

BIRDWOOD MANSION AND GROUNDS

ZMA 2018-00014

PROFFER STATEMENT

Date: May 10, 2019
ZMA#: ZMA 2018-00014
Tax Map Parcel #: 07500-00-00-06300 (portion of)
Owner of Record: University of Virginia Foundation

15.21 acres to be rezoned from R-1 Residential ("R-1") to Highway Commercial ("HC").

The following property is subject to rezoning application ZMA 2018-00014 (the "Application") and thus to this proffer statement: a portion of Tax Map Parcel 07500-00-00-06300 shown as "Proposed Area of Rezoning 15.21 acres" on the Rezoning Boundary Exhibit, prepared by Roger W. Ray & Assoc., Inc, dated October 18, 2018, last revised March 21, 2019, and attached hereto as Exhibit A (the "Property"). The Applicant and owner of the Property is University of Virginia Foundation (the "Owner").

The Owner hereby voluntarily proffers that if the Albemarle County Board of Supervisors acts to approve the Application, as requested, the Owner and its successors and assigns shall develop the Property in accord with the following proffers pursuant to Section 15.2-2298 of the Code of Virginia, 1950, as amended, and pursuant to Section 33.22 of the Albemarle County Zoning Ordinance. These conditions are voluntarily proffered as part of the Application, and the Owner acknowledges that (1) the rezoning itself gives rise to the need for the conditions; and (2) such conditions have a reasonable relation to the rezoning requested.

In the event the Application is denied the proffers shall immediately be null and void and of no further force or effect.

1. Development of the Property shall be in general accord with the plan entitled "Rezoning Conceptual Plan" prepared by Elise Cruz and dated May 10, 2019, and attached hereto as Exhibit B (the "Conceptual Plan"). The Owner reserves the right to develop the Property in phases.

2. Within the Property, only the following uses shall be permitted by right, subject always to the express terms of this proffer statement:

- a. Pursuant to subsection 24.2.1 of Section 24, HC Highway Commercial zoning district, of the Albemarle County Zoning Ordinance, as those regulations exist on the date of approval of ZMA 2018-00014, as set forth below: Section 24.2.1 numbers 20, 35, 36, 37, 41, 44, and 45.
- b. Pursuant to subsection 22.2.1 of Section 22, C-1 Commercial zoning district, of the Albemarle County Zoning Ordinance, as those regulations

exist on the date of approval of ZMA 2018-00014, as set forth below:
Section 22.2.1 numbers b.17, b.18, b.19, b.26, and b.27.

The by-right uses of the Property that are permitted pursuant to sections 24.2.1 and 22.2.1 and pursuant to this Proffer Statement are shown below without strikethrough. Uses which will not be permitted on the Property (subject always to the express terms of this proffer statement) have been indicated by strikethrough.

24.2.1 BY RIGHT

The following uses shall be permitted in any HC district, subject to the applicable requirements of this chapter. The zoning administrator, after consultation with the director of planning and other appropriate officials, may permit, as a use by right, a use not specifically permitted; provided that such use shall be similar to uses permitted by right in general character, and more specifically, similar in terms of locational requirements, operational characteristics, visual impact and traffic generation. Appeals from the zoning administrator's decision shall be as generally provided in section 34.

1. ~~Automobile laundries.~~
2. ~~Automobile, truck repair shops.~~
3. ~~Automobile service stations (reference 5.1.20).~~
4. ~~Building materials sales.~~
5. ~~Churches, cemeteries.~~
6. ~~Clubs, lodges (reference 5.1.02).~~
7. ~~Convenience stores.~~
8. ~~Educational, technical and trade schools.~~
9. ~~Factory outlet sales—clothing and fabric.~~
10. ~~Feed and seed stores (reference 5.1.22).~~
11. ~~Financial Institutions.~~
12. ~~Fire extinguisher and security products, sales and service.~~
13. ~~Fire and rescue squad stations (reference 5.1.09).~~
14. ~~Funeral homes.~~
15. ~~Furniture stores.~~
16. ~~Food and grocery stores including such specialty shops as bakery, candy, milk dispensary and wine and cheese shops.~~
17. ~~Home and business services such as grounds care, cleaning, exterminators, landscaping and other repair and maintenance services.~~
18. ~~Hardware.~~
19. ~~(Repealed 6-3-81).~~
20. ~~Hotels, motels and inns.~~
21. ~~Light warehousing.~~
22. ~~Machinery and equipment sales, service and rental.~~
23. ~~Mobile home and trailer sales and service.~~
24. ~~Modular building sales.~~
25. ~~Motor vehicle sales, service and rental.~~
26. ~~New automotive parts sales.~~

