

FTV Investments, LLC

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January 18, 2016

Elaine K. Echols, FAICP
Principal Planner
Department of Community Development
401 McIntire Road, North Wing
Charlottesville, Virginia 22902

Re: ZMA201200007 – 5th Street Commercial
SP201300027 – 5th Street Development Drive-Thru

Dear Ms. Echols,

We are responding to the Community Development Staff comments provided in Claudette Grant's letter dated July 10, 2015. Since Claudette has left the Department of Community Development, we are submitting our responses to your attention in hopes that you can forward the documents to the new Planner assigned to our file.

We will address only those comments, as they relate to the neighborhood model principles, which were not deemed to have been fully satisfied by the Staff in our prior re-submittals:

1. **Site planning that respects terrain – Adapts development to site terrain so that natural topography can be preserved.** Rev. 5 The plan now has been revised to clearly depict the areas of disturbance. The plan shows disturbance in the 100' stream buffer. Please describe how this disturbance has been mitigated.

The disturbance within the 100' buffer stream buffer was previously addressed in SP2007-00063, and a 50' Stream Buffer from Moores Creek was approved by the Albemarle County Board of Supervisors. We believe the plan properly references the 50' Stream Buffer Mitigation Line. We are not opposed to including additional plantings in the 50' Stream Buffer if requested by Staff.

2. **Buildings and Spaces of Human Scale – Keeps buildings and spaces at a human scale so that street views are attractive and pedestrian friendly.** Rev 5 Site selections for some of the buildings on the site have now been provided. It is not clear that all the buildings on the site will have the general details provided on the plan submitted. This principle is partially met.

This comment will be addressed by our submission of revised plans to the ARB which will contain more detailed information on all of the buildings; including, but not limited to, building elevations, color renderings and samples of building materials.

3. **Relegated Parking - Moves off-street parking out of sight and encourages on-street parking.** Rev 5 The parking is still not relegated; however, you are now showing landscaping in front of the parking. This principle is not met.

Our re-zoning request and plans request relief from the relegated parking principles of the neighborhood model. We believe relegated parking on our site would not conform with any of the existing commercial developments contiguous to our site. Furthermore, we have had three (3) prospective commercial tenants withdraw from further consideration of our site due to the relegated parking requirements.

4. **Engineering and Water Resources – Topography should be clearly shown and labeled, conforming that the 100 year floodplain is consistent with revised elevations in the FEMA LOMR dated 8 August 2008.**

We have submitted an application to FEMA, requesting final approval/confirmation that the 100 year floodplain reflected on our plan is consistent with revised elevations in the FEMA LOMR dated August 8, 2008. In accordance with discussions with the County Engineering Department, a FEMA CLOMR will be approved by FEMA prior to final site plan approval, and the FEMA LOMR will be approved once the fill has been placed and certified.

5. **VDOT.** Troy Austin's comments focused on the Traffic Study and improvements to 5th Street on the application plan.

A TIA was prepared and submitted to VDOT and to the County. A subsequent meeting was held with Troy Austin and a County Staff member to review the TIA with the preparer and with the applicant. The entrance has been significantly improved to include (among other things) elimination of the "left-out". Our plan should now meet with VDOT's approval; applicant is prepared to amend Proffer # 7 if need be to be in compliance with VDOT's comments.

6. **Proffers.**

Staff comments concerning Proffers have been addressed in our Amended Proffer Statement, which is being submitted contemporaneously with this response.

7. **SP-Drive-Thru.** Once in the drive-thru, where does the by-pass lane begin? If there are four to five cars in the drive-thru lane there does not appear to be ample space for a vehicle to bypass the drive-thru traffic until the vehicle gets to the wide curve in the lane.

The plan has been modified to include an extended by-pass lane by adding a mountable concrete island which will run the entire length of the back of the building.

Justin Deel commented: While the required vehicle queue has been provided, any additional queuing will back in to the intersection. This concern should be addressed.

The plan has been modified to provide queuing along the entire side and back of the building. This extension of the drive-thru lane should prevent traffic from backing up into the intersection.

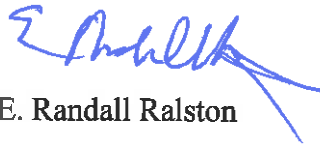
Ron Higgins commented: The by-pass lane for the drive in window needs to be extended the entire length of the stacking lane.

