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

Phone (434) 296-5832 **Fax (434) 972-4126**

March 17, 2017

Alan Taylor - Riverbend Development
455 2 St Se 5th Floor
Charlottesville Va 22902

RE: ZMA201600005 Foothills Daily Property

Dear Mr. Taylor,

On February 8, 2017, the Board of took action on your Zoning Map Amendment application request to to rezone Tax Map Parcels 056000000057C0, 056000000057B2, and 056K00000000A2 from R1-Residential to R6-Residential; parcel 056A2010006200 from R2-Residential to R6-Residential; and a portion of parcel 056A2010006100 from LI-Light Industrial to R6-Residential for a total of approximately 38 acres, in the White Hall District. The Zoning Map Amendment permit was approved by the Board's adoption of the attached resolution and proffers.

If you have questions regarding the above-noted action, please contact Rebecca Ragsdale at (434) 296-5832.

Sincerely,

David Benish
Chief of Planning

Attachment

PROFFER STATEMENT

FOOTHILLS CROSSING

Date: February 6, 2017

ZMA #: 2016-05

Tax Map Parcel #: 056A2-01-00-06200, 05600-00-00-057C0, 05600-00-00-057B2, 056A2-01-00-06100, and 056K0-00-00-000A2 (the "Property")

Owner(s) of Record: Route 240 Holdings, LLC; Edmund J. Daily, Christopher Daily & Cynthia Daily DiCanio; Route 240, LLC; and Foothills Crossing, INC.

Rezone parcel 056A2-01-00-06200 totaling approximately 2.13 acres from R2 Residential (R2) to R6 Residential (R6), and rezone three parcels (05600-00-00-57C0, 05600-00-00-057B2, and 056K0-00-00-000A2) totaling approximately 32.56 acres from R1 Residential (R1) to R6, and a portion of parcel 056A2-01-00-6100, containing 3.24 acres from Light Industrial (LI) to R6.

Total Land Area: 37.93 acres

Pursuant to Sections 33.4 and 33.7 of the Albemarle County Zoning Ordinance, the Owner hereby voluntarily proffers the conditions listed herein below which shall be applied to Foothills Crossing (hereinafter the "Property") if the Zoning Map Amendment (hereinafter the "ZMA") is approved by the County of Albemarle (the "County"). These conditions are proffered as a part of the requested 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.

The term "Owner" as referenced herein shall mean the owner(s) of record and successors in interest of parcels 056A2-01-00-06200, 05600-00-00-057C0, 05600-00-00-057B2, 056K0-00-00-000A2, and a portion of 056A2-01-00-06100.

The Application Plan shall refer to that certain Application Plan prepared by Collins Engineering February 16, 2016 last revised January 3, 2017 (the "Application Plan"). Future development of the Property shall be in general accord with the Application Plan. To be in general accord with the Application Plan, the development and use shall reflect the major elements shown on the Application Plan and listed below, as determined the Director of Planning or his designee:

a) Streets shall be interconnected, except where described in Note 13 of the Application Plan.
b) There shall be a mixture of housing types and maximum number of units as described in building type and density in the General Notes section of the Application Plan.
c) Buildings shall be oriented towards public streets as described in Note 9 of the Application Plan. A strip of open space shall be provided along the Eastern Avenue Connector Road and Park Ridge Street, where necessary, to provide additional landscape buffering of any rear yards abutting the open space where backs of buildings are visible from the street.

d) The Greenway trail system shall include a connection to this phase of the Foothill Crossings Neighborhood and a connection to Crozet Park.

The headings of the proffers and conditions set forth below have been prepared for convenience or reference only and shall not control or affect the meaning or be taken as an interpretation of any provisions of the proffers.

