

**COUNTY OF ALBEMARLE**  
**PLANNING STAFF REPORT SUMMARY**

<b>Project Name:</b> ZMA 201200004 Avon Park II	<b>Staff:</b> Claudette Grant
<b>Planning Commission Public Hearing:</b> March 19, 2013	<b>Board of Supervisors Public Hearing:</b> To Be Determined
<b>Owners:</b> Bellevue Real Estate, LLC	<b>Applicant:</b> Bellevue Real Estate, LLC. Contact Vito Cetta
<b>Acreage:</b> Approximately 5.262 acres	<b>Rezone from:</b> R-6 residential to PRD planned residential district with proffers.
<b>TMP:</b> Tax Map Parcel(s) 09000-00-00-03100 (See Attachments A and B)	<b>By-right use:</b> The R-6 district allows residential uses at a density of (6 units/acre).
<b>Location:</b> 1960 Avon Street Extended. Approximately 1000 feet north of the intersection of Avon Street Extended and Route 20, south of existing Avon Court.	
<b>Magisterial District:</b> Scottsville	<b>Proffers:</b> Yes
<b>Proposal:</b> Rezone 5.262 acres from R-6, residential zoning district to PRD, planned residential district zoning district. 32 maximum units proposed for a density of 6 units/acre. (See Attachment C)	<b>Requested # of Dwelling Units:</b> – 32
<b>DA</b> (Development Area): Neighborhood 4	<b>Comp. Plan Designation:</b> Neighborhood Density Residential – residential (3 – 6 units/acre) supporting uses such as religious institutions, schools and other small-scale non-residential uses.
<b>Character of Property:</b> The property consists of two existing houses and surrounded by several outbuildings; approximately half of the site is wooded.	<b>Use of Surrounding Properties:</b> Adjoining properties to the north, south, and east are single family residences and zoned R-6 and R-1. Parcels to the west are currently wooded. Immediately adjacent and to the north of the subject property is Avon Park I, a recently built residential development which was approved on May 25, 2004 for 16 single family houses and 43 townhouse units (ZMA 04-03).
<b>Factors Favorable:</b> <ol style="list-style-type: none"> <li>1. The rezoning request would be consistent with the Comprehensive Plan.</li> <li>2. The use is consistent with the uses permitted under the existing PRD zoning district and the prior zoning approved on the site.</li> <li>3. This rezoning request would provide additional residential opportunities for</li> </ol>	<b>Factors Unfavorable:</b> <ol style="list-style-type: none"> <li>1. Arden Drive, the only road access for this proposed development, is not completed, has not been constructed adequately and cannot be accepted into the state secondary system at this time.</li> <li>2. The proffers need to be technically revised.</li> </ol>

residents in this portion of the County.	
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**RECOMMENDATION:** If the proffers can be adequately and technically revised as recommended by staff, staff can recommend approval of rezoning ZMA201200004, Avon Park II with revised proffers.

**STAFF PERSON:**  
**PLANNING COMMISSION:**  
**BOARD OF SUPERVISORS:**

**Claudette Grant**  
**March 19, 2013**  
**To Be Determined**

## **ZMA 20120004 Avon Park II**

### **PETITION**

**PROJECT:** ZMA20120004/Avon Park II

**PROPOSAL:** Rezone 5.262 acres from R-6 zoning district which allows residential uses at a density of 6 units per acre to PRD zoning district which allows residential uses with limited commercial uses at a density of 3 - 34 units/acre. 32 maximum units proposed for a density of 6 units/acre.

**ENTRANCE CORRIDOR:** Yes

**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.

**LOCATION:** 1960 Avon Street Extended. Approximately 1000 feet north of the intersection of Avon Street Extended and Route 20, south of existing Avon Court.

**TAX MAP/PARCEL:** 09000000003100

**MAGISTERIAL DISTRICT:** Scottsville

### **CHARACTER OF THE AREA**

This area is primarily developed of single family residential units. The surrounding area is also quite wooded with some mature trees. Nearby and to the north are the MillCreek South Subdivision and Snows Garden Center, along with an Industrial Area.

### **SPECIFICS OF THE PROPOSAL**

The Board of Supervisors approved a rezoning application (ZMA2007-00005, Avon Park II) on November 14, 2007 inclusive of 7 single family detached units and 24 condominiums/ townhouse units. The applicant is proposing to revise and rezone the plan approved with ZMA2007-00005 by increasing the total number of residential units by one unit, to 32, changing the number of unit types to 20 single family detached units and 6 condominium/townhouses inclusive of 6 apartments, and an existing house on the property that was approved to remain will now be demolished. The applicant is also requesting to rezone the subject parcel from R-6 to PRD zoning because the PRD zoning district will allow greater flexibility for lot sizes and setbacks, which will achieve the density recommended in the Comprehensive Plan.