The plan has extended the by-pass lane the entire length of the back side of the building. To extend the by-pass lane the entire length of the stacking lane would require elimination of a 6' concrete sidewalk adjacent to the drive-thru; which was included as a prior recommendation of Staff.

In summary, we believe the modifications to the Plan have adequately addressed most issues raised by Staff.

Please do not hesitate to contact me directly should you have any questions or require additional information.

Sincerely,



E. Randall Ralston

Original Proffers
Amendment X

PROFFER STATEMENT

ZMA No. 201200007

Tax Map and Parcel Number(s): Portions of 76-55A; 76M1-1 and 76-55C

Owner(s) of Record: FTV Investments, LLC

Date of Proffer Signature: January 18, 2016

FTV Investments, LLC, a Virginia limited liability company is the owner (the "Owner") of Tax Map and Parcel Numbers: Portions of 76-55A; 76M1-1 and 76-55C (the "Property") which is the subject of rezoning application ZMA No. 201200007, a project known as "5th Street Commercial" (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 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. Each signatory below signing on behalf of the Owner covenants and warrants that it is an authorized signatory of the Owner for this Proffer Statement.

1. **The original Proffer Number 1 provided as follows:** *The development of the site will be in general accord with the plan entitled "Conceptual Site Plan", prepared by John McNair and Associates, dated on January 8, 2002 and revised on April 2, 2002.*

Requested action: This Proffer is to be modified as follows: The general location of buildings, walkways, retaining walls and access point to greenway shall be in the general location shown on the attached conceptual plan entitled "**5TH STREET DEVELOPMENT APPLICATION PLAN**" **dated December 9, 2013, as revised and updated March 9, 2015, as revised June 15, 2015, August 21, 2015, and as last revised September 21, 2015,** and prepared by Collins Engineering (hereinafter the "Conceptual Plan"), as determined by the Director of Planning and Zoning Administrator. Minor modifications to the plan which are in general accord with the general location of buildings, walkways, retaining walls and access point to greenway may be made to ensure compliance with Zoning Ordinances. Modifications are to be considered in terms of minimizing or improving impacts on adjoining properties and roadways.

2. **The original Proffer Number 2 provided as follows:** *The Owners shall restrict the uses on the property to hotels, motels, restaurants, service stations, convenience stores, and gift, craft or antique store.*

Requested action: This Proffer is to be amended as follows: The uses of the Property shall be limited to those requested uses allowed by right under Section 22.2.1; and to those uses allowed by special use permit under Section 22.2.2 of Chapter 18, Zoning, of the Albemarle County Code, as

those sections are in effect on November 21, 2013, copies of which are attached hereto and incorporated herein as Attachment A

3. **The original Proffer Number 3 provided as follows:** *Vehicular access from 5th street to development on the properties subject to ZMA 99-13 and 99-13 shall be provided by a single entrance to be shared with the existing Holiday Inn. The final site plan for development of the subject properties shall cause the existing entrance to the Holiday Inn to be modified to be used as an "in only" entrance as shown on the Conceptual Site Plan and the modified entrance shall meet Virginia Department of Transportation standards for one-way commercial entrances. Additionally, the final site plan shall provide the Holiday Inn with an additional entrance for two-way traffic flow. This additional entrance shall be at a minimum safe distance from the "in only" entrance as determined by the Albemarle County Engineering Department.*

Requested action: Vehicular access from 5th Street to development on the properties subject to ZMA 99-13 and 99-13 shall be provided by a single entrance to be shared with the existing Holiday Inn. The final site plan for development of the subject properties shall cause the existing entrance to the Holiday Inn to be modified to be ingress only, as shown on the Conceptual Site Plan and the modified entrance shall meet Virginia Department of Transportation standards for commercial entrances. Additionally, the final site plan shall provide the Holiday Inn with a second entrance for ingress/egress, as shown on the Conceptual Site Plan.

4. **The original Proffer Number 4 provided as follows:** *All proposed buildings shall be sited so that the fronts of the buildings are oriented to face 5th Street as generally shown on the Conceptual Site Plan.*

Requested action: Proposed Building A shall be sited so that the front of the building shall be oriented to face 5th Street as generally shown on the Conceptual Site Plan. Proposed Building B shall be sited so that the front of the building shall generally be oriented to face 5th Street as shown on the Conceptual Site Plan.

5. **The original Proffer Number 5 provided as follows:** *All fuel islands shall be located behind a building as generally shown in the Conceptual Site Plan.*

Requested action: Proffer Number 5 shall be removed in its entirety.

