

COUNTY OF ALBEMARLE

STAFF REPORT SUMMARY

Project Name: ZMA201600003 Out of Bounds Proffer Amendment	Staff: Megan Yaniglos
Planning Commission Public Hearing: April 26, 2016	Board of Supervisors Public Hearing: TBD
Owner: Barracks Heights LLC	Applicant: Vito Cetta
Acreage: Approximately 3.55 acres	Rezone from: No change in zoning proposed. Applicant proposes to reduce cash proffer amounts approved with ZMA2015-005 and ZMA2012-003.
TMP: 06000000006500; 060L0000501900; 060L0000502000; 060L0000502100; 060L0000502200; 060L0000502300; 060L0000502400; 060L0000502500; 060L0000502600; 060L0000502700; 060L0000502800; 060L0000502900; 060L0000503000; 060L0000503100; 060L0000503200; 060L0000503300; 060L0000503400; 060L0000503500; 060L0000503600; 060L0000503700; 060L0000503800; 060L0004A00400; 060L0004A00500; 060L0004A00600	By-right use: NMD with up to 56 dwelling units
Magisterial District: Jack Jouett	Proffers: Yes
Proposal: Request to reduce cash proffer amounts as follows, single family detached: \$4,918; single family attached: \$3,845	Requested # of Dwelling Units: no change; Maximum of 56 units allowed per previous ZMA.
DA (Development Area): Southern and Western Neighborhoods.	Comp. Plan Designation: Neighborhood Density Residential- residential (3-6 units/acre); supporting uses such as religious institutions, schools, and other small-scale non-residential uses in Neighborhood 7 in the Western Urban Neighborhood.
Character of Property: Contains an historic single family residence and associated outbuildings. The property is currently under construction in accordance with the approved site plan.	Use of Surrounding Properties: Residential uses: single family, senior living, and multifamily. Canterbury Hills, Hessian Hills, the Colonnades, Barracks West.
Factors Favorable: 1. The applicant's requested cash proffer amounts would be consistent with the current Capital Improvements Program (CIP) and Capital Needs Assessment (CNA) and would be consistent with the amounts recommended by the Fiscal Impact Advisory Committee (FIAC). 2. Acceptance of the proffered amounts is consistent with the County's Cash Proffer Policy which sets a maximum amount but no minimum amount.	Factors Unfavorable: 1. The Planning Commission has not completed its review of the Cash Proffer Policy, as requested by the Board of Supervisors; however, the applicant's proffered new amounts based on the current CIP and CNA are consistent with State law. 2. The cash proffered by the applicant and accepted by the Board when the property was originally rezoned was consistent with the cash proffer policy and was a reasonable condition intended to address the impacts from the rezoning.
RECOMMENDATION: Staff recommends approval of ZMA201600003 Out of Bounds Proffer Amendment, with the revised proffers submitted by the applicant.	

STAFF PERSON:
PLANNING COMMISSION:
BOARD OF SUPERVISORS

Megan Yaniglos
April 26, 2016
TBD

ZMA201600003 Out of Bounds Proffer Amendment

PETITION

PROJECT: ZMA201600003 Out of Bounds

MAGISTERIAL DISTRICT: Jack Jouett

TAX MAP/PARCEL: 06000000006500; 060L0000501900; 060L0000502000; 060L0000502100; 060L0000502200; 060L0000502300; 060L0000502400; 060L0000502500; 060L0000502600; 060L0000502700; 060L0000502800; 060L0000502900; 060L0000503000; 060L0000503100; 060L0000503200; 060L0000503300; 060L0000503400; 060L0000503500; 060L0000503600; 060L0000503700; 060L0000503800; 060L0004A00400; 060L0004A00500; 060L0004A00600

LOCATION: Located on Barracks Road (Route 654) across from its intersection with Georgetown Road (Route 656). 225 Out of Bounds Road, Charlottesville, Virginia 22901.

PROPOSAL: Reduce cash proffer amount from ZMA201500005.

PETITION: Request to amend proffers on property zoned NMD Neighborhood Model District - residential (3 – 34 units/acre) mixed with commercial, service and industrial uses.

