning map amendments approving new residential developments; and

WHEREAS, because the County's current Cash Proffer Policy, which is included in the County's Comprehensive Plan adopted on June 10, 2015 as Appendix A.3.3. (the "Cash Proffer Policy"), will be inconsistent with this new legislation, a Comprehensive Plan Amendment is necessary to repeal the Cash Proffer Policy; and

WHEREAS, Virginia Code § 15.2-2229 authorizes the Albemarle County Board of Supervisors to amend the Comprehensive Plan after having received the recommendation of the Albemarle County Planning Commission; and

WHEREAS, the Comprehensive Plan amendment identified as CPA 2016-00001 proposes to amend the Comprehensive Plan by repealing the Cash Proffer Policy; and

WHEREAS, on May 10, 2016, after a duly noticed public hearing, the Planning Commission recommended approval of CPA 2016-00001; and

WHEREAS, on June 8, 2016, the Board of Supervisors held a duly noticed public hearing on CPA 2016-00001; and

WHEREAS, the Board of Supervisors has carefully considered the discussion and recommendations of the Planning Commission, and the information and comments provided by the public during the public hearings held by the Planning Commission and the Board of Supervisors; and

WHEREAS, the Board of Supervisors concludes that approval of CPA 2016-00001 to amend the Comprehensive Plan by repealing the Cash Proffer Policy is necessary to ensure that the County's Comprehensive Plan policies are consistent with Virginia Code § 15.2-2303.4.

NOW, THEREFORE, BE IT RESOLVED that, upon consideration of the foregoing, and for the purposes articulated in Virginia Code § 15.2-2223(A), the Albemarle County Board of Supervisors hereby approve CPA 2016-00001 to amend the Comprehensive Plan by repealing the Cash Proffer Policy, which is Appendix A.3.3 of the Albemarle County Comprehensive Plan adopted on June 10, 2015; and

BE IT FURTHER RESOLVED THAT the Board of Supervisors authorizes County staff to make any other changes to references to the Cash Proffer Policy in the Albemarle County Comprehensive Plan adopted on June 10, 2015 that do not change the substance of the text.