6. **The original Proffer Number 6 provided as follows:** *All existing and new utility lines on the proposed site shall be underground. The placement of these underground utilities shall be shown and constructed as part of any final site plan for development of the rezoned properties.*

Requested action: All new utility lines internal to the site shall be underground. All main power/utility lines situated along 5th Street and along the access road contiguous to Holiday Inn shall remain overhead. The placement of utilities shall be shown and constructed as part of any final site plan for development of the rezoned properties.

7. **The original Proffer Number 7 provided as follows:** *As part of a preliminary site plan submittal for any development on the rezoned property, the owner shall conduct a Traffic Study which reflects the traffic impacts of all proposed uses and the existing Holiday Inn (Tax Map 76 parcel 55C). All improvements identified by the traffic study shall be subject to VDOT and County Engineering approval and provided prior to the issuance of certificate of occupancy. These improvements, if required by the traffic study, may include, but shall not be limited to, a traffic signal at the entrance from 5th Street; and extension of the turn lane in the northbound lane of 5th Street coming from Interstate 64, and an extension of the existing turn lane from 5th Street southbound to the entrance of the proposed development.*

Requested action: As part of an initial site plan submittal for any development on the rezoned property, the owner shall conduct a Traffic Study which reflects the traffic impacts of all proposed uses and the existing Holiday Inn (Tax Map 76 parcel 55C). All improvements identified by the traffic study shall be subject to VDOT and County Engineer approval and provided prior to the issuance of certificate of occupancy. These improvements, if required by the traffic study, may include, but shall not be limited to, a traffic signal at the entrance from 5th Street; and extension of the turn lane in the northbound lane of 5th Street coming from Interstate 64, and an extension of the existing turn lane from 5th Street southbound to the entrance of the proposed development; and elimination of the "left out" from the property.

8. **The original Proffer Number 8 provided as follows:** *The Owners shall grant an easement to the County for the "Greenway Easement" as shown on the accompanying Conceptual Site Plan provided that the County holds the owner harmless as provided in Virginia Code §29.1-509(E). This easement shall be granted within 90 days of approval by the Board of Supervisors of ZMA 99-13 and SP 99-59.*

In conjunction with the Greenway, the Owner(s) shall:

- A. *In addition to the screening requirements of the Albemarle County Architectural Review Board and Section 32 of the Albemarle County Zoning Ordinance, the owner shall provide a vegetated buffer for the purposes of screening the development from the proposed greenway trail shown on the Conceptual Site plan. This vegetated buffer shall be provided in a manner consistent with Section 32.7.9.2 of the Albemarle Zoning Ordinance and the landscaping shall be shown on the final site plan and installed as part of any final site plan for development of the rezoned properties.*
- B. *Steps and a vehicle travel way from the proposed parking area to the edge of the proposed Greenway Easement shall be constructed in the approximate locations shown on the Conceptual Site Plan. These improvements shall be shown and constructed as part of any final site plan for development of the rezoned properties and maintained by the owner.*
- C. *A contribution of five hundred dollars (\$500.00) shall be made to the County to upgrade the existing bridge that formerly served the Old Lynchburg Road that lies in the proposed Greenway easement. This contribution shall be made prior to Final Site Plan approval.*

Requested Action: The Owners shall grant an easement to the County for the "Greenway Easement" as shown on the accompanying Conceptual Site Plan provided that the County holds the owner harmless as provided in Virginia Code §29.1-509(E). This easement shall be granted within 90 days of approval by the Board of Supervisors of ZMA 99-13, SP 99-59 and SP 200700063.

Subsection A of the Proffer shall be modified as follows:

- A. In addition to the screening requirements of the Albemarle County Architectural Review Board and Section 32.7.9 of the Albemarle County Zoning Ordinance, the owner shall provide a vegetated buffer for the purposes of screening the development from the proposed greenway trail shown on the Conceptual Site plan. This vegetated buffer shall be provided in a manner consistent with Section 32.7.9 of the Albemarle Zoning Ordinance and the landscaping shall be shown on the final site plan and installed as part of any final site plan for development of the rezoned properties.

Subsection B: No Change.

Subsection C of the Proffer shall be modified as follows:

A contribution of five hundred dollars (\$500.00) shall be made to the County to upgrade the existing bridge that formerly served the Old Lynchburg Road that lies in the proposed Greenway easement. This contribution shall be made prior to Final Site Plan approval. This Proffer has been satisfied.

