

# COUNTY OF ALBEMARLE

## EXECUTIVE SUMMARY

<b><u>AGENDA TITLE</u></b> ZMA-2012-003. Out of Bounds	<b><u>AGENDA DATE:</u></b> December 11, 2013
<b><u>SUBJECT/PROPOSAL/REQUEST:</u></b> Rezone a 9.42 acre property from R-1 Residential (1 unit/acre) to NMD Neighborhood Model District which allows residential (3-34 units/acre) mixed with commercial, service and industrial uses. Maximum of 56 residential units with the preservation of an existing residence on 0.68 acres for a proposed density of 6 units/gross acre. No commercial is proposed.	<b><u>ACTION:</u></b> X <b><u>INFORMATION:</u></b>
<b><u>STAFF CONTACT(S):</u></b> Cilimberg, Graham, Benish, Brooks, Roberge, Yaniglos	<b><u>CONSENT AGENDA:</u></b> <b><u>ACTION:</u></b> <b><u>INFORMATION:</u></b>
<b><u>Presenter(s):</u></b> Megan Yaniglos	<b><u>ATTACHMENTS:</u></b> YES
<b><u>LEGAL REVIEW:</u></b> NO	

### **BACKGROUND:**

On November 13, 2013, the Board of Supervisors heard the above petition and voted to defer the application at the applicant's request. The Board stated that the proffers needed to be revised to coordinate the timing of the traffic signal improvements with VDOT's replacement schedule and to clarify the owner's obligation to maintain a downstream drainage channel within the Canterbury Hills neighborhood.

### **DISCUSSION:**

The applicant has revised the proffers to reflect changes desired by the Board. Proffer 4 has been amended to provide that the Owner will modify the traffic signal at the intersection of Barracks Road and Georgetown Road to accommodate the extension of Georgetown Road into the project either when requested by VDOT or as a condition to the issuance of the first certificate of occupancy, whichever occurs sooner. This amendment will allow VDOT to ensure that this new leg of the signal will be upgraded in conjunction with the remaining legs of the signal under VDOT's current replacement schedule.

Proffer 5B has been amended to clarify the Owner's obligations to maintain the downstream drainage channel in the Canterbury Hills neighborhood. The revised proffer establishes deadlines by which needed repairs will be performed, requires the Owner to submit an inspection report to the County Engineer, allows the County Engineer to require repairs to be performed in less time than proposed by the Owner if deemed necessary, and provides that the maintenance and repair work will be performed to the satisfaction of the County Engineer. These revisions will improve the enforceability of Proffer 5B.

Proffer 5C has been amended to clarify the Owner's commitment to contribute 5% of the cost of the construction of new drainage improvements associated with the drainage channel that are initiated by the Canterbury Hills Association or an impacted property owner. The revised proffer requires that the Association or the impacted property owner provide the Owner with written notice of the proposed improvements and their cost before construction begins, and that the Owner provide that same notice to the County Engineer. The revised proffer also obligates the Owner to make its 5% contribution within 60 days after receipt of proof of payment for the construction. Lastly, the revised proffer provides that these new improvements will become part of the Owner's maintenance and repair obligations under Proffer 5B. These revisions also will improve the enforceability of Proffer 5C.

The applicant also is proposing a credit for the by-right lots under the cash proffer and has adjusted Proffer #3 to allow for this credit. The applicant has provided a by-right subdivision plat (Attachment X) showing a total of nine lots allowed by right under the current R-1 zoning. Staff as reviewed the plat, and finds that the development of 9 lots is feasible.

The owner also made some minor technical changes at staff's request. The proffers have been reviewed by the Zoning, Engineering and Planning staff and the County Attorney and are in an acceptable form for approval.

**RECOMMENDATIONS:**

The applicant has addressed the expectations of the Board of Supervisors and staff recommends that the Board approve ZMA2012-003 Out of Bounds inclusive of the proffers dated November 18, 2013 and signed November 25, 2013 (Attachment A), and the Code of Development dated 8/26/2013 (Attachment B).

**ATTACHMENTS:**

- A- [Proffers Dated November 18, 2013](#)
- B- [Application Plan Inclusive of the Code of Development- Revision Date 8/26/2013](#)
- C- [Executive Summary November 13, 2013](#)
- D- [Subdivision Exhibit Plat](#)  
[Planning Commission minutes](#)

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