1. Park Ridge Street Road Construction and Dedication.

The Owner shall cause to be constructed a two lane road in the general location of the road identified as Park Ridge Street ("Park Ridge") on the Application Plan. Park Ridge will be an "avenue section" in design, with bike lanes, parking, sidewalks, street trees, and curb and gutter. Park Ridge shall be constructed, bonded and ready to be recommended by the Albemarle County Board of Supervisors for acceptance into the public system, and the County Engineer shall have determined that the roadway is safe and convenient for traffic (hereinafter, "completed") prior to issuance of the tenth (10th) certificate of occupancy (herein after "CO") within the Property. Once the Owner completes Park Ridge and within sixty (60) days after the written request of the County, the Owner shall dedicate Park Ridge as a public road.

2. Eastern Avenue Connector Road Construction and Dedication.

The Owner shall cause to be constructed a two lane road in the general location of the road identified as Eastern Avenue Connector Roadway ("Eastern Avenue") on the Application Plan. Eastern Avenue will be an "avenue section" in design, with bike lanes, parking, sidewalks, street trees, and curb and gutter. Eastern Avenue shall be constructed, bonded and ready to be recommended by the Albemarle County Board of Supervisors for acceptance into the public system, and the County Engineer shall have determined that the roadway is safe and convenient for traffic (hereinafter, "completed") prior to issuance of the fiftieth (50th) CO within the Property. Once the Owner completes Eastern Avenue and within sixty (60) days after the written request of the County, the Owner shall dedicate Eastern Avenue as a public road.

3. Greenway Trails.

A. Construction and Dedication of Greenway Trails.
A primitive trail network, consistent with the County's design standards for a Class B-type 1 primitive nature trail, shall be established within the Greenway. The installation of the trail shall not preclude the future conversion, by others, of the trail to Class A-paved trail standards. The general location of the trail network is shown on the Application Plan, however exact trail locations shall be determined based on site conditions. Installation of the trail network shall be completed prior to issuance of approval of the tenth (10th) CO for a single family dwelling within the Project.

Upon the request of the County, but not prior to the issuance of the tenth (10th) CO within the Project, the Owner shall dedicate to the County an easement for public use over the Greenway area, as shown on the Application Plan. Prior to the County's request to dedicate such easement, the Owner may dedicate portions of the Greenway by easement concurrently with one or more subdivision plats for areas lying adjacent to the Greenway; provided however, that Owner may reserve in such easements, rights of

access for utilities and maintenance. Each subdivision plat shall depict the Greenway area to be dedicated and shall bear a notation that the Greenway area is dedicated for public use. If, at the time the County requests dedication of the Greenway, any part of the Greenway that has not been dedicated by subdivision plat, shall be (within six (6) months of such request) at Owner's cost, surveyed, platted and recorded with one or more deeds of easement dedication.

B. Bike and Pedestrian Tunnel
Pursuant to approval by VDOT and the County, the Owner shall construct a bike and pedestrian tunnel (herein after the "Pedestrian Tunnel") along the trail network as it passes underneath Eastern Avenue. The Tunnel design shall be submitted for review with the roadway plans for Eastern Avenue. Installation of the Tunnel shall be completed prior to issuance of approval of the tenth (10th) CO for a single family dwelling within the Project.

4. **Community Civic Space.**

The Owner shall provide not less than 20,000 square feet of land within the Project for a Civic Space in the general location identified on the Application Plan. The Civic Space shall be substantially completed prior to the issuance of approval of the tenth (10th) CO within the Project. Parks and Civic Spaces shall be conveyed to, and maintained by the Owner's Association. The Owner shall pay the cost of subdividing and conveying the Parks and Civic Spaces to the Owner's Association.

