

Attachment C - Staff Summary of Brookhill Proffer Revisions Proposed in ZMA201800011

Proffer #1D – Rio Mills Road Connection – this proffer requires the developer to construct an offsite transportation improvement project identified as the “Rio Mills Connector road.” This is a proposed public road that will connect Berkmar Drive to Rio Mills Road (S.R. 643). The original proffer included a timing restriction stating that the Rio Mills Connector road must be completed prior to the issuance of the 200th Certificate of Occupancy (CO) for a dwelling unit other than a multifamily unit within Brookhill.

In 2017, VDOT obtained approval and funding through a Smart Scale application to complete the Rio Mills Connector road as a public transportation improvement project. VDOT has informed County staff and the developer that the Rio Mills Connector road will be finished by 2023 at the latest, but could be completed as early as 2020.

Now that VDOT is taking over design and construction of the Rio Mills Connector road, the developer will not be able to 1) build the road as originally specified, and 2) the developer will likely need the 200th CO prior to VDOT completing the road construction.

The revised proffer statement has changed the language specifying that the developer is responsible for the actual road construction. It acknowledges that VDOT will be constructing the road and substantial completion is estimated to occur by 2023. Should the VDOT project fall through, new language has been added stating that the developer/owner will still need to construct the Rio Mills Connector road with substantial completion occurring by 2027. The necessary right-of-way to accommodate the Rio Mills Connector road will still be dedicated to the County by the owner, as specified in the original proffer statement.

Proffer #1H Road Improvements, Generally – reference to the owner constructing the Rio Mills Connector Road “Proffer #1D” has been removed now that VDOT is undertaking the project.

Proffer #6 – Credit for in Kind Contributions - this proffer gives the developer a credit for the value of in-kind contributions they are required to complete by other proffers. The original value is an estimated total cost for off-site road improvement projects and land dedications specified elsewhere in the proffers. The credit is intended to delay the timing for when the developer must start paying cash contributions to the County on a per dwelling unit basis, as specified by Proffers #3 and #4. The original value of the credit is \$31,086,662.86.

The revision to Proffer #6 reduces the total value of the credit for in-kind contributions available to the developer by removing reference to the Rio Mills Connector road. Since the developer will not be constructing the road, they have acknowledged that they should not be receiving credit for completion of that improvement. The value of the in-kind contribution credit will now be \$28,336,662.00. Thus, the developer will be obligated to begin paying cash contributions to the County on a per dwelling unit basis sooner than originally anticipated, in accordance with Proffers #3 and #4.

Proffer #8 – Public High School or Institutional Use Site - this proffer requires the developer to dedicate in fee simple a site measuring a minimum of 60 acres to the County for a future public high school. The proffer states that the site may be used for “other institutional uses” if the school system determines that a new high school is not needed at this location.

The extension of Berkmar Drive was not completed by VDOT when the original Brookhill rezoning was approved. The public school site identified in Exhibit E of the original proffer statement now overlaps with a portion of the existing Berkmar Drive right-of-way. Additionally, the proposed Rio Mills Connector road will also be constructed within a portion of the parcel originally identified as the 60-acre high school site.

VDOT has conducted thorough survey work over the past few months and has informed the developer that there will only be approximately 50 acres available for the high school site once the Rio Mills Connector Road is built. Therefore, the applicant is requesting to reduce the minimum site acreage for the high school from 60 acres to “not less than 50 acres.”

Staff from Albemarle County Public Schools (ACPS) have worked closely with the developer and staff from VDOT and the Albemarle County Department of Community Development regarding this change. ACPS staff have affirmed that there are no objections to the proposed acreage reduction for the potential future high school site.