

Original Proffers   X    
Amendment           

## PROFFER STATEMENT

ZMA No. **2016-09**

Tax Map and Parcel Number(s): **04500-00-00-112E0, 04500-00-00-11200**

Owner(s) of Record: **Brian J, McMahon & Stephen K von Storch (TMP 04500-00-00-112E0)  
Stuard R Wood (TMP 04500-00-00-11200)**

Date of Proffer Signature: **December 9, 2016**

**4.428** acres to be rezoned from **R-6 Residential** to **HC – Highway Commercial with restrictions.**

**Brian J, McMahon & Stephen K von Storch (TMP 04500-00-00-112E0) Stuard R Wood (TMP 04500-00-00-11200)**

are the owners (the “Owners”) of Tax Map and Parcels **04500-00-00-112E0 and 04500-00-00-11200** (the “Property”) which is the subject of rezoning application **ZMA No. 2016-09**, a project known as the Wood von Storch Rezoning (the “Project”).

Pursuant to Section 33.3 of the Albemarle County Zoning Ordinance, the Owner hereby voluntarily proffers the conditions listed below which shall be applied to the Property if it is rezoned to the zoning district identified above. These conditions are proffered as a part of the requested rezoning and the Owner acknowledges that the conditions are reasonable.

The Owners shall construct improvements on the Property in general accordance with the Concept Plan prepared by Stoneking von Storch Architects entitled “3400 Berkmar Drive Concept Plan” dated November 16, 2016 which is attached hereto and other applicable County zoning and site plan requirements as determined by the Director of Planning and the Zoning Administrator. To be in general accord with the Concept Plan, future development shall reflect the following major elements as shown on the Concept Plan:

- a. **Primary Development Zone** - Fronting on Berkmar Drive and extending into the collective properties approximately 50% of the total property depth. Within the Primary Development Zone, buildings shall have relegated parking as defined in proffer 7 below and pedestrian access from Berkmar Drive.
- b. **Frontage Zone** – An area fronting on Berkmar Drive of approximately 378 feet, in which buildings must occupy a minimum of thirty-five percent (35%) of the total Frontage Zone and provide for pedestrian access from Berkmar Drive.
- c. **Cemetery Zone** – An area at the northwestern corner of the site, along Berkmar Drive in which a preexisting cemetery has been identified and shall be preserved or removed in accordance with the laws of the State of Virginia.
- d. **Reservation Areas** – An area along Berkmar Drive between the existing right-of-way and a building setback line measured on the property, 44 feet from the Center Line of the Berkmar Drive Right and a 40 foot wide area along the northern property boundary as shown on the Concept Plan, subject to the terms in proffers 6 and 8 below.

2. a) The following by right uses in Highway Commercial (HC) zoning shall not be permitted:
  - i. Pipe and tobacco shops
  - ii. Barber/Beauty shops
  - iii. Laundromats
  - iv. Farmer's Markets
  - v. Funeral Homes
  - vi. Wayside Stands
  - vii. Hospitals
  - viii. Restaurant drive thru windowsb) The following use shall be restricted:
  - i. Cemeteries – The existing cemetery shall not be expanded.
  - ii. Mini-storage – Shall be limited to the Secondary Development Zone or the upper floors within the Primary Development Zone.
3. Retail uses will be limited to no more than 25,000 square feet of the total floor area built on the site. This represents approximately 25% of the projected total floor area projected to be built on the Property.
4. Eating establishments built on the property shall be limited to 1,500 square feet or less per establishment.
5. Residential uses shall be secondary and limited to the upper floors of multi-story buildings.
6. Owners shall reserve an area along the Berkmar Drive frontage between the edge of the existing right-of-way and a building setback line measured on the property, 44 feet from the Center Line of the Berkmar Drive Right of Way (Reserved Area) until the Small Area Plan for Berkmar Drive is completed. This reservation, or a portion thereof, will terminate upon determination by the County in the Small Area Plan that some or all of such Reserved Area is not needed (The Reservation Period). The Reserved Area shall remain free of buildings or other obstructions during the Reservation Period. However, the Owners reserve the right to construct turn and taper lane improvements within the Reserved Area. If the determination of the County in the Small Area Plan is that the Reserved Area, or a portion thereof, will be needed for future Berkmar widening or improvements, then the Reserved Area, or a portion thereof, shall be dedicated to the County upon demand.
7. The Owner shall restrict parking uses to the side or rear of buildings within the Primary Development Zone. The front minimum parking setbacks shall be no closer to the right-of-way than any existing or proposed primary structure in the Primary Development Zone.
8. Owners shall reserve an area 40 feet wide along the northern property boundary as shown on the Concept Plan until the Small Area Plan for Berkmar Drive is completed. This reservation, or a portion thereof, will terminate upon determination by the County in the Small Area Plan that some or all of such Reserved Area is not needed but not later than January 1, 2020 (The Reservation Period). The Reserved Area shall remain free of buildings or other significant obstructions during the Reservation Period. However, the Owners reserve the right to construct parking lots within the Reserved Area. If the determination of the County in the Small Area Plan is that the Reserved Area, or a portion thereof, will be needed for a future connector road from Berkmar Drive to Rte 29, then the Reserved Area, or a portion thereof, may be acquired by the County or VDOT for such purpose.

9. Owner shall delineate the boundaries of the cemetery identified on the Concept Plan and submit a treatment plan for such cemetery for approval by the County Director of Community Development, or designee at the plan or plat review stage of any development on the property which could impact the cemetery.

**OWNERS:**

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**Brian J. McMahon**

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**Stephen K. von Storch**

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**Robin M. Wood**