

**COUNTY OF ALBEMARLE
STAFF REPORT SUMMARY**

Project Name: ZMA201600013 Willow Glen Proffer Amendment	Staff: Rachel Falkenstein
Planning Commission Public Hearing: May 14, 2019	Board of Supervisors Public Hearing: July 19, 2019
Owner: Dickerson Ridge LLC	Applicant: Valerie Long
Acreage: Approximately 19.27 acres	Rezone from: No change in zoning proposed. Applicant proposes to reduce cash proffer amounts approved with ZMA2006-19
TMP: 03200-00-00-049F0, 03200-00-00-049I0, 03200-00-00-049J0	By-right use: PRD with up to 234 dwelling units; recently reduced via variation to 141 dwellings 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 141 units allowed per previous ZMA and variation.
DA (Development Area): Southern and Western Neighborhoods.	Comp. Plan Designation: Urban Density Residential – residential (6.01 – 34 units/ acre); supporting uses such as religious institutions, schools, commercial, office and service uses in the Hollymead area of the Places29 Master Plan.
Character of Property: The property is currently wooded and undeveloped. Some clearing has occurred for utility work for the first phase of Willow Glen, which contains 32 completed units, and four more lots to be developed in phase 1.	Use of Surrounding Properties: The airport is across Dickerson Road; all other adjacent uses are residential.
Factors Favorable: 1. Providing “by-right” credit for the units that could have been constructed on this property before the 2007 rezoning is consistent with several recently approved rezoning requests.	Factors Unfavorable: 1. The cash proffers made by the applicant and accepted by the Board in 2007 when the property was originally rezoned were consistent with the cash proffer policy at the time and were a reasonable condition intended to address the impacts from the rezoning. 2. Approval of the requested reduction in cash proffers would be inconsistent with previous Board actions for similar requests.
RECOMMENDATION: Based on previous Board actions for similar requests, staff cannot support this request to reduce the approved cash proffer amounts; however, staff does support providing the credit for 10 by-right units that could have been built prior to the original rezoning.	

ZMA201600019 Willow Glen Proffer Amendment

PETITION

PROJECT: ZMA201600013 Willow Glen Proffer Amendment

MAGISTERIAL DISTRICT: Rio

TAX MAP/PARCEL: 03200-00-00-049F0, 03200-00-00-049I0, 03200-00-00-049J0

LOCATION: Approximately 2,000 feet south of the intersection of Airport Road and Dickerson Road.

PROPOSAL: Reduce the currently approved cash proffer amount of \$17,500 per single-family detached dwelling to the cash proffer amount recommended by the Fiscal Impact Advisory Committee of \$4,918 per single-family detached dwelling. Reduce the currently approved cash proffer amount of \$11,900 per single-family attached dwelling to the cash proffer amount recommended by the Fiscal Impact Advisory Committee of \$3,845 per single-family attached dwelling. Receive by-right credit for 10 units.

PETITION: Request to amend proffers on property zoned PRD which allows a variety of development for residential purposes and ancillary uses. No new dwellings proposed.

OVERLAYS: Airport Impact Area, Steep Slopes (Managed)

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 in the Hollymead area of the Places29 Master Plan.

CHARACTER OF THE AREA

The site is located on Dickerson Road, across from the Charlottesville-Albemarle Regional Airport. Properties to the north, east, and south are residential. The first phase of Willow Glen has been mostly completed and has its entrance off of Towncenter Boulevard. Phase 1 contains 32 units, and 4 additional lots which have yet to be developed. The remainder of the property is currently undeveloped and mostly wooded, except for some clearing that has been done for utility work for Phase 1 (Attachment 1).

SPECIFICS OF THE PROPOSAL

In 2007 these parcels were rezoned from RA to PRD (ZMA2006-19) allowing for a maximum of 234 attached, detached, and multi-family residential units. In January of this year a special exception was approved to allow a variation to the previously approved rezoning reducing the overall density to 141 maximum units (Attachment 2). At the time original rezoning the applicant proffered cash proffers for the residential units in the following amounts:

\$17,500 for each single family detached unit

\$11,900 for each single family attached or townhouse unit

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

\$4,918 for each single family detached unit

\$3,845 for each single family attached or townhouse unit

The applicant is also requesting the “by-right” credit for this development for ten units that could have been built on this property by-right under the previous RA zoning. Were the Board to approve this request, the cash proffers and 15% affordable units requirement would kick in after the 10th dwelling unit were constructed for this property (Attachment 3). This is consistent with

ZMA 2016-00019 Willow Glen Proffer Amendment

Planning Commission May 14, 2019

how recent residential ZMAs have been treated by the Board, such as Brookhill, Foothill Crossing, and Oakleigh.

