

**COUNTY OF ALBEMARLE
STAFF REPORT SUMMARY**

Project Name: ZMA201500009 Spring Hill Village Proffer Amendment	Staff: Rachel Falkenstein
Planning Commission Public Hearing: February 23, 2015	Board of Supervisors Public Hearing: TBD
Owner: Spring Hill Land Development LLC	Applicant: Vito Cetta
Acreage: 12.63 acres	Rezone from: No change in zoning proposed. Applicant proposes to reduce cash proffer amounts approved with ZMA2013-17.
TMP: 09000000028000	By-right use: NMD with up to 100 dwelling units and 10,000 – 60,000 square feet of non-residential.
Magisterial District: Scottsville	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 100 units allowed per previous ZMA.
DA (Development Area): Southern and Western Neighborhoods.	Comp. Plan Designation: Community Mixed Use which allows residential (up to 34 units/acre), community scale retail, service and office uses, places of worship, schools, public and institutional uses.
Character of Property: Currently vacant, mostly cleared with a few patches of trees.	Use of Surrounding Properties: To the north – light industrial (Parham and other commercial/LI uses); east – Rural Area with mostly single family residential; south and west – single family residential.
Factors Favorable: ZMA201500009 1. The applicant's requested cash proffer amounts satisfy the requirement that proffers be reasonable in light of the current Capital Improvements Program (CIP) and Capital Needs Assessment (CNA) and are consistent with the amounts recommended by the Fiscal Impact Advisory Committee (FIAC). 2. Acceptance of the proffered amounts is consistent with the County's Cash Proffer Policy which sets a maximum amount but no minimum amount.	Factors Unfavorable: ZMA201500009 1. The Planning Commission has not completed its review of the Cash Proffer Policy, as requested by the Board of Supervisors; however, the applicant's proffered new amounts based on the current CIP and CNA are consistent with State law.
RECOMMENDATION: Staff recommends approval of ZMA201500009 Spring Hill Village Proffer Amendment, with the revised proffers submitted by the applicant.	

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

**Rachel Falkenstein
February 23, 2016
TBD**

ZMA201500009 Spring Hill Village Proffer Amendment

PETITION

PROJECT: ZMA201500009 Spring Hill Village – Proffer Amendment

MAGISTERIAL DISTRICT: Scottsville

TAX MAP/PARCEL: 09000000002800

LOCATION: 1776 Scottsville Road, Charlottesville

PROPOSAL: Reduce cash proffer amount from ZMA201300017

PETITION: Request to amend proffers on property zoned NMD Neighborhood Model District - residential (3 – 34 units/acre) mixed with commercial, service and industrial uses; Entrance Corridor Overlay

PROFFERS: Yes

COMPREHENSIVE PLAN: Community Mixed Use – residential (up to 34 units/acre), community scale retail, service and office uses, places of worship, schools, public and institutional uses

CHARACTER OF THE AREA

The currently vacant 12.63 acre property is located between Route 20 and Avon Street Extended within the Southern and Western Neighborhoods Development Area. The property was rezoned to NMD in October 2014.

West of the site, across Avon Street, is the Avon Park 1 development and several low density residential lots. The area east of the site and across Route 20 is zoned Rural Areas and is partially wooded with some single family dwellings. Parham Construction and a mix of commercial uses are north of the site. Several low density residential lots are south of the parcel.

SPECIFICS OF THE PROPOSAL

In 2014 this parcel was rezoned from R-1 to NMD allowing for a maximum of 100 attached and detached residential units and between 10,000 – 60,000 square feet of non-residential development. At the time of the rezoning the applicant proffered cash proffers for the residential units in the following amounts:

\$20,460.57 for each single family detached unit

\$13,913.18 for each single family attached or townhouse unit

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

\$4,918.00 for each single family detached unit

\$3,845.00 for each single family attached or townhouse unit

Because the only requested change to the zoning at this time is a reduction of the cash proffer, analysis in this report is limited to that topic only. A link to the original zoning can be found in Attachment B.

