

**COUNTY OF ALBEMARLE
PLANNING STAFF REPORT SUMMARY**

Project Name: ZMA201600015 Oakleigh	Staff: J.T. Newberry, Senior Planner; Elaine Echols, FAICP, Principal Planner
Planning Commission Public Hearing: December 6, 2016	Board of Supervisors Public Hearing: To Be Determined
Owner: Oakleigh Albemarle, LLC c/o George Ray, Jr.	Applicant: Steve Edwards, Edwards designStudio, PLLC
Acreage: 8.82 acres	Rezone from: Amend previously approved NMD zoning (ZMA200700004)
TMP: 04500-00-00-026A0 Location: Located on the south side of Rio Rd. West across from its intersection with Woodburn Rd.	By-right use: Limited to those uses permitted by-right on pages 27-29 of the existing code of development approved on December 12, 2007
Magisterial District: Rio	Proffers: Yes
Proposal: Request to amend previously approved application plan, code of development and proffers to permit the construction of an assisted living facility on the rear half of the site and provide a third connection for emergency access. Applicant also proposes to reduce cash proffers to \$5,447.57 per attached unit and \$7,333.18 per detached unit.	Requested # of Dwelling Units: up to 109 dwelling units (this is the same number of dwelling units approved under ZMA200700004)
DA (Development Area): Places29 Master Plan (Neighborhood 1)	Character of Property: The property is entirely vacant. The front third is open pasture and the back two-thirds contain mature trees.
Comp. Plan Designation: Urban Density Residential – residential (6.01 – 34 units/ acre); supporting uses such as religious institutions, schools, commercial, office and service uses; Urban Mixed Use (in Centers) – retail, residential, commercial, employment, office, institutional, and open space.	Use of Surrounding Properties: Berkmar Crossing lies to the east of the property and the Garden Spot lies to the west. Charlottesville Health and Rehabilitation Center is adjacent to the rear property line. Three lots within the Berkeley subdivision abut the side property line towards the east. A small townhouse development and single-family detached residences off Woodburn Road lie across Rio Road West.
Factors Favorable: 1. The proposed uses in Scenario A are consistent with the Comprehensive Plan recommendations for use and density. 2. The proposed assisted living facility will provide a needed housing-type for seniors. 3. The proposed assisted living facility supports a targeted industry under the County's Economic Development Policy. 4. A required emergency access will provide an interparcel connection that addresses a known deficiency in emergency access to an existing facility. 5. An assisted living facility and commercial uses in Scenario A will provide higher tax revenues than Scenario B and may create sufficient tax revenue to mitigate impacts from residential uses on the property.	Factors Unfavorable: 1. The proposed cash proffers are not in keeping with the cash proffer policy in place when the zoning was originally approved. 2. Scenario A would result in less greenspace and fewer trees being preserved than what is currently required under the existing zoning. 3. The minimum required number of residential dwelling units (14) creates the opportunity for development that may be inconsistent with the Urban Density Residential designation.
RECOMMENDATION: Staff recommends approval of ZMA201600015 Oakleigh provided technical revisions are made to the proffers and application plan, as necessary, prior to the Board of Supervisors meeting.	

STAFF PERSON:
PLANNING COMMISSION:
BOARD OF SUPERVISORS:

J.T. Newberry
December 6, 2016
To Be Determined

PETITION

PROJECT: ZMA201600015 Oakleigh

MAGISTERIAL DISTRICT: Rio

TAX MAP/PARCEL: 045000000026A0

LOCATION: Located on the south side of Rio Road West across from its intersection with Woodburn Road

PROPOSAL: Amend previously approved Proffers, Code of Development and Application Plan to allow a 140-bed assisted living facility on the rear half of the site. The amended plan also seeks to allow the site to develop according to the existing approved Application Plan with a revised Code of Development and Proffers.