27. Newspaper publishing.
28. Administrative, business and professional offices.
29. Office and business machine sales and service.
30. Eating establishment; fast food restaurants.
31. Retail nurseries and greenhouses.
32. Sale of major recreational equipment and vehicles.
33. Wayside stands—vegetable and agricultural produce (reference 5.1.19).
34. Wholesale distribution.
35. Water, sewer, energy and communications distribution facilities.
36. Public uses (reference 5.1.12).
37. Temporary construction headquarters and temporary construction storage yards (reference 5.1.18).
38. Indoor theaters.
39. Heating oil sales and distribution (reference 5.1.20).
40. Temporary industrialized buildings (reference 5.8.)
41. Uses permitted by right pursuant to subsection 22.2.1 of section 22.1, commercial, C-1.
42. Indoor athletic facilities. (Added 9-15-93).
43. Farmer's market (reference 5.1.47). (Added 10-11-95).
44. Stormwater management facilities shown on an approved final site plan or subdivision plat. (Added 10-9-02)
45. Tier I and Tier II personal wireless services facilities (reference 5.1.40). (Added 10-13-04)
46. Storage yards.
47. Laboratories/Research and Development/Experimental Testing; gross floor area of the establishment does not exceed 4,000 square feet per site; provided that the gross floor area of the establishment may exceed 4,000 square feet per site by special exception approved by the board of supervisors.
48. Manufacturing/Processing/Assembly/Fabrication and Recycling; gross floor area of the establishment does not exceed 4,000 square feet per site; provided that the gross floor area of the establishment may exceed 4,000 square feet per site by special exception approved by the board of supervisors.
49. Storage/Warehousing/Distribution/Transportation; gross floor area of the establishment does not exceed 4,000 square feet per site; provided that the gross floor area of the establishment may exceed 4,000 square feet per site by special exception approved by the board of supervisors.
50. Drive-through windows (reference 5.1.60). (Added 3-2-16).

22.2.1 BY RIGHT

The following uses shall be permitted in any C-1 district, subject to the applicable requirements of this chapter. The zoning administrator, after consultation with the director of planning and other appropriate officials, may permit, as a use by right, a use not specifically permitted; provided that such use shall be similar to uses permitted by right in general character, and more specifically, similar in terms of locational requirements, operational characteristics,

visual impact and traffic generation. Appeals from the zoning administrator's decision shall be as generally provided in section 34.