APPLICANT'S JUSTIFICATION FOR THE REQUEST

The applicant has stated they believe it may not be financially feasible for the developer to pay the higher cash proffer amounts for this development, which may result in having to abandon the project without a reduction in proffers. The applicant has stated that the higher proffers place this project at a competitive disadvantage when compared against other more recently approved projects that are not subject to the higher previously approved cash proffers (Attachment 4).

PLANNING AND ZONING HISTORY

- CPA2006-03 applicant-initiated request to amend the Comprehensive Plan Land Use from Industrial Service to Urban Density Residential approved by the Board in October 2007.
- ZMA2006-19 Zoning Map Amendment submitted concurrent with the CPA to amend the zoning map from Rural Areas to Planned Residential district to allow a maximum of 234 units. Approved by the Board in October 2007.
- SDP2008-86 Final Site Plan approved in May 2010.
- SDP2019-17 the Board approved a special exception associated with this major site plan amendment to allow variations to the approved zoning application plan to allow reduction of density and modifications to unit types and arrangement, setbacks and yards, private street layout, recreational amenities, and project phasing. The major site plan is still under review.

COMPREHENSIVE PLAN

The property is designated Urban Density Residential within the Hollymead Neighborhood of the Places29 Master Plan, which allows residential uses at a density of 6 to 34 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 single 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 had 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 Board of Supervisors repealed the County's Cash Proffer Policy in June 2016, in response to the 2013 state legislation and a subsequent change in 2016 regarding a locality's ability to accept proffers.

DISCUSSION

The amount proffered by the applicant and accepted by the Board when the property was rezoned in 2007 was consistent with the cash proffer policy at the time. These proffers were determined to be a reasonable condition intended to address the impacts from the rezoning. Nothing in the 2013 or 2016 State proffer legislation precludes the County from accepting proffers that were approved prior to the new legislation that were deemed to be reasonable at the time.

The Board and Planning Commission have previously reviewed two similar requests to reduce approved cash proffer amounts from prior rezoning actions. Like the Willow Glen request, applicants for Spring Hill Village (originally approved in October of 2014) and Out of Bounds (originally approved in December of 2013) requested to reduce previously approved cash proffer amounts to those amounts recommended by FIAC in 2015. Both requests were denied by the Board in July 2016. Out of Bounds is a residential Neighborhood Model District rezoning (NMD) that was approved for up to 56 units. All but three units have been completed in the Out of Bounds development. Spring Hill Village, also an NMD rezoning, allowing up to 100 units, has not yet moved forward with final site plan approval or construction.

The applicant for Willow Glen is also requesting to amend the proffers to receive the "by-right" credit for 10 units that could have been built on this property before the 2007 rezoning (Attachment 5). Prior to being rezoned to PRD, Planned Residential Development, the property was zoned RA, Rural Areas. The RA zoning allowed for 10 units by-right. Should the Board approve this request, the applicant would not pay cash proffers or provide 15% of the units as affordable units for the first 10 units built in the next phase of Willow Glen. Approval of this credit is consistent with previous Board actions on many of the residential rezoning requests that were approved before the repeal of the Cash Proffer Policy.

SUMMARY

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

1. Providing "by-right" credit for the units that could have been constructed on this property before the 2007 rezoning is consistent with several recently approved rezoning requests.

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

1. The cash proffers made by the applicant and accepted by the Board in 2007, when the property was originally rezoned, were consistent with the cash proffer policy at the time and were a reasonable condition intended to address the impacts from the rezoning.
2. Approval of the requested reduction in cash proffers would be inconsistent with previous Board actions for similar requests.

RECOMMENDATIONS

Based on previous Board actions for similar requests, staff cannot support the request to reduce the approved cash proffer amounts; however, staff does support providing the credit for 10 by-right units that could have been built prior to the original rezoning.

PLANNING COMMISSION MOTION – ZMA201600019 Willow Glen Proffer Amendment:

A. Should the Planning Commission choose to recommend approval of this zoning map amendment:

Move to recommend approval of ZMA201900019 Willow Glen Proffer Amendment, with the revised proffers submitted by the applicant.

C. Should the Planning Commission choose to recommend denial of this zoning map amendment:

Move to recommend denial of ZMA201600019 Willow Glen 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

- Attachment 1 – [location map](#)
- Attachment 2 – [application plan](#) (from 2019 variation)
- Attachment 3 – [red-lined proffer statement](#)
- Attachment 4 – [applicant's narrative](#)
- Attachment 5 – [by-right exhibit](#)