PETITION: Rezone 8.82 acres from Neighborhood Model district which allows residential uses mixed with commercial, service and industrial uses at a density of 3-34 units per acre to Neighborhood Model district which allows residential uses mixed with commercial, service and industrial uses at a density of 3-34 units per acre. This request seeks to amend the Code of Development to add a 140-bed assisted living facility in Blocks III, IV or V of a revised Application Plan, which would reduce the total maximum dwelling units from 109 units at a density of 12.3 units per acre to 36 units at a density of 4.0 units per acre. This request also seeks to preserve the ability to develop the existing approved Application Plan that proposes a maximum of 109 dwelling units at 12.3 units per acre. Under either Application Plan, the request seeks to amend Proffers #1, 2, 4 and 6 as follows: amend Proffer #1 to provide \$19,100 cash per required affordable housing unit to meet the 15% Affordable Requirement after the certificate of occupancy is issued for the 52nd dwelling unit (the existing proffer requires constructing 7.5% of total required affordable housing units and providing \$19,100 cash in lieu of 7.5% remaining required affordable housing units); amend Proffer #2 to reduce cash proffers from \$17,500 to \$7,333.18 for each single-family detached dwelling, from \$11,900 to \$5,447.57 for each single-family attached dwelling that is not an affordable dwelling unit, and from \$12,400 to \$7,419.91 for each multi-family dwelling unit that is not an affordable unit; amend Proffer #4 to reduce the number of trees preserved under the plan with an assisted living facility from 39 trees to 13 trees and reduce the required bonding from \$29,000 to \$10,000; eliminate Proffer #6 which required additional erosion and sediment controls to achieve a sediment removal rate of 80% for the property.

OVERLAYS: Entrance Corridor (EC), Steep Slopes (Managed) and Airport Impact Area (AIA)

PROFFERS: Yes

COMPREHENSIVE PLAN: Urban Density Residential – residential (6.01 – 34 units/ acre); supporting uses such as religious institutions, schools, commercial, office and service uses and Urban Mixed Use (in Centers); supporting uses such as retail, residential, commercial, employment, office, institutional, and open space in Neighborhood 1 of the Places29 Master Plan.

CHARACTER OF THE AREA

The property is located at 547 Rio Road West (Route 631) directly across the street from Woodburn Road (Route 659). The portion of this property adjacent to Rio Road contains an open pasture, which represents roughly one-third of the property. The remaining two-thirds of the property contains mature trees (see Attachment A).

Berkmar Crossing is an adjacent commercial property that lies east of the subject property and contains a mix of office, medical and retail spaces. The Garden Spot is an adjacent nursery and landscaping company located to the west. A small townhouse community is located across Rio Road from the property. Charlottesville Health and Rehabilitation Center (formerly Heritage Hall) is

adjacent to the parcel at the rear of the property and the Berkeley residential subdivision lies to the South. The intersection of Rio Road and Berkmar Drive is approximately 800 feet to the east.

SPECIFICS OF THE PROPOSAL

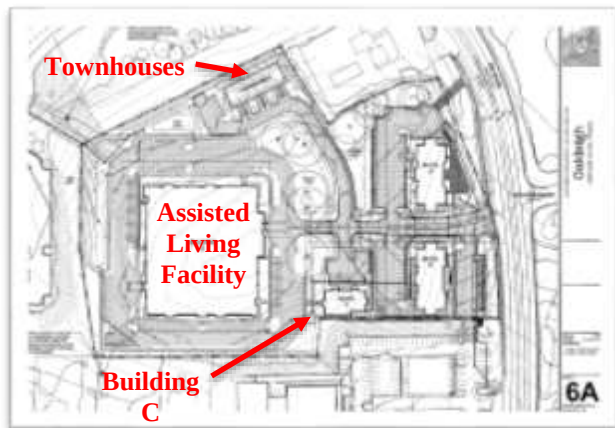
The Board of Supervisors previously approved a zoning map amendment (ZMA200700004) to rezone the property from R-6 to NMD to allow a maximum of 109 dwelling units and 28,800 square feet of commercial space, subject to an application plan, code of development (COD) and proffers (see Attachment B). Subsequently, the applicant obtained final site plan approval (SDP200800101) for 108 dwelling units and 28,800 square feet of commercial space.

The applicant is now seeking to make changes to the original rezoning by requesting approval for two different layouts identified as “Scenario A” and “Scenario B” (see Sheets 6A and 6B of Attachment C).