5. **Cash Proffer for Capital Improvements Projects.**

The Owner shall contribute cash on a per "market-rate" dwelling unit basis in excess of the number of units that are allowed by right under the zoning in existence at the time of this zoning amendment for the purposes of addressing the fiscal impacts of development on the County's public facilities and infrastructure, i.e., schools, public safety, libraries, parks and transportation. For the purposes of this Proffer 5, the number of units allowed by right under the R-1 Residential zoning is thirty five (35) single-family detached units. A "market rate" unit is any single-family detached unit in the Project that is not either a For-Sale Affordable Housing Unit or For -Rent Affordable Unit as described in Proffer 6. The cash contributions shall be Seven Thousand Three Hundred Thirty Three Dollars and Eighteen Cents ($7,333.18) for each single family detached dwelling unit, other than a constructed For-Sale Affordable Dwelling Unit within the Project qualifying as such under Proffer 6. In other words, the cash contribution for market rate single family units shall begin after a building permit for the 35th market rate single family unit is issued and prior to the Owner obtaining a building permit for the 36th market rate single family unit. The cash contributions shall be Five Thousand Four Hundred Forty Seven Dollars and Fifty Seven Cents ($5,447.57) for each single family attached dwelling unit, other than a constructed For-Sale Affordable Housing Unit or a For Rent Affordable Housing Unit within the Project qualifying as such under Proffer 6. The cash contributions shall be Seven Thousand Four Hundred Nineteen Dollars and Ninety One Cents ($7,419.91) for each multifamily dwelling unit, other than a constructed For Sale Affordable Housing Unit or For Rent Affordable Housing Unit within the Project qualifying as such under Proffer 6.

6. Affordable Housing.

The Owner shall provide affordable housing equal to fifteen percent (15%) of the total number residential units constructed on the Property. For example, if one hundred (100) total units are constructed in the Project, fifteen (15) units, or their equivalent, are required to satisfy this Proffer 6. The Owner or its successors in interest reserve the right to meet the affordable housing objective through a variety of housing types, or through cash contributions, as more particularly described in sections 6A, 6B and 6C below.

A. For-Sale Affordable Housing Units. All purchasers of the For-Sale Affordable Housing Units,(defined below) shall be approved by the Albemarle County Housing Office or its designee. "For-Sale Affordable Housing Units" shall be dwelling units offered for sale at no more than sixty five percent (65%) of Virginia Housing and Development Authority's ("VHDA") maximum sales price for first time home-buyer program. The Owner shall provide the County or its designee a period of one hundred twenty (120) days to identify and prequalify an eligible purchaser For-Sale Affordable housing Units. The one hundred twenty (120) day period shall commence upon written notice from the Owner that the unit(s) shall be available for sale. This notice shall not be given more than ninety (90) days prior to receipt of the Certificate of Occupancy for the applicable For-Sale Affordable Housing Unit; the County or its designee may then have thirty (30) days within which to provide a qualified purchaser for such For-Sale Affordable Housing Unit. If the County or its designee does not provide a qualified purchaser during the one hundred twenty (120) day period, the Owner shall have the right to sell the unit(s) without any restriction on sales price or income of the purchaser(s).

B. For-Rent Affordable Housing Units.

(1) Rental Rates. The initial net rent for each rental housing unit for which Owner seeks qualification for the purposes of this proffer 6, ("For-Rent Affordable Housing Unit")shall not exceed the then-current and applicable maximum net rent rate approved by the Albemarle County Housing Office. In each subsequent calendar year, the monthly net rent for each For-Rent Affordable Housing Unit may be increased up to three percent (3%). For purpose of this proffer 6B, the term "net rent" means that the rent does not include tenant-paid utilities. The requirement that the rents for such for-rents for such For-Rent Affordable Housing Units may not exceed the maximum rents established in this paragraph 6B 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 Housing 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 Housing Units during the Affordable Term shall contain language reciting that such unit is subject to the terms of this subparagraph (2). In addition, all contracts pertaining to a conveyance of any For-Rent Affordable Housing Unit, or any part thereof, during the Affordable Term shall contain a complete and full disclosure of the restrictions and

controls established by this paragraph 6B. At least thirty (30) days prior to the conveyance of any interest in any For-Rent Affordable Housing 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 paragraph 6B(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 Housing 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.

