

**COUNTY OF ALBEMARLE  
STAFF REPORT SUMMARY**

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| <b>Project Name:</b> ZMA201600001 Hollymead Town Center A2 Proffer Amendment                                                                                                                                                                                                                                                                                                                               | <b>Staff:</b> Sarah Baldwin, Senior Planner<br>Elaine Echols, Acting Chief of Planning                                                                                                                                                                                                                                                                                                                                                                                         |
| <b>Planning Commission Public Hearing:</b> April 26, 2016                                                                                                                                                                                                                                                                                                                                                  | <b>Board of Supervisors Public Hearing:</b> TBD                                                                                                                                                                                                                                                                                                                                                                                                                                |
| <b>Owner:</b> Route 29 LLC                                                                                                                                                                                                                                                                                                                                                                                 | <b>Applicant:</b> Wendell Wood/Nena Harrell                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| <b>Acreage:</b> Approximately 43 acres                                                                                                                                                                                                                                                                                                                                                                     | <b>Rezone from:</b> No change in zoning district or uses proposed. Applicant wishes to change his affordable housing proffer                                                                                                                                                                                                                                                                                                                                                   |
| <b>TMP:</b> 03200000004500, 03200000005000                                                                                                                                                                                                                                                                                                                                                                 | <b>By-right use:</b> NMD which allows commercial, office, and residential uses according to the Code of Development                                                                                                                                                                                                                                                                                                                                                            |
| <b>Magisterial District:</b> Rio                                                                                                                                                                                                                                                                                                                                                                           | <b>Proffers:</b> Yes                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| <b>Proposal:</b> Request to amend proffers related to affordable housing, size of the pocket park in Block B1, and phasing                                                                                                                                                                                                                                                                                 | <b>Requested # of Dwelling Units:</b> no change; maximum of 1222 units allowed under existing zoning                                                                                                                                                                                                                                                                                                                                                                           |
| <b>DA (Development Area):</b> Places 29 Hollymead                                                                                                                                                                                                                                                                                                                                                          | <b>Comp. Plan Designation:</b> Urban Mixed Use in Centers which allows retail, residential, commercial, employment, office, institutional, and open space; Commercial Mixed Use, which allows commercial, retail, employment uses, with supporting residential, office, or institutional uses; and Office/R&D/Flex/Light Industrial which allows commercial, professional office; research and development, design, testing of prototypes; manufacturing, assembly, packaging. |
| <b>Character of Property:</b> Currently the property is graded but undeveloped as part of the Hollymead Town Center.                                                                                                                                                                                                                                                                                       | <b>Use of Surrounding Properties:</b> Residential uses: townhouses and a mobile home park; commercial; and undeveloped land.                                                                                                                                                                                                                                                                                                                                                   |
| <b>Factors Favorable:</b><br><br>1. The applicant's requested affordable housing reduction is consistent with the County's affordable housing policy.                                                                                                                                                                                                                                                      | <b>Factors Unfavorable:</b><br><br>1. The applicant's requested change in the way the affordable units to be provided is inconsistent with other accepted affordable housing proffers and the County's affordable housing policy.<br>2. A request to reduce the area proposed for a pocket park is premature due to lack of information.<br>3. A request to change phasing for the project is also premature due to lack of information or a justification.                    |
| <b>RECOMMENDATION:</b><br>Staff recommends that Proffer 1 be amended to reflect a commitment to provide affordable housing equal to 15% of the total residential units constructed on the property. Staff does not recommend additional amendments to change the method of calculating the number of affordable housing units to be provided, changes to area of the pocket park, or phasing at this time. |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |

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

**Baldwin, Echols  
April 26, 2016  
TBD**

**ZMA201600001 Hollymead Town Center A2 Proffer Amendment for Affordable Housing**

**PETITION**

PROJECT: ZMA 2010-00013 Hollymead Town Center (A-2)

MAGISTERIAL DISTRICT: Rio

TAX MAP/PARCEL: 03200000004500, 03200000005000

LOCATION: Hollymead Town Center Area A-2, the southwest quadrant of Seminole Trail (US 29) and Town Center Drive to the west of Area A-1 in the Hollymead Development Area.

PROPOSAL: Request to amend proffers

PETITION: Amendment to rezoning for 44.29 acres on property zoned Neighborhood Model District zoning district which allows residential (3 – 34 units/acre) mixed with commercial, service and industrial uses.

OVERLAY DISTRICT: EC-Entrance Corridor; AIA-Airport Impact Area; Managed and Preserved Steep Slopes

PROFFERS: Yes

COMPREHENSIVE PLAN: Urban Mixed Use (in Centers) – retail, residential, commercial, employment, office, institutional, and open space; Commercial Mixed Use, which allows commercial, retail, employment uses, with supporting residential, office, or institutional uses; and Office/R&D/Flex/Light Industrial which allows commercial, professional office; research and development, design, testing of prototypes; manufacturing, assembly, packaging.