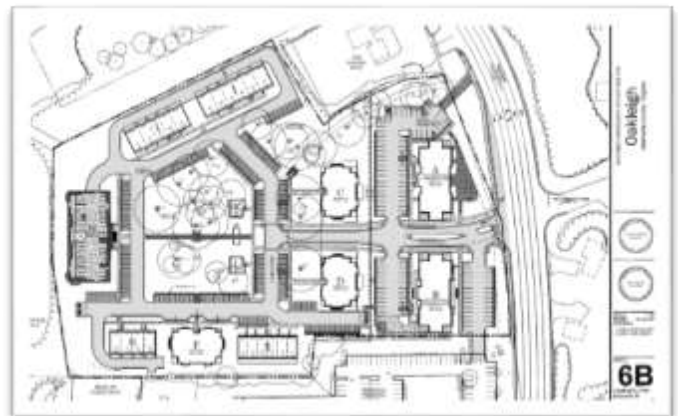
Scenario A would allow for an assisted living facility with up to 140 beds at the rear of the site. This layout contains five buildings across five blocks. The buildings fronting on Rio Road match those approved in the 2007 rezoning. Building C is in Block III and shows a 13,680 square foot office building and Block IV proposes a single row of six townhouses with one car garages. Finally, Block V contains the approximately 56,000 square foot, two-story assisted living facility.

Scenario B is the application plan approved under ZMA200700004. This layout is identical to Blocks I and II to Scenario A, but has significant differences at the rear of the site. Attachment B contains full details of this layout.

“Scenario A” – Assisted Living Facility



“Scenario B” – Existing Approved Application Plan with Revised Code of Development



Although the layout for Scenario B is the same as the proposal in 2007, the owner is asking for increased flexibility under the COD for both Scenario A and Scenario B. The applicant wishes to allow a greater variety of uses across the development than what was previously approved.

As an example, under the 2007 application plan, many of the commercial uses such as a barber shop, financial institution or dry cleaner were only permitted in Building A and Building B (this area was considered Block I in the 2007 plan). Under the current request, however, these types of uses would be permitted in Building A, Building B and Building C (or Blocks I, II and III under the current request). Other uses, such as a medical or dental office are proposed to be permitted by-right throughout the development, where they were only previously approved only in Block I. A

comprehensive side-by-side comparison of the existing and proposed permitted uses is found in the table shown in Attachment D.

The current request also seeks to modify the existing proffers (see Attachment E). With respect to affordable housing and cash proffers, the applicant is seeking credit for 52 dwelling units that could have been constructed by-right under the then existing R-6 zoning. With this history in mind, the current request also seeks to provide cash in-lieu of all affordable units on 15% of the number of dwelling units beyond the 52nd dwelling unit. The existing proffer requires constructing 7.5% of total required affordable housing units and providing \$19,100 cash in lieu of 7.5% remaining required affordable housing units.

Similarly, the current request seeks to apply a 52 dwelling unit credit to a reduced per-unit cash proffer amount. Under both Scenario A and Scenario B, the applicant is proposing to reduce cash contributions for each dwelling unit after the certificate of occupancy is issued for the 52nd dwelling unit as follows: from \$17,500 to \$7,333.18 for each single-family detached dwelling, from \$11,900 to \$5,447.57 for each single-family attached dwelling that is not an affordable dwelling unit and from \$12,400 to \$7,419.91 for the remaining units.

The current request also amends the proffers related to tree preservation. Under Scenario A, the number of trees currently proffered would be reduced from 34 trees to 13 trees. Accordingly, the bonding amount would also be reduced from \$29,000 to \$10,000. It is not clear if the applicant is seeking this revised proffer to also apply to Scenario B or if the existing tree preservation proffers are acceptable for that scenario.

Finally, the request also seeks to eliminate the proffer for enhanced erosion and sediment control measures. The current proffer requires an 80% sediment removal rate (whereas current standards only require a 60% sediment removal rate).

COMMUNITY MEETING

The community meeting was held on August 31, 2016 at Northside Library. The applicant presented a history of the property and overview of the request. Approximately 15 attendees asked clarification questions about the remaining review process, the Neighborhood Model, stormwater management, screening from adjacent uses and traffic. These topics will be discussed later in the report.

APPLICANT'S JUSTIFICATION FOR THE REQUEST

The applicant has provided several reasons for this request. He believes that there is a significant public need for additional assisted living facilities in Charlottesville and that need will continue as the population ages and the area remains an attractive destination for retirees. He would like to be able to market the site to an assisted living developer. He has said that the allowable unit types and permitted uses need to be expanded in order to respond to the current real estate market that continues to be impacted by recession. Under the 2007 plan, approximately 65% of the dwellings were to be condominiums which, according to the applicant, banks are currently unwilling to finance. These changes will help simplify a complex application plan and COD.