OVERLAY DISTRICT: Entrance Corridor (EC); Airport Impact Area (AIA)

PROFFERS: YES

COMPREHENSIVE PLAN: Neighborhood Density Residential- residential (3-6 units/acre); supporting uses such as religious institutions, schools, and other small-scale non-residential uses in Neighborhood 7 of the Western Urban Neighborhood.

CHARACTER OF THE AREA

The site is located on Barracks Road, across from its intersection with Georgetown Road (Attachment A). The property contains an historic single family residence, which will remain, along with some outbuildings. The property has some trees in the area close to Barracks Road along with a three board fence, but is mainly open grass field. The back portion of the property is heavily wooded. The grade changes from Barracks Road up in elevation where the existing house sits, and then slopes down in the back. Uses adjacent to the site include residential single family (Canterbury Hills), multi-family (Hessian Hills), and senior living (The Colonnades). The Huntwood (Townhouses) development is located across from this site on Barracks Road. Barracks West Apartments are 0.2 miles west of the property.

SPECIFICS OF THE PROPOSAL

In 2013 these parcels were rezoned from R-1 to NMD (ZMA2012-003) allowing for a maximum of 56 attached and detached residential units. In 2015 (ZMA2015-005) the proffers were amended to allow an additional housing type to be offered for the affordable units. At the time original rezoning and during the subsequent amendment the applicant proffered cash proffers for the residential units in the following amounts:

\$20,460.51 for each single family detached unit

\$13,913.18 for each single family attached or townhouse unit

The applicant requests a change in the cash proffer amounts as follows:

\$4,918.00 for each single family detached unit

\$3,845.00 for each single family attached or townhouse unit

Because the only requested change to the zoning at this time is a reduction of the cash proffer, analysis in this report is limited to that topic only. A link to the original and amended zoning can be found in Attachments B and C.

APPLICANT'S JUSTIFICATION FOR THE REQUEST

The applicant has stated he believes it is not financially feasible to pay the higher cash proffer amounts for this development. The applicant also said the State has declared that the higher cash proffer amounts are no longer lawful.

PLANNING AND ZONING HISTORY

- ZMA2012-003 Out of Bounds- On December 11, 2013, the Board of Supervisors approved the rezoning from Residential – R-1 to Neighborhood Model District – NMD in accordance with the Application Plan, Code of Development, and proffers.
- ZMA2015-005 Out of Bounds- On September 2, 2015, the Board of Supervisors approved an amendment to the proffers to allow an additional unit type to be offered for the affordable housing proffer.
- SDP2014-036 Out of Bounds- Final Site Plan- approved October 6, 2014.

COMPREHENSIVE PLAN

The property is designated Neighborhood Density Residential within the Southern and Western Neighborhoods Master Plan, which allows residential uses at a density of up to 6 units/acre, with supporting uses such as religious institutions, schools, and other small-scale non-residential uses. The applicant is not proposing any changes to the land use with this request.

Strategy 1c of the Growth Management Chapter recommends that the County continue to recognize the shared responsibility between the County and new development to pay for infrastructure and improvements to the Development Areas to address the impacts of new development.

Strategy 5d of the Development Areas Chapter of the Comprehensive Plan calls for a review of the Cash Proffer Policy to address its effects on density.

In September 2014, the Board of Supervisors directed the Fiscal Impact Advisory Committee (FIAC) to provide advice and recommendations to the Planning Commission and the Board of Supervisors on revisions to the credit provisions and the per unit cash proffer amounts of the Cash Proffer Policy. FIAC made its recommendation to the Board and Commission in July 2015 including a reduction in cash proffers to the following amounts:

\$4,918.00 for each single family detached unit and
\$3,845.00 for each sing family attached or townhouse.

The recommended reductions were based on the FY 2015-2016 County capital improvements program (CIP, which covers future years 1-5) and capital needs assessment (CNA, which covers future years 6-10)). The CIP and CNA considered have a reduced number of projects proposing new capital improvements or projects that would expand the capacity of existing facilities; projects that would merely maintain existing facilities without expanding capacity were not considered. The change in scope is based on a change in State law that became effective July 1, 2013. Virginia Code § 15.2-2303.2(D) provides:

Notwithstanding any provision of this section or any other provision of law, general or special, no cash payment proffered pursuant to § 15.2-2298, 15.2-2303, or 15.2-2303.1 shall be used for any capital improvement to an existing facility, such as a renovation or technology upgrade, that does not expand the capacity of such facility or for any operating expense of any existing facility such as ordinary maintenance or repair.