**CHARACTER OF THE AREA**

The site is located on Meeting Street and Town Center Blvd. in the Hollymead Town Center development (Attachment A). It is currently graded and vacant. Residential, commercial, and vacant properties surround the use.

**SPECIFICS OF THE PROPOSAL**

In 2007 Hollymead Town Center A2 was rezoned for up to 1222 residential units in the form of townhouses and multifamily units and up to 368,700 sq. ft. of nonresidential uses. In 2010, the owner requested and received approval for a modification to the application plan, code of development, and proffers to allow for a movie theater on the site. Attachment B contains the existing proffers that accompany the application plan and code of development. A link to the application plan and code of development can be found [here](#).

Attachment C contains the proposed proffers. The primary change to the proffers, as indicated by the applicant, is to reduce the amount of proffered affordable housing from 20% to 15%. However, in reviewing the applicant's 2016 proposed proffer amendments, staff identified three additional material changes which are discussed in this report. These changes are 1) wording that would change the way in which the amount of affordable housing is calculated; 2) a reduction in the size of the pocket park in Block B1 from 10,000 square feet to 4,500 square feet; and 3) changes to the phasing plan that was originally provided with the zoning.

**APPLICANT'S JUSTIFICATION FOR THE REQUEST**

The owner/applicant has stated, "The original proffer was agreed to by a previous owner in 2007 and is excessive and disproportionate to other Affordable Housing Proffers in the County. The excessive proffer has had a negative impact on residential development in Hollymead Town Center Area A-2." (See Attachment D.) The applicant did not provide any information or justification for the other changes.

**PLANNING AND ZONING HISTORY**

- ZMA200700001 – Rezoned property from RA, C1, NMD, and PDMC to NMD to allow for up to 1,222 dwelling units, at a gross density of 26 units per acre, and up to 368,700 sq. ft. of non-residential, including a hotel.

- ZMA201000006 – Amended Code of Development, Application Plan, and proffers to accommodate a prospective movie theater.
- ZMA201000013 – Proposed amendments to proffers which were reviewed by the Planning Commission and the Board, but, not approved. Applicant deferred to address issues, but the deferral period ended April 16, 2015.

Although no construction has taken place, the following plats and plans have been reviewed and, in some cases, approved:

|              |                                                                |
|--------------|----------------------------------------------------------------|
| SDP201000079 | Town Center Movie Theater Early Grading Permit - Final         |
| SDP201000086 | Lockwood Townhomes At Hollymead - Final                        |
| SDP201000087 | Great Escape Movie Theater at Hollymead Town Center - Final    |
| SDP201500050 | Hollymead Town Center, Block D1, D2, & C2 Apartments - Initial |
| SDP201500063 | Hollymead Town Center Blocks C3 & C4 - Initial                 |
| SUB201000116 | Hollymead Town Center-BLA                                      |
| SUB201000132 | Hollymead Town Center Theater - Final                          |

### **COMPREHENSIVE PLAN**

The property has three designations in the Places 29 Master Plan. The majority of the property is shown for Urban Mixed Use (in Centers), and smaller areas are shown as Commercial Mixed Use and Office/R&D/Flex/Light Industrial. The applicant is not proposing any changes to the land use with this request.

Strategy 6b of the Housing Chapter states: *Continue to ensure that at a minimum, 15% of all units developed under rezoning and special use permits are affordable, as defined by the County's Office of Housing, or a comparable contribution is made to achieve the affordable housing goals of the County.*

This strategy was initially adopted as part of the County's affordable housing policy in 2005. In 2015, the updated Comprehensive Plan continued to include this policy and, with very few exceptions, all rezonings with a residential component have included provision for at least 15% affordable units.

Strategy 2l in the Development Areas Chapter speaks to the importance of parks, recreational amenities, and open space: *Acquire, develop, and maintain public parkland shown on Master Plans. Continue to require recreational amenities in residential developments.*

### **DISCUSSION**

#### Percentage of affordable housing to be provided

During the Board of Supervisors review of the initial rezoning in 2007, the applicant proffered 20% of his built units as affordable; however, as part of his proffer negotiations, he wanted to retain the ability to provide cash-in-lieu of units at his discretion, resulting in a guarantee that only 5% of the 1222 units would be built as affordable units. At the time, the Housing Director said provision of only 5% of the built units as affordable was not acceptable for such a large development. When the applicant next submitted proffers, which were ultimately accepted by the Board of Supervisors, the cash-in-lieu exception was dropped but the total amount of 20% affordable built units remained. To staff's knowledge, Hollymead Town Center A2 has been the only project to offer more than 15% affordable units, where the remainder of units in the development would be market rate units. Because the expectation for 15% affordable units is the expected percentage established in the Comprehensive Plan and because staff would have recommended approval of the proffer at 15% in 2007, staff can support the applicant's request to reduce the amount of affordable units from 20% to 15%.