He has requested credit toward cash proffers for the by-right potential of 52 dwelling units in 2007 because other more recent approvals have been afforded that credit. For the remaining units, he believes that the reduced amounts will bring the zoning into alignment with current state law.

Regarding tree preservation, he has provided an arborist report indicating that the health of the trees to be removed is not good but the most significant trees will be retained under Scenario A and

Scenario B. He notes a substantial investment has been made to ensure that as many trees as possible are saved on the site.

Finally, the applicant requests to remove the proffer related to enhance erosion and sediment control. This applicant considers this proffer to have been met when the erosion and sediment control plan was approved for the 2010 site plan.

PLANNING AND ZONING HISTORY

- SDP200500062 – Preliminary site plan for 52 dwelling units under R-6 zoning (Withdrawn, 1-16-2008)
- ZMA200700004 – Rezoning to allow 109 dwelling units and 28,800 square feet of commercial space (Approved, 1-16-2008)
- SUB200800290 – Final plat to create three lots on 8.822 acres and a 0.18 residue dedicated to public use (Withdrawn, 9-25-15)
- SDP200800101 – Final site plan approval for 108 dwelling units and 28,800 square feet of commercial space (Approved, 5-11-2010)

COMPREHENSIVE PLAN

Land Use: The Places29 Master Plan recommends two land uses for this area: Urban Density Residential and Urban Mixed Use (in Centers) for a Neighborhood Service Center (see Attachment F). The Neighborhood Service Center designation was intended to reflect the Oakleigh plan for a maximum of 28,800 square feet of non-residential uses along Rio Road. The remainder of the property remained Urban Density residential. Uses in the buildings along Rio Road in the Neighborhood Service Center are not intended to change with this rezoning request. Urban Density Residential provides for a density range of 6.01 to 34 dwelling units per acre and incorporates a range of dwelling types, as well as non-residential uses such as institutional, commercial, office and service uses.

Scenario A proposes a minimum of 14 dwellings and a maximum of 62 dwellings, plus up to 140 beds in an assisted living facility. Scenario B continues to propose the same maximum of 109 dwelling units shown on the existing plan and would now also establish a 14 dwelling unit minimum where no minimum existed prior. Not counting the assisted living units, the maximum density under Scenario A would be 7.0 units per acre. Scenario B continues to have a maximum density of 12.3 dwelling units per acre.

At the minimum level of residential development, the density for Scenario A would fall well below the minimum desired density of 6.01 dwelling units per acre because beds for assisted living facilities are not counted as residential dwelling units. If assisted living units were considered as dwelling units, then the minimum expected “density” under Scenario A would be 134 units on 8.82 acres, which yields 15.2 dwelling units per acre. The maximum density would be 22.9 dwelling units per acre.

At the minimum level of residential development, the density for Scenario B would also fall well below the minimum desired density of 6.01 dwelling units per acre. In general, the addition of the non-residential uses to areas that were previously only residential is acceptable; however, with only a minimum of 14 residential dwelling units, there is a possibility for the development to become mainly an office park. Therefore, to ensure consistency with the Comprehensive Plan, a technical revision to the COD should show that a minimum of 53 dwelling units to be provided under Scenario B. This is the minimum number of dwelling units necessary to meet the low-end of the density range. This revision should also be clear that it would apply to Scenario A should an assisted living facility not be established.

An assisted living facility is a secondary use in the Urban Density Residential designation and a single building footprint above 20,000 square feet is only recommended by exception for this type of use. The proposed assisted living facility would have approximately 56,000 square feet and be two stories. Staff believes that an exception is justified because the building will be interior to the site and not along Rio Road and serves an important community need.

The Neighborhood Model: A full analysis of the Neighborhood Model was done with the original rezoning. For that reason, it is not repeated here and only applicable principles are addressed.

Applicable principles are explained below:

Multi-modal Transportation Opportunities – This principle was not included in the 2007 analysis, but the mixture of uses under Scenario A or Scenario B makes it an important one to recognize. There are two bus stops within walking distance from entrance to the property and sidewalks throughout the site connect the blocks. The COD states that bike racks will be considered in Blocks I, II, III and V. This principle is met.