C. Cash in lieu of Constructing Affordable Dwelling Units. In lieu of constructing For-Sale, or For-Rent Affordable Dwelling Units for fifteen percent (15%) of the total number of Units, the Owner has the option to make a cash contribution to Albemarle County for the affordable housing program in the amount of Twenty-Four Thousand and Three Hundred Seventy Five Dollars ($24,375.00) (the "Affordable Housing Cash Proffer") for each such unit. The total cash contribution due to Albemarle County as noted above shall be based on the total number of affordable units built in the Project.

7. Cost Index.

Beginning January 1 of each year following the approval of this rezoning, the amount of each cash contribution required by Proffers 5 and 6 shall be adjusted annually until paid, to reflect any increase or decrease for the proceeding calendar year in the Marshall and Swift Building Cost Index ("MSI") for masonry walls in the Mid-Atlantic. The annual adjustment shall be made by multiplying the proffered cash contribution amount due for the preceding year by a fraction, the numerator of which shall be the MSI as of December 1 in the preceding calendar year, the denominator of which shall be the MSI as of December 1 in the year preceding the calendar year most recently ended (the "Annual Percentage Change"). By way of example, the first annual adjustment shall be Seven Thousand Three Hundred and Thirty Three Dollars and Eighteen Cents ($7,333.18) x 2018 MSI/2017 MSI. Each annual adjustment shall be based on the amount of the proffered cash contribution due for the immediately preceding year based on the formula contained in this Proffer 7 (the amount derived from such formula shall be referred to hereinafter as the "Cash Contribution Due"), provided, however, in no event shall the cash contribution amount paid by the Owner be less than Seven Thousand Three Hundred and Thirty Three Dollars and Eighteen Cents ($7,333.18) per single family detached dwelling unit and Five Thousand Four Hundred and Forty Seven Dollars and Fifty Seven Cents ($5,447.57) per single family attached dwelling unit and Seven Thousand Four Hundred and Nineteen Dollars and Ninety One Cents ($7,419.91) per multifamily dwelling unit under Proffer 5 or Twenty-Four Thousand and Three Hundred Seventy Five Dollars ($24,375.00) per affordable dwelling unit under Proffer 6 (the "Minimum Cash Contribution"). The Annual Percentage Change shall be calculated each year using the Cash Contribution Due, even though it may be less than the Minimum Cash Contribution, HOWEVER, the amount paid by the Owner shall not be less than the Minimum Cash Contribution. For each cash contribution that is being paid in increments, the unpaid incremental payments shall be correspondingly adjusted each year.

8. **Credit For In-Kind Contributions.**

Notwithstanding the provisions of these Proffers to the contrary, the Owner's obligation to pay Cash Contributions shall not commence until the number of units, to which such Cash Contributions apply have been completed that results in what would have been a total Cash Contribution equal to the value of: i) Eastern Avenue, and related improvements to be completed by Owner, ii) the Pedestrian Tunnel and iii) the Greenway Trail improvements, (collectively referred to as the "In-kind Contribution"). The In-Kind Contribution shall be One Million Two Hundred Thousand Dollars ($1,200,000.00). The In-kind Contribution reflects the value of the improvements that the Owner has committed to make pursuant to these proffers that are for the benefit of the public. The Owner shall not be required to pay any per unit Cash Contributions until the time of the issuance of the building permit for a new unit completed after applying the aforementioned credits for the In-kind Contribution. In the event that the Project is completed prior to the balance of the In-kind Contribution being exhausted, any remaining balance of the In-kind Contribution may not be applied for any other project or development.

The undersigned Owner(s) hereby proffer that the use and development of the Property shall be in conformance with the proffers and conditions herein above, and these proffers shall supersede all other proffers and conditions made prior hereto. This Proffer Statement may be executed in any number of counterparts, each of which shall be an original and all of which together shall constitute but one and the same instrument.