APPLICANT'S JUSTIFICATION FOR THE REQUEST

The applicant has stated he believes it is not financially feasible to pay the higher cash proffer amounts for this development. The applicant also said the State has declared that the higher cash proffer amounts are no longer lawful.

PLANNING AND ZONING HISTORY

- SP1974-00368 – Special use permit for a mobile home.
- ZMA2013-00017 Spring Hill Village – Property rezoned from R-1 to NMD allowing up to 100 dwelling units and 10,000-60,000 square feet of commercial development.

COMPREHENSIVE PLAN

The property is designated Community Mixed Use within the Southern and Western Neighborhoods Master Plan, which allows residential uses at a density of up to 34 units/acre, community scale retail, service and office uses, places of worship, schools, public and institutional 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 have 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 Planning Commission studied the recommendation in September and October 2015 and asked for additional information. The additional information was provided and the Planning

Commission conducted a public hearing January 26, 2015 (Attachment D) The Commission deferred action on the CPA request, asking FIAC for some additional analysis on impacts to public facilities specific to a proposed plan of development. FIAC will be analyzing is Spring Hill Village as the example and, as of this writing, FIAC has not yet begun their analysis.

While the Board has not adopted a lower cash proffer amount, cash proffers requested by the applicant for Spring Hill Village are consistent with the amounts recommended by FIAC. They are also consistent with the current Cash Proffer Policy, which sets a maximum cash proffer amount that the Board will accept but does not identify a minimum amount. Though it has been past practice in the County for applicants to proffer the maximum amounts, staff finds the new amounts to be reasonable in light of the State Code change and the current CIP and CNA.

DISCUSSION

This request raises important issues for the County regarding the application of cash proffers and dealing with impacts of development. The Planning Commission has been studying this issue and has not completed its work on potential recommendations for the Cash Proffer Policy and may believe that recommending approval of the request is premature without additional information. However, without an applicant's consent, the Commission cannot defer a proposal and, if requested, must take action. Staff believes that the applicant wants an action from the Commission at this meeting.

In addition, application of the new amounts based on the current CIP and CNA is consistent with State law. Virginia Code § 15.2-2303 requires that proffers be "reasonable," and reasonableness is evaluated on whether there is an "essential nexus" between the proffer and the impact it is intended to address, and whether the extent of the proffer is "roughly proportional" to the impact created. The cash proffer amounts recommended by FIAC, based on the current CIP and CNA, provide the best benchmark for reasonableness for a maximum cash proffer amount under the current Cash Proffer Policy. In addition, the new amount proffered is consistent with the current Cash Proffer Policy, which sets a maximum cash proffer amount that the Board will accept but does not identify a minimum amount.

SUMMARY

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

1. The applicant's requested cash proffer amounts satisfy the requirement that proffers be reasonable in light of the current Capital Improvements Program (CIP) and Capital Needs Assessment (CNA) and are consistent with the amounts recommended by the Fiscal Impact Advisory Committee (FIAC).
2. Acceptance of the proffered amounts is consistent with the County's Cash Proffer Policy which sets a maximum amount but no minimum amount.

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

1. The Planning Commission has not completed its review of the Cash Proffer Policy, as requested by the Board of Supervisors; however, the applicant's proffered new amounts based on the current CIP and CNA are consistent with State law.

RECOMMENDATIONS

In light of the re-evaluation of the maximum cash proffer amount by FIAC, which is based on the current CIP and CNA, staff must recommend approval of this rezoning amendment ZMA201500009 Spring Hill Village Proffer Amendment, with the revised proffers submitted by the applicant.

PLANNING COMMISSION MOTION – ZMA201500009 Spring Hill Village Proffer Amendment:

- A. Should a Planning Commissioner choose to recommend approval of this zoning map amendment:

Move to recommend approval of ZMA201500009 Spring Hill Village Proffer Amendment, with the revised proffers submitted by the applicant.

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

Move to recommend denial of ZMA201500009 Spring Hill Village 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

- A – [Location Map](#)
- B – [ZMA201300017 staff report and attachments](#)
- C – [Revised proffers](#)
- D – [CPA2015-02 FIAC executive summary 1/26/16](#)