OWNER



By:

Title: Manager

Entity: FTV Investments, LLC

Tax Map and Parcel Number: Portions of 76-55A; 76M1-1 and 76-55C

Attachment A – USES PERMITTED HC

We request that the current building location as shown on the Proffer dated May 7, 2002 be removed and that the buildings can be located on the useable site where the size and use is best suited for their commercial setting (as reflected on our conceptual Plan).

We request the following additional HC uses be permitted for the site:

Automobile laundries

Automobile repair shops

Automobile Service stations – ***Currently permitted***

Convenience stores

Financial institutions

Food and grocery stores including such specialty shops as bakery, candy, milk dispensary and wine and cheese shops

Hardware

Hotels, motels and inns – ***Currently permitted***

New automotive parts sales

Administrative, business and professional offices

Eating establishment; fast food restaurants – ***Currently permitted***

Retail nurseries and greenhouses

Uses permitted by right pursuant to subsection 22.2.1 of section 22.1 Commercial C-1 see attached with exclusions

Veterinary clinic by special use permit

ALBEMARLE COUNTY CODE

CHAPTER 18

ZONING

SECTION 22

COMMERCIAL - C-1

Sections:

- 22.1 INTENT, WHERE PERMITTED
- 22.2 PERMITTED USES
- 22.2.1 BY RIGHT
- 22.2.2 BY SPECIAL USE PERMIT
- 22.3 ADDITIONAL REQUIREMENTS

22.1 INTENT, WHERE PERMITTED

C-1 districts are hereby created and may hereafter be established by amendment to the zoning map to permit selected retail sales, service and public use establishments which are primarily oriented to central business concentrations. It is intended that C-1 districts be established only within the urban area, communities and villages in the comprehensive plan. (Amended 9-9-92)

22.2 PERMITTED USES**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.

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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. 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.
- b. The following services and public establishments:
1. Administrative, professional offices.
 2. Barber, beauty shops.
 3. Churches, 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.

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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 5.1.18).
20. Dwellings (reference 5.1.21).
21. (Repealed 4-3-13)
22. Automobile, truck repair shop excluding body shop.
23. Temporary nonresidential mobile homes (reference 5.8).
24. Indoor athletic facilities.
25. (Repealed 5-5-10)
26. Stormwater management facilities shown on an approved final site plan or subdivision plat.
27. Tier I and Tier II personal wireless service facilities (reference 5.1.40).

(§ 20-22.2.1, 12-10-80; 6-3-81; 3-5-86; 9-9-92; 5-2-93; 9-14-93; 10-11-95; Ord. 02-18(6), 10-9-02; Ord. 04-18(2), 10-13-04; Ord. 10-18(4), 5-5-10; Ord. 13-18(2), 4-3-13)

22.2.2 BY SPECIAL USE PERMIT

The following uses shall be permitted only by special use permit approved by the board of supervisors:

1. Commercial recreation establishments including but not limited to amusement centers, bowling alleys, pool halls and dance halls.
2. Energy and communications transmission facilities.
3. Hospitals.
4. Fast food restaurant.
5. Veterinary office and hospital (reference 5.1.11).
6. Unless such uses are otherwise provided in this section, uses permitted in section 18.0, residential - R-15, in compliance with regulations set forth therein.
7. Hotels, motels and inns.
8. Motor vehicle sales and rental in communities and the urban area as designated in the comprehensive plan.
9. Stand alone parking and parking structures (reference 4.12, 5.1.41).
10. Drive-through windows.

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11. Uses permitted by right, not served by public water, involving water consumption exceeding four hundred (400) gallons per site acre per day. Uses permitted by right, not served by public sewer, involving anticipated discharge of sewage other than domestic wastes.
 12. Body shop.
 13. Animal shelter (reference 5.1.11).
 14. Tier III personal wireless service facilities (reference 5.1.40).
 15. Storage/Warehousing/Distribution/Transportation
- (§ 20-22.2.2, 12-10-80; 1-1-83; 6-1-83; 11-7-84; 6-14-89; 9-9-92; 6-16-99; Ord. 03-18(1), 2-5-03; Ord. 04-18(2), 10-13-04; Ord. 13-18(2), 4-3-13)

22.3 ADDITIONAL REQUIREMENTS

In addition to the requirements contained herein, the requirements of section 21.0, commercial districts, generally, shall apply within all C-1 districts. (Amended 3-17-82; 7-10-85)