Original Proffers ___X_____
Amendment _____

DRAFT PROFFER STATEMENT

ZMA Number and Name:	2023-00005 Berkmar Flats
Parcel ID Numbers:	04500-00-00-08100, 04500-00-00-08200, 04500-00-00-082A0
Owner(s):	Third Mesa LLC
Date of Proffer Signature:	XX, 2023

2.646 acres of tax parcel 04500-00-00-08100 to be rezoned from R-6 Residential to R-15 Residential

0.778 acres of tax parcel 04500-00-00-08200 to be rezoned from R-6 Residential to R-15 Residential

0.199 acres of tax parcel 04500-00-00-082A0 to be rezoned from R-6 Residential to R-15 Residential

---

Third Mesa LLC is the owner (the "Owner") of Tax Parcels 04500-00-00-08100, 04500-00-00-08200, and 04500-00-00-082A0 (the "Property") which together are the subject of rezoning application ZMA No. 2023-00005, a project known as "Berkmar Flats" (the "Project").

Pursuant to Section 33 of the Albemarle County Zoning Ordinance (Chapter 18 of the Albemarle County Code), the Owner hereby voluntarily proffers the conditions listed below, which shall be applied to the development of the Property if it is rezoned to the requested zoning district, R-15 Residential. These conditions are proffered as a part of the requested rezoning and the Owner specifically deems the following proffers reasonable and appropriate, as conclusively evidenced by the signature below. The signatory below signing on behalf of the Owner covenants and warrants that he is an authorized signatory of the Owner for this Proffer Statement.

1. **CONCEPT PLAN:** The property shall be developed in general accord with the "Land Use Plan" Sheet 4 of 7 of the Zoning Map Amendment Concept Plan prepared by Shimp Engineering, dated May 15, 2023 and last revised _____ XX, 2024 and shall reflect the following Major Elements as shown and noted on the Land Use Plan:
    a. The location of the building envelopes fronting on Woodburn Road and Berkmar Drive with internal vehicular travel ways and parking areas relegated behind the building envelopes.

b. The central location of a recreational area which shall be a minimum of 3,000 square feet in area.
c. The entrance on Woodburn Road may serve as a full-access entrance, if permitted by the Virginia Department of Transportation (VDOT), until the issuance of certificate of occupancy ("CO") of the twenty-ninth (29^{th}) dwelling unit on the Property, at which time, or at any time prior to the issuance of the 29^{th} CO, the entrance on Woodburn must be converted to an emergency access only entrance.
d. The sidewalk along Woodburn Road, constructed to VDOT standards; and the Right-of-Way Reservation, the final location of which will be one foot off of the back of the Woodburn Road sidewalk, or a similar dimension as determined by VDOT.

2. **AFFORDABLE HOUSING**: 15% of the total residential dwelling units within the project shall be Affordable Dwelling Units (the "15% Affordable Housing Requirement"). The 15% Affordable Housing Requirement may be met through a variety of housing types, including but not limited to, for-sale units or rental units.

a. **For-Sale Affordable Dwelling Units:** All purchasers of the affordable units shall be approved by the Albemarle County Community Development Department or its designee ("Community Development"). A for-sale Affordable Dwelling Unit shall mean any unit affordable to households with income less than eighty percent (80%) of the area median income (as determined by the U.S. Department of Housing and Urban Development (HUD) from time to time) 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. The Applicant or its successor shall provide the County or its designee a period of ninety (90) days to identify and prequalify an eligible purchaser for the for-sale Affordable Dwelling Units. The ninety (90) day period shall commence upon written notice from the Applicant, or its successor, that the unit(s) will be available for sale. This notice shall not be given more than sixty (60) days prior to receipt of the Certificate of Occupancy for the applicable for-sale Affordable Dwelling Unit; the County or its designee may then have thirty (30) days within which to provide a qualified purchaser for such for sale Affordable Dwelling Unit. If the County or its designee does not provide a qualified purchaser during the ninety (90) day period, the Applicant or its successor shall have the right to sell the unit(s) without any restriction on sales price or income of the purchaser(s). This shall apply only to the first sale of each of the for-sale Affordable Dwelling Units.
b. **For-Rent Affordable Dwelling Units:**
    i. RENTAL RATES: The gross rent (meaning the unit rent plus tenant-paid utilities) for each rental housing unit which shall qualify as an Affordable Housing Unit ("For-Rent Affordable Dwelling Unit") shall not exceed HUD's affordability standard of thirty percent (30%) of the income of a household

making eighty percent (80%) of the area median income (as determined by HUD from time to time). The requirement that the rents for such For-Rent Affordable Dwelling Units may not exceed the maximum rents established in this Section 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 Dwelling Unit, or until the units are sold as For-Sale Affordable Dwelling Units.

ii. CONVEYANCE OF INTEREST: All deeds conveying any interest in the For-Rent Affordable Dwelling Units during the Affordable Term shall contain language reciting that such unit is subject to the terms of this Section. In addition, all contracts pertaining to a conveyance of any For-Rent Affordable Dwelling Unit, or any part thereof, during the Affordable Term shall contain a complete and full disclosure of the restrictions and controls established by this Section. At least thirty (30) days prior to the conveyance of any interest in any For-Rent Affordable Dwelling 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 Section have been satisfied.

iii. REPORTING RENTAL RATES: During the Affordable Term, within thirty (30) days of each rental or lease term for each For-Rent Affordable Dwelling Unit, the Applicant or its successor shall provide to the 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 Applicant or its successor 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. **Tracking:** Each subdivision plat and site plan for land within the Property shall designate lots or units, as applicable, that will satisfy the 15% Affordable Housing Requirement. Such subdivision plat(s) or site plan(s) shall not be required to identify the method by which the 15% Affordable Housing Requirement will be satisfied. The aggregate number of such lots or units designated for affordable units within each subdivision plat or site plan shall constitute a minimum of fifteen percent (15%) of the lots or units in such subdivision plat or site plan, unless such subdivision plat or site plan does not contain any residential uses. The Applicant, at the Applicant's option, may accelerate the provision of affordable units ahead of the 15% Affordable Housing Requirement and shall be entitled to receive credit on future subdivision plat(s) or site plan(s) for any such units provided beyond the 15% Affordable Housing Requirement.

(Signature Pages Immediately Follow)

WITNESS the following signatures:

OWNER:

Owner of Tax Parcels 04500-00-00-08100, 04500-00-00-08200, 04500-00-00-082A0:

THIRD MESA LLC

_____

COMMONWEALTH OF VIRGINIA
CITY/COUNTY OF_____, to wit:

The foregoing instrument was acknowledged before me this ____day of _____2023 by Third Mesa LLC.

My Commission expires: _____ _____
Notary Public