#### Calculation of the number of affordable units to be provided

The applicant has also requested a change in the wording of the proffers such that 15% of the *market rate* units in the project would be provided as affordable, rather than 15% of the total number of units. The applicant indicated to staff in the preapplication meeting on this project that the County has not been consistent in its application of the affordable housing policy and it would be fairer to base the number of affordable units to be provided on the number of market rate units proposed. Staff has been researching

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Planning Commission April 26, 2016

this claim and, to date, has not been able to find instances where application of affordable housing policy has been inconsistent among projects.

In any case, however, basing the number of affordable units in the project on the number of market rate units planned would be contrary to the County's affordable housing policy which says:

*Continue to ensure that at a minimum, 15% **of all units developed** under rezoning and special use permits are affordable, as defined by the County's Office of Housing, or a comparable contribution is made to achieve the affordable housing goals of the County.*

Staff cannot recommend this proffer wording change.

#### Size of the pocket park in Block B1

Proffer 6 relates to a pocket park that was shown on the original and amended application plan. This pocket park for the development that is also is reserved for dedication to the County should the County want this pocket park in the future. The current offer is for 4,500 square feet, instead of 10,000 square feet.

During ZMA201000013, the applicant made a similar type request which the Planning Commission did not support without a commitment to make up the difference in square footage elsewhere in the block. The Board of Supervisors supported the Commission's action and staff was waiting for the applicant to make the change, which never occurred. While staff does not know if the proffer change with this 2016 ZMA was intentional or a holdover from ZMA201000013, there was no justification provided with the current request nor a commitment for the other 5,500 square feet of park or open space in the block. For these reasons, staff cannot support the proposed pocket park size reduction.

#### Phasing

Proffer 11 discusses the phasing of the project. The existing proffers indicate that building permits must be issued for at least 100 dwelling units prior to allowing for the construction of any commercial or office square footage. For more than 200,000 square feet of commercial or office square footage, building permits for at least 600 dwelling units must be issued. This phasing was intended to ensure a proportionality of residential and commercial units were built as the project progressed. At the time, there was concern that commercial or office uses would be built immediately and the residential aspect would lag far behind.

As with the pocket park size, phasing was a consideration with ZMA201000013 discussed with the Commission and the Board. The 2016 proposed change, however, is different than phasing changes in ZMA201000013. As with the change to the size of the pocket park, there is no justification provided for this request. In March 2016, the applicant submitted an application for more substantive changes to Hollymead Town Center A2 which will likely come to the Commission in a few months. Discussion of phasing and the pocket park in Block B can be part of that ZMA review.

#### Minor non-substantive changes to proffers

Minor non-substantive changes to the wording of the proffers are needed, prior to approval by the Board of Supervisors.

#### SUMMARY

Staff has identified the following factor, which is favorable to this rezoning request:

1. The applicant's requested affordable housing reduction from 20% to 15% is consistent with the County's affordable housing policy.

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

1. The applicant's requested change in the way the affordable units to be provided is inconsistent with other accepted affordable housing proffers and the County's affordable housing policy.
2. A request to reduce the area proposed for a pocket park is premature due to lack of information.

3. A request to change phasing for the project is also premature due to lack of information or a justification.

### **RECOMMENDATIONS**

Staff recommends that Proffer 1 be amended to reflect a commitment to provide affordable housing equal to 15% of the total residential units constructed on the property. Staff does not recommend additional amendments to change the method of calculating the number of affordable housing units to be provided, changes to area of the pocket park, or phasing at this time.

### **PLANNING COMMISSION MOTION – ZMA201600003 Out of Bounds Proffer Amendment:**

- A. Should a Planning Commissioner choose to recommend approval of just the proffer change to reduce the amount of proffered housing from 20% to 15% as part of this zoning map amendment:

Move to recommend approval of ZMA201600001 Hollymead Town Center Proffer Amendment, with affordable housing equal to 15% of the total residential units constructed on the property and minor nonsubstantive wording changes.

- B. Should a Planning Commissioner choose to recommend approval all as submitted by the applicant with this zoning map amendment:

Move to recommend approval of ZMA201600001 Hollymead Town Center Proffer Amendment, with amendments to proffers 1, 6, and 7 and minor nonsubstantive wording changes.

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

Move to recommend denial of ZMA201600001 Hollymead Town Center Area A2 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 – Existing Proffers approved November 10, 2010
- C – Proposed proffers dated January 19, 2016
- D – Applicant's Justification for the Request