Several years have gone by and the applicant has had difficulty marketing and selling the approved development. The applicant believes this proposed revision and rezoning will provide a better development and be more economically feasible. There are no major changes to the form and layout of the plan from the previous approved plan, and staff can support the proposed changes provided the issues related to road access, which are addressed later in this report, are addressed.

### **APPLICANT'S JUSTIFICATION FOR THE REQUEST**

As mentioned above, the original rezoning was approved for a mix of 31 residential units, which focused more on the development of condominium/townhouse units. The applicant believes the real estate market has changed to a point in which single family detached units will do better economically than townhouses. As a result, the applicant is requesting this rezoning in hopes that the revised residential unit types will be more marketable and that there will be some flexibility regarding lot sizes and setbacks allowing him to achieve the density recommended in the Comprehensive Plan.

## **PLANNING AND ZONING HISTORY**

- A special use permit (SP 03-48) for a Home Occupation Class B (Randy E. Fox) was approved in 2003 for a small engine repair shop.
- A Home Occupation Class A (HO200600229) was approved in 2006 for an office use for a custom woodwork and painting business.
- ZMA2007-00005 was approved in 2007.
- SDP2007-00147, the final site plan was approved in 2008.
- SUB2008-00027 was approved in 2008.

## **COMPREHENSIVE PLAN**

**Land Use Plan:** The purpose/intent of the Neighborhood Density designation is to provide for a gross residential density of three (3) to six (6) dwelling units per acre, a range of dwelling unit types, and neighborhood-scale non-residential uses.

The County's Open Space Plan shows no significant environmental resources on this property.

The proposed rezoning is consistent with the Comprehensive Plan designation. The proposed 32 units on 5.262 acres maintain a density of approximately 6 dwelling units per acre. Non residential uses are not proposed or expected at this location. As previously approved, this rezoning request is proposed to develop at a density and in a form that is in keeping with the Neighborhood Model and adjacent development of Avon Park I.

**The Neighborhood Model:** The applicant is proposing to revise the number of single family detached units and townhouses from the approved plan, continuing to provide the same housing types as approved. The proposed plan shows no significant changes from the approved plan design and layout. As a result, an analysis for consistency with the Neighborhood Model was not done for this proposal since an analysis for consistency with the Neighborhood Model was done with the approved plan.

## **Economic Vitality Action Plan**

The primary goal of the County's Economic Vitality Action Plan is to:

Increase the County's economic vitality and future revenues through economic development by expanding the commercial tax base and supporting the creation of quality jobs for local residents. This Plan is developed for the benefit and economic well being, first, of current local residents and existing local businesses.

The proposed Avon Park II rezoning (residential use) would support the Plan by providing additional employment and residences for the local community.

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

The PRD district is intended to encourage sensitivity toward the natural characteristics of the site and toward impact on the surrounding area in land development. More specifically, the PRD is intended to promote economical and efficient land use, an improved level of amenities, appropriate and harmonious physical development, and creative design consistent with the best interest of the county and the area in which it is located. The PRD provides for flexibility and variety of development for residential purposes and uses ancillary thereto.

Staff believes the proposal is consistent with the intent of the district and does serve as an appropriate residential use within the County and is consistent with the Land Use Plan recommendation of Neighborhood Density.

### ***Anticipated impact on public facilities and services***

#### **Streets:**

Arden Drive, which serves as access for the developed Avon Park I and proposed Avon Park II has not met all the necessary design requirements for the State and County, and the developer has gone out of business. In addition, the road was built incorrectly at its entrance onto Avon Street Extended (Rt. 742), such that it drains across the public road. The inlets and stormwater management are therefore not functioning, and the neighbor on the opposite side of Avon Street has stated his concern with the damage that has occurred to his property. It is recommended that no further development be approved on or served by Arden Drive until this matter is satisfactorily resolved. (See Attachment H for engineering comments) The applicant has provided a proffer which attempts to address this issue; however, staff believes this proffer does not adequately address the issue. The County has been forced to call the bonds, and the County has had difficulty obtaining bond payment from the insurance company. This process is ongoing. See additional discussion regarding the proffers in the proffer section of this report. (See Attachment G for proffers)

#### **Schools:**

Students living in this area would attend Cale Elementary School, Walton Middle School, and Monticello High School.