Parks, Recreational Amenities and Open Space – Scenario A eliminates an important park feature in the original development and includes removal of many of the trees that are current attributes of the site. It reduces greenspace by 0.46 acres and the amenity area by 1.25 acres. However, these features cannot remain if an assisted living facility is placed on the site in the configuration proposed by the applicant. In addition, many residents of assisted living facilities have limited mobility and their needs for outdoor areas are not as great as in residential developments. A pocket park is still being provided in the center of site that meets the amenity and greenspace requirements for residential uses. This principle is met.

Buildings and Spaces of Human Scale – The most visible buildings in the development will front on Rio Road – Building A and Building B. They will be three stories and are not proposed to change in design from the 2007 approval. These are the most important buildings for creating a human scale along Rio Road. The proposed assisted living facility is a large, single footprint building and is also expected to be visible from the road. The issues were discussed in detail during the preliminary review by the Architectural Review Board (ARB). The ARB was satisfied with the design because the assisted living facility is proposed to be two stories tall and the architecture is expected to maintain a level of consistency with Building A and Building B. Between these blocks are 36"-48" caliber oak trees, which will help subdue the massing. On site, provision of landscaping and windows will help to mitigate impacts to pedestrians. This principle is met.

Mixture of Housing Types and Affordability – As previously discussed, the applicant is proposing to change proffers for affordable housing. Currently, the proffers include construction of at least 7.5% of the units as affordable and then provide cash in lieu of units for the remaining 7.5%. With the proposed changes, if an assisted living facility is constructed, then a maximum of three units would be expected as affordable units. The Housing Director has affirmed that providing cash instead of constructing three units is acceptable in this situation. However, if Scenario B is developed, there would be no guarantee of constructed affordable units in the development unless the applicant only intends for the revised proffer to apply to Scenario A.

With regards to affordability of the assisted living rooms, development under Scenario A could provide a unique opportunity for affordable housing. The Adult Services staff in the

Department of Social Services (DSS) reported there is a significant shortage of assisted living spaces for patients with limited income. The applicant worked with the Director of Social Services to confirm that auxiliary grants would be accepted by the proposed facility, which is not common among other assisted living facilities in the area. DSS is fully in support of this proposal.

Still, although the proposed assisted living tenant has pledged to accept auxiliary grants, there is no guarantee there will be living spaces for patients with limited income without a proffer to this effect. Due to the lack of a commitment for affordability in the assisted living facility and construction of affordable units this principle is only partially met.

Economic Development: The flexibility and mixture of uses requested by the proposed amendment is supported by several economic development goals and objectives of the Comprehensive Plan. Particularly for Scenario A, assisted living facilities fall within the County's *Health Services* complementary target industry. According to the applicant, the construction of the assisted living facility will be a \$28 million investment and create the equivalent of approximately 70 full-time jobs. The target industry study supports this segment of the *Health Services* industry for the same reasons the applicant cites as the justification for their request – support for an aging population and relocating retirees. The current request would provide additional flexibility by allowing the spaces within each block to be marketed to a broader spectrum of occupants.

ADDITIONAL FACTORS TO BE CONSIDERED

Relationship between the application and the purpose and intent of the requested zoning district

The Neighborhood Model district (NMD) provides for compact, mixed-use developments with an urban scale, massing, density, and an infrastructure configuration that integrates diversified uses within close proximity to each other. It also intends to provide an applicant with maximum flexibility in creating and implementing the general development plan and the code of development. As with the 2007 ZMA, staff believes the proposed amendment meets the goals of the NMD.

Anticipated impact on public facilities and services

Streets:

Rio Road is the primary street that will be affected by the development. Impacts to this road were analyzed with the 2007 ZMA. The proposed assisted living facility under Scenario A is anticipated to create many fewer vehicle trips than the approved application plan.

Schools:

If the project is developed under Scenario A, there will be fewer students than if developed under Scenario B. Students living in this area would attend Agnor-Hurt Elementary School, Burley Middle School, and Albemarle High School. Impacts to schools were previously mitigated through cash proffers. In Scenario B, cash proffers would be reduced by approximately 2/3 from the existing proffer amounts.

Fire and Rescue:

The Seminole Trail Volunteer Fire Station on Berkmar Drive provides fire and rescue services to this area. The previously approved ZMA and site plan included two points of access which helped address needs for emergency services. But a third point of access would be required due to the size of the structure proposed under Scenario A. The applicant has proposed addressing this requirement by providing a connection to the access road for the Charlottesville Health and Rehabilitation Center (CHRC).