WITNESS the following signature:

OWNERS of Tax Map Parcel 05600-00-00-057B2:

By: _____
CHRISTOPHER DAILY

By: _____
EDMUND J. DAILY

By: _____
CYNTHIA L. DAILY DICANIO

Date: feb 6 2017

OWNER of Tax Map Parcel 05600-00-00-057C0 & 056A2-01-00-06200:
ROUTE 240 HOLDINGS, LLC, a Virginia limited liability company

By: _____
ALAN TAYLOR, ~~MANAGER~~ AUTHORIZED OFFICER

Date: Feb 8, 2017

OWNER of Tax Map Parcel 056A2-01-00-06100:
ROUTE 240, LLC, a Virginia limited liability company

By: _____
ALAN TAYLOR, ~~MANAGER~~ AUTHORIZED OFFICER

Date: Feb 8, 2017

OWNER of Tax Map Parcel 056K0-00-00-0000A2:
FOOTHILLS CROSSING, INC., a Virginia corporation

By: _____
ALAN TAYLOR, ~~MANAGER~~ AUTHORIZED OFFICER

Date: Feb 8, 2017

31657067_6

ORDINANCE NO. 17-A(3)
ZMA 2016-00005 FOOTHILLS DAILY PROPERTY

AN ORDINANCE TO REZONE 32.54 ACRES FROM R1-RESIDENTIAL, 2.13 ACRES FROM R2-RESIDENTIAL, AND 3.24 ACRES FROM LI-LIGHT INDUSTRY, TO R6-RESIDENTIAL FOR TAX MAP PARCEL NUMBERS 05600-00-00-057C0, 05600-00-00-057B2, 056K0-00-00-000A2, 056A2-01-00-06200, AND 056A2-01-00-06100

WHEREAS, the application to rezone 32.54 acres from R1-Residential, 2.13 acres from R2-Residential, and 3.24 acres from LI-Light Industry, to R6-Residential for Tax Map Parcel Numbers 05600-00-00-057C0, 05600-00-00-057B2, 056K0-00-00-000A2, 056A2-01-00-06200, and 056A2-01-00-06100 is identified as ZMA 2016-00005 Foothills Daily Property ("ZMA 2016-05"); and

WHEREAS, staff recommended approval of ZMA 2016-05 provided that revisions were made to the proffers and the rezoning application plan; and

WHEREAS, the Planning Commission held a duly noticed public hearing on ZMA 2016-05 on September 13, 2016, and recommended approval, conditioned on the applicant making the staff-recommended revisions, and those revisions have since been made; and

WHEREAS, on February 1, 2017, the Albemarle County Board of Supervisors held a duly noticed public hearing on ZMA 2016-05; and

WHEREAS, on February 8, 2017, the Albemarle County Board of Supervisors considered ZMA 2016-05 for action that included an amendment to Proffer 8 that did not materially affect the overall proposal.

BE IT ORDAINED by the Board of Supervisors of the County of Albemarle, Virginia, that upon consideration of the staff report prepared for ZMA 2016-05 and its attachments, including the proffers dated January 3, 2017 and the rezoning application plan entitled "Foothills Crossing Zoning Map Amendment Application Plan" dated February 16, 2016 and last revised on January 3, 2017, the information presented at the public hearing, the material and relevant factors in Virginia Code § 15.2-2284, the intent of the R6-Residential district stated in County Code § 18-16.1, and for the purposes of public necessity, convenience, general welfare and good zoning practices, the Board hereby approves ZMA 2016-05 with the proffers dated February 6, 2017 and the concept plan dated February 16, 2016 and last revised on January 3, 2017.

* * *

I, Claudette K. Borgersen, do hereby certify that the foregoing writing is a true, correct copy of an Ordinance duly adopted by the Board of Supervisors of Albemarle County, Virginia, by a vote of six to zero, as recorded below, at a regular meeting held on February 8, 2017.

Claudette K Borgersen
Clerk, Board of County Supervisors

	Aye	Nay
Mr. Dill	Y	____
Ms. Mallek	Y	____
Ms. McKeel	Y	____
Ms. Palmer	Y	____
Mr. Randolph	Y	____
Mr. Sheffield	Y	____