#### **Fire and Rescue:**

The Monticello Fire Station located near Monticello High School provides fire and rescue services to the area. Fire/Rescue has no objection with this development 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). (See Attachment E)

Albemarle County Service Authority (ACSA) comments are attached (See Attachment F)

### ***Anticipated impact on environmental, cultural and historic resources***

As stated in the ZMA200700005 staff report approximately 50% of the site, on the western half is wooded and there are significant grade changes across the site, from elevations of 690 at the highest point near proposed Hathaway Street and 590 near Avon Street Ext. The woods would be removed and the slopes graded in order to accomplish the plan proposed. The existing vegetation located around the homes on the site is proposed to remain. There are no environmental features shown on the County's Open Space Plan.

As described in the ZMA200700005 staff report the Historic Preservation planner provided information regarding historic resources. Albemarle County Real Estate records indicate that the existing dwelling on Tax Map 90, Parcel 31 was constructed c. 1945 and is therefore considered historic. This resource has not been evaluated for listing on the National or State historic registers. The applicant has indicated on the Site Plan Study that the existing c. 2000 or later dwelling will be retained but the historic structure will be removed because of its condition. Staff is requesting that the applicant provide documentation of the resource, in accordance with the Department of Historic Resources (DHR) standards prior to its removal, which they have agreed to provide. The Virginia Department of Historic Resources' (DHR) Data Sharing System (DSS) also identified the *Midvale School* (DHR #002-1141), which is on the adjoining property. Staff expects the applicant to still provide this previously agreed

upon information.

#### ***Anticipated impact on nearby and surrounding properties***

This project is expected to be in keeping with the residential character of this area. With appropriate revisions to the proposed proffers, staff believes possible impacts on nearby and surrounding properties related to street and stormwater issues can be mitigated.

#### ***Public need and justification for the change***

The proposed rezoning will provide additional employment and residential opportunities for the local community.

#### **PROFFERS**

The applicant has provided proffers which are summarized below.

The applicant has made a commitment to provide 6 affordable housing units for lease or sale. The applicant has also provided the County an option for cash in lieu of the affordable units. Cash proffers are provided for each dwelling unit constructed within this development. The applicant has also agreed to provide additional erosion and sediment control measures. Lastly, because of the substandard condition of the access road, the applicant has offered a proffer that states no certificates of occupancy will be issued until the drainage issues related to the Arden Drive (the entry road) intersection with Avon Street Extended has been resolved. (See Attachment G)

Staff has the following concerns and suggestions related to the proffers:

1. If the 6 proposed accessory units are intended to be the affordable units, then the language “for-sale” and “for-rent” units is not necessary. Staff suggests the proffer language be kept simple.
2. Proffer 4 regarding erosion control should refer to the County Engineer or the Engineering Division rather than department.
3. Proffer 5 conditions resolution of the Arden Drive issue on the first certificate of occupancy. This is not a preferred position for the County. When a property is sold and ready to be occupied, the County is dealing with a homeowner, and denying access to the homeowner’s home. It would be preferable to condition building permit issuance, and to specify that resolution is to the satisfaction of the County and VDOT.

In conclusion, while staff believes there should be no additional development approvals for properties accessing Arden Drive until the road is completed, deficiencies corrected, and the road can be accepted into the state secondary system, if the proffers are adequately revised as previously recommended above, then staff could support the rezoning request.

#### **SUMMARY**

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

1. The rezoning request would be consistent with the Comprehensive Plan.
2. The use is consistent with the uses permitted under the existing PRD zoning district and the prior zoning approval on this site.
3. This rezoning request would provide additional residential opportunities for residents in this portion of the County.

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

1. Arden Drive, the only road access for this proposed development, needs to be completed adequately.
2. The proffers need to be technically revised.

## **RECOMMENDATION**

If the proffers can be adequately and technically revised as recommended by staff, staff can recommend approval of rezoning ZMA201200004, Avon Park II with revised proffers.

## **ATTACHMENTS**

ATTACHMENT A – [Tax Map](#)  
ATTACHMENT B – [Vicinity Map](#)  
ATTACHMENT C – [Application Plan, dated 08/20/12, and revised 01/07/13](#)  
ATTACHMENT D – [Electronic Mail from Megan Oleynik, dated February 1, 2013](#)  
ATTACHMENT E – [Electronic Mail from Victoria Fort, dated September 19, 2012](#)  
ATTACHMENT F – [Electronic Mail from Alex Morrison, dated October 3, 2012](#)  
ATTACHMENT G – [Proffers, dated March 2013](#)  
ATTACHMENT H – [Memorandum from Glenn Brooks, dated September 18, 2012, and revised March 5, 2013](#)

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## **PLANNING COMMISSION MOTION:**

A. If the ZMA is recommended for approval: Move to recommend approval of ZMA201200004 with proffers as recommended by staff.

B. If the ZMA is recommended for denial: Move to recommend denial of ZMA201200004 with the reasons for denial.