The exact location of the third point of access would be determined during the site plan review process and making this connection would provide a much desired second point of access for the CHRC site. Currently, the CHRC site has only one point of access, so this connection would address the needs to two sites that serve populations that require a higher than average level of service. Fire/Rescue has no objection with Scenario A or Scenario B as proposed.

Utilities:

The site is serviced by public water and sewer. No immediate or significant service capacity issues have been identified by Rivanna Water and Sewer Authority (RWSA) and Albemarle County Service Authority (ACSA).

Anticipated impact on environmental, cultural and historic resources

The proposed proffers eliminate the requirement for enhanced erosion and sediment control, which could be viewed as having an impact on water quality. Staff discovered during the review process that the approved erosion and sediment control plan has expired and therefore believes this proffer should remain.

The remaining environmental, cultural and historic resources on the site are the large trees concentrated in the center of the property. Many of them are oaks above 40" in diameter and the applicant's certified arborist estimates several to be over 100 years old.

The existing application plan retains more trees (34 trees vs. 13 trees) and preserves more greenspace (2.29 acres vs. 1.83 acres) than what is proposed under Scenario A. That said, the applicant's arborist has noted that the development under Scenario A would still preserve the seven most spectacular trees on the site. These trees are included in the 13 trees covered under revised Proffer #3 for tree preservation.

Additionally, the arborist notes that eight of the 34 trees covered under the existing tree preservation proffer are showing signs of decline and/or are structurally compromised. Staff believes that the tradeoff of tree retention for an assisted living facility at this location is acceptable. Clarity in the proffers is still needed as to whether development under Scenario B would retain the 34 trees and the appropriate bonding amount to ensure such tree retention.

Anticipated impact on nearby and surrounding properties

The impacts of the development on nearby and surrounding properties were assessed with the original zoning. Mitigation of visual impacts has already been described in this report. In addition, landscaping shown on the approved site plan is not expected to change between the existing approval and Scenario A or Scenario B. Staff believes the approved landscaping plan meets today's ordinances and adequately buffers the site under either development scenario.

Public need and justification for the change

An aging population and an influx of retirees to the Charlottesville-Albemarle area creates a ripe opportunity to serve a growing market under Scenario A. There is no requirement to conduct a formal Virginia Certificate of Public Need process for this type of facility, however, support for the need in our area has been confirmed by the Director of Social Services. Additionally, flexibility in provision of different unit types allows for an owner to more nimbly respond to market conditions.

PROFFERS

Area demographics and market information can demonstrate the need to amend the application plan, but there is somewhat less support for the request to amend certain proffers. The applicant justifies a reduction in cash proffers by suggesting the revised amounts would be more consistent

with state law, and further requests that they only be applicable when the number of dwelling units constructed exceeds the 52 dwelling units that could have been built under the previous R-6 zoning.

These justifications conflict with the Board's most recent actions on reducing cash proffer amounts and the recently repealed cash proffer policy. The cash proffer policy which was in place at the time of the original rezoning said that credit was not to be given for dwelling units permitted under existing zoning regulations, except where there was no increase or only a small increase in density or where substantial upgrades to design/development standards were being provided.

In 2013, the Board of Supervisors accepted cash proffers for Avon Park II that allowed credit for 11 out of 65 units based on the by-right ability of an earlier zoning. Avon Park II had been zoned R1 in 2007, then was rezoned to R6. In 2013, the owner asked that credit be given for the by-right development under the R1 zoning. Since 2013, the Board has accepted credit for by-right units by policy. However, none of the instances where the Board accepted that credit have been as dramatic as providing credit for almost half of the total units and at present there is no cash proffer policy.

Nevertheless, R-6 zoning is not currently in place and staff notes the applicant requested the same credit in 2007. The Planning Commission did not recommend approval and the applicant subsequently provided cash proffers for all but the affordable units. Whether the Board's practice to give credit from 2012 to 2015 affects this request is debatable, but based on the cash proffer policy that was in place when ZMA200700004 was approved, staff cannot support the credit for this request.

Regarding cash proffer amounts, the applicant has also made a case in the Supplemental Comment Response Letter that Scenario A will generate retail and commercial tax revenue that fully mitigates its impact on public facilities (see Attachment G). Using reduced cash proffer amounts, the applicant has said that the cash value of proffers would be approximately \$130,355 and this amount would be exceeded by future tax revenue.