The Planning Commission studied the FIAC recommendation in September and October 2015 and asked for additional information. The additional information was provided and the Planning Commission conducted a public hearing January 26, 2015 (Attachment E). The Commission deferred action on the CPA request, asking FIAC for some additional analysis on impacts to public facilities specific to a proposed plan of development. The proposed plan of development used for the analysis was Spring Hill Village (ZMA201300017), a rezoning which was approved October 8, 2014. The additional analysis using the CRIM model, provided with this staff report as Attachment F, did not show a significant difference in the per unit fiscal impact or the total amount of funds potentially contributed to address impacts of the development. On February 23, 2016, the Planning Commission reviewed a request for a proffer reduction for Spring Hill Village, without the benefit of information provided as Attachment F. The Commission did not recommend approval of the applicant's request to reduce proffers.

While the Board has not adopted a lower cash proffer amount, cash proffers requested by the applicant for Out of Bounds are consistent with the amounts recommended by FIAC. Though it has been past practice in the County for applicants to proffer the maximum amounts, staff finds the new amounts also would be reasonable in light of the State Code change and the current CIP and CNA.

DISCUSSION

This request for Out of Bounds is essentially the same as the Spring Hill Village proffer reduction request. Based on the results of the CRIM Model run for Spring Hill Village, staff does not believe that a CRIM Model run of this proposal will result in significantly different amounts than the revised FIAC cash proffer amounts.

The cash proffer amounts recommended by FIAC provide a reasonable benchmark for a maximum cash proffer per residential unit under the current CIP and CNA. However, that does not mean that the per unit amount proffered by the applicant and accepted by the Board when the property was originally rezoned was inconsistent with the cash proffer policy or was anything other than a reasonable condition intended to address the impacts from the rezoning.

Staff will be bringing a comprehensive plan amendment recommendation to the Planning Commission in May and to the Board of Supervisors in June to repeal the cash proffer policy in light of the most recent State Code changes that will be in effect on July 1, 2016. If approved, staff will be evaluating and establishing a new approach to calculating the impacts of development for Planning Commission and Board consideration.

SUMMARY

Staff has identified the following factors, which are favorable to this rezoning request:

1. The applicant's requested cash proffer amounts would be consistent with the current Capital Improvements Program (CIP) and Capital Needs Assessment (CNA) and would be consistent with the amounts recommended by the Fiscal Impact Advisory Committee (FIAC).

2. Acceptance of the proffered amounts is consistent with the County's Cash Proffer Policy which sets a maximum amount but no minimum amount.

Staff has identified the following factors which are unfavorable to this request:

1. The Planning Commission has not completed its review of the Cash Proffer Policy, as requested by the Board of Supervisors; however, the applicant's proffered new amounts based on the current CIP and CNA are consistent with State law.
2. The cash proffered by the applicant and accepted by the Board when the property was originally rezoned was consistent with the cash proffer policy and was a reasonable condition intended to address the impacts from the rezoning.

RECOMMENDATIONS

In light of the re-evaluation of the maximum cash proffer amount by FIAC, which is based on the current CIP and CNA, staff must recommend approval of this rezoning amendment ZMA201600003 Out of Bounds Proffer Amendment, with the revised proffers submitted by the applicant.

PLANNING COMMISSION MOTION – ZMA201600003 Out of Bounds Proffer Amendment:

- A. Should a Planning Commissioner choose to recommend approval of this zoning map amendment:

Move to recommend approval of ZMA201600003 Out of Bounds Proffer Amendment, with the revised proffers submitted by the applicant.

- B. Should a Planning Commissioner choose to recommend denial of this zoning map amendment:

Move to recommend denial of ZMA201600003 Out of Bounds Proffer Amendment with reasons for denial. *Should a commissioner motion to recommend denial, he or she should state the reason(s) for recommending denial.*

Attachments

A – [Location Map](#)

B – [ZMA201200003 staff report and attachments](#)

C – [ZMA201500005 staff report and attachments](#)

D – [Revised proffers](#)

E – [CPA2015-02 FIAC executive summary 1/26/16](#)

F – [Memo from Steven Allshouse, Manager of Economic Analysis and Forecasting dated March 31, 2016](#)