- a. The following retail sales and service establishments:
 1. ~~Antique, gift, jewelry, notion and craft shops.~~
 2. ~~Clothing, apparel and shoe shops.~~
 3. ~~Department store.~~
 4. ~~Drug store, pharmacy.~~
 5. ~~Florist.~~
 6. ~~Food and grocery stores including such specialty shops as bakery, candy, milk dispensary and wine and cheese shops.~~
 7. ~~Furniture and home appliances (sales and service).~~
 8. ~~Hardware store.~~
 9. ~~Musical instruments.~~
 10. ~~Newsstands, magazines, pipe and tobacco shops.~~
 11. ~~Optical goods.~~
 12. ~~Photographic goods.~~
 13. ~~Visual and audio appliances.~~
 14. ~~Sporting goods.~~
 15. ~~Retail nurseries and greenhouses.~~
 16. ~~Farmers' markets (reference 5.1.47).~~ 17.
 17. ~~Laboratories/Research and Development/Experimental Testing; gross floor area of the establishment does not exceed 4,000 square feet per site; provided that the gross floor area of the establishment may exceed 4,000 square feet per site by special exception approved by the board of supervisors.~~
 18. ~~Manufacturing/Processing/Assembly/Fabrication and Recycling; gross floor area of the establishment does not exceed 4,000 square feet per site; provided that the gross floor area of the establishment may exceed 4,000 square feet per site by special exception approved by the board of supervisors.~~
 19. ~~Drive-through windows (reference 5.1.60).~~ (Added 3-2-16)
- b. The following services and public establishments:
 1. ~~Administrative, professional offices.~~
 2. ~~Barber, beauty shops.~~
 3. ~~Religious assembly use, cemeteries.~~
 4. ~~Clubs, lodges (reference 5.1.02).~~
 5. ~~Financial institutions.~~
 6. ~~Fire and rescue squad stations (reference 5.1.09).~~
 7. ~~Funeral homes.~~
 8. ~~Health spas.~~
 9. ~~Indoor theaters.~~
 10. ~~Laundries, dry cleaners.~~
 11. ~~Laundromat (provided that an attendant shall be on duty at all hours during operation).~~
 12. ~~Libraries, museums.~~
 13. ~~Nurseries, day care centers (reference 5.1.06).~~

14. ~~Eating establishments.~~
15. ~~Tailor, seamstress.~~
16. ~~Automobile service stations (reference 5.1.20).~~
17. Water, sewer, energy and communications distribution facilities.
18. Public uses (reference 5.1.12).
19. Temporary construction headquarters and temporary construction storage yards (reference 5.1.2).
20. ~~Dwellings (reference 5.1.21).~~
21. ~~(Repealed 4-3-13).~~
22. ~~Automobile, truck repair shop excluding body shop.~~
23. ~~Temporary industrialized buildings (reference 5.8).~~
24. ~~Indoor athletic facilities. (added 9-15-95)~~
25. ~~(Repealed 5-5-10).~~
26. Stormwater management facilities shown on an approved final site plan or subdivision plat. (Added 10-9-02)
27. Tier I and Tier II personal wireless service facilities (reference 5.1.40). (Added 10-13-04)

Notwithstanding that the above-referenced uses will not be permitted on the Property, this proffer statement shall not be interpreted to prohibit uses accessory to a hotel, motel or inn, or any other uses permitted as by-right per this proffer statement.

3. Prior to issuance of a certificate of occupancy for the Birdwood Mansion and Grounds, the Owner shall submit for approval by the Zoning Administrator a current Event Management Plan to provide adequate parking for the public during events at the Property, and further designed to avoid or minimize public parking in adjacent and nearby residential areas during such public events. Such a plan shall include a commitment by the Owner to provide adequate event parking on the Property or the adjacent Boar's Head property with additional access to the Property either by shuttle service or on foot, at the discretion of the Owner. Parking may also be provided in other parking areas controlled by the Owner or its affiliated entities, each in the discretion of the Owner given the expected attendance at each particular event. Such a plan will also provide for the use of shuttle services as necessary given the size and nature of a particular event, for the use of adequate signage directing the public to permitted parking areas, and the use of appropriate personnel to direct the public to such permitted parking areas and to discourage or prohibit public parking in adjacent and nearby residential areas.

4. The Owner agrees to conduct warrant analyses, and to provide a pro rata financial contribution to future transportation improvements (as may be warranted), as established in conditions of approval #8 and #9 in special use permit amendment SP201700032.

5. Prior to final site plan approval, the Owner shall obtain the approval from the Zoning Administrator of a shared parking agreement with the owner of the adjacent Boar's Head Resort parcels.

6. For all events at the Property involving amplified music, the Owner shall utilize a house sound system that has a maximum sound level output of 85 dBA, measured at a distance of fifty (50) feet from the speaker.

WITNESS the following duly authorized signature:

UNIVERSITY OF VIRGINIA FOUNDATION

By: _____

Printed Name: _____

Title: _____

Date: _____

Exhibit “A”
Rezoning Boundary
(attached)

DRAFT

Exhibit “B”

Rezoning Conceptual Plan

(attached)

39112094_1