Not having seen information on expected tax revenue, staff cannot confirm that the tax revenue will exceed expected impacts. Staff may be able to provide additional information on the tax revenue that supports the applicant's claim at the Dec. 6 Planning Commission hearing. Using the existing proffer amounts for dwelling units and affordable housing, the tax revenue would need to equal or exceed \$289,900.

For Scenario B, assessment of the change has been made consistent with other requests for reductions in cash proffers on previously approved projects. 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 single family attached unit or townhouse.

The recommended reductions were based on the County's FY 2015-2016 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 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. Updated information based on the 2016-2017 CIP would yield the following amounts:

\$7333.18 for each single family detached unit;
\$5447.57 for each single family attached unit or townhouse;
\$7419.91 for each apartment or condominium.

The applicant's justification for a reduced amount, in addition to taking credit for the first 52 units, has not included a sufficient justification for the reduction. The cash proffered and accepted by the Board when the property was originally rezoned was consistent with the cash proffer policy and was intended to address the impacts from the rezoning. The owner signed the current proffer form stating the proffers are voluntarily as part of the rezoning and acknowledged they are reasonable. The proffers were approved under prior legislation and the County is not required to evaluate this request under the new proffer legislation. Based on these items and past actions of the Board for a similar type of request, staff cannot support the applicant's request to reduce the cash proffer amounts.

SUMMARY

Staff believes that the proposed rezoning under Scenario A would be advantageous to the County and not create adverse impacts. After looking at potential tax revenues, staff may also be able to affirm that the value of the tax revenue mitigates the impacts of the residential uses such that no cash proffers for residential units would be necessary.

Staff does not agree with the applicant that a) cash proffers should only apply to units 53 – 109, based on zoning that preceded the 2007 amendment and b) that the amounts be reduced to those recommended by FIAC. Development under Scenario B will create impacts from all residential units. In keeping with the Board of Supervisors' most recent actions on requests to reduce the cash proffer amount, staff cannot support the applicant's proposed reduction to cash proffers.

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

1. The proposed uses in Scenario A are consistent with the Comprehensive Plan recommendations for use and density.
2. The proposed assisted living facility will provide a needed housing-type for seniors.
3. The proposed assisted living facility supports a targeted industry under the County's Economic Development Policy.
4. A required emergency access will provide an interparcel connection that addresses a known deficiency in emergency access to an existing facility.
5. An assisted living facility and commercial uses in Scenario A will provide higher tax revenues than Scenario B and may create sufficient tax revenue to mitigate impacts from residential uses on the property.

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

4. The proposed cash proffers are not in keeping with the cash proffer policy in place when the zoning was originally approved.
5. Scenario A would result in less greenspace and fewer trees being preserved than what is currently required under the existing zoning.
6. The minimum required number of residential dwelling units (14) creates the opportunity for development that may be inconsistent with the Urban Density Residential designation.

RECOMMENDATION

Staff believes that Scenario A provides for uses that are needed in the community and where the benefits provided by the alternative layout outweigh the concerns. Providing the option for Scenario A or B creates flexibility to address different types of housing and commercial needs in the

community. Staff can support ZMA201600015 if it can be shown that future tax revenues mitigate the potential impacts of residential units in Scenario B and if the following changes are made before the Board of Supervisor's meeting:

- No changes to cash proffers are made for Scenario B
- Technical changes are made related to tree preservation and affordable housing proffers and the COD for Scenario B
- The COD is revised to require a minimum of 53 dwelling units under Scenario B and under Scenario A if an assisted living use is not established
- Other technical changes to the application as necessary to provide clarity for the administration of development under Scenario A and Scenario B

PLANNING COMMISSION MOTION:

A. If the ZMA is recommended for approval: Move to recommend approval of ZMA201600015 with proffers as recommended by staff.

B. If the ZMA is recommended for denial: Move to recommend denial of ZMA201600015 with the reasons for denial.

ATTACHMENTS

- A – [Area Map](#)
- B – [Staff Report and Planning Commission Minutes for ZMA200700004](#)
- C – [Proposed Application Plan and Code of Development](#)
- D – [Existing and Proposed Permitted Uses Table from Code of Development](#)
- E – [Proposed Proffers](#)
- F – [Comprehensive Plan Map](#)
- G – [Supplemental Comment Response Letter](#)