

# FTV Investments, LLC

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May 31, 2016

Elaine K. Echols, FAICP  
Principal Planner  
Department of Community Development  
401 McIntire Road, North Wing  
Charlottesville, Virginia 22902

Re: ZMA201200007 – 5<sup>th</sup> Street Commercial

Dear Elaine,

Per your request, and in order to assist in the review process, I have provided a list of the ten (10) Proffers Statements included in the above referenced ZMA.

**Proffer # 1.** The general location of buildings, walkways, retaining walls and access point to greenway shall be in the general location shown on the attached conceptual plan entitled “5<sup>TH</sup> STREET DEVELOPMENT APPLICATION PLAN” dated December 9, 2013, as updated and last revised April 18, 2016; prepared by Collins Engineering (hereinafter the “Conceptual Plan”), as determined by the Director of Planning and Zoning Administrator. Minor modifications to the plan which are in general accord with the general location of buildings, walkways, retaining walls and access point to greenway may be made to ensure compliance with Zoning Ordinances. Modifications are to be considered in terms of minimizing or improving impacts on adjoining properties and roadways.

**Proffer # 2.** The uses of the Property shall be limited to those listed in Attachment A.

**Proffer # 3.** Vehicular access from 5<sup>th</sup> Street to development on the properties subject to ZMA201200007 shall be provided by a single entrance to be shared with the existing Holiday Inn. The final site plan for development of the subject properties shall cause the existing entrance to the Holiday Inn to be modified to be ingress only, as shown on the Conceptual Plan and the modified entrance shall meet Virginia Department of Transportation standards for commercial entrances. Additionally, the final site plan shall provide the Holiday Inn with a second entrance for ingress/egress, as shown on the Conceptual Plan.

**Proffer # 4.** Proposed Building A shall be sited so that the front of the building shall be oriented to face 5<sup>th</sup> Street as generally shown on the Conceptual Plan. Proposed Building B shall be sited so that the front of the building shall generally be oriented to face 5<sup>th</sup> Street as shown on

the Conceptual Plan. Proposed Building C shall be sited so that the front of the building shall generally be oriented to face 5<sup>th</sup> Street as shown on the Conceptual Plan.

**Proffer # 5.** Proffer Number 5 shall be removed in its entirety.

**Proffer # 6.** Proffer Number 6 shall be removed in its entirety.

**Proffer # 7.** As part of an initial site plan submittal for any development on the rezoned property, the owner shall conduct a Traffic Study which reflects the traffic impacts of all proposed uses and the existing Holiday Inn (Tax Map 76 parcel 55C). All improvements identified by the traffic study shall be subject to VDOT and County Engineer approval and provided prior to the issuance of certificate of occupancy. These improvements, if required by the traffic study, may include, but shall not be limited to, a traffic signal at the entrance from 5<sup>th</sup> Street; and extension of the turn lane in the northbound lane of 5<sup>th</sup> Street coming from Interstate 64, and an extension of the existing turn lane from 5<sup>th</sup> Street southbound to the entrance of the proposed development; and elimination of the “left out” from the property.

**Proffer # 8.** The Owners shall grant an easement to the County for the “Greenway Easement” as shown on the accompanying Conceptual Plan provided that the County holds the owner harmless as provided in Virginia Code §29.1-509(E). This easement shall be granted within 90 days of approval by the Board of Supervisors of ZMA201200007.

Subsection A of the Proffer shall be modified as follows:

- A. In addition to the screening requirements of the Albemarle County Architectural Review Board and Section 32.7.9 of the Albemarle County Zoning Ordinance, the owner shall provide a vegetated buffer for the purposes of screening the development from the proposed greenway trail shown on the Conceptual Plan. This vegetated buffer shall be provided in a manner consistent with Section 32.7.9 of the Albemarle Zoning Ordinance and the landscaping shall be shown on the final site plan and installed as part of any final site plan for development of the rezoned properties.

Subsection B: Subsection B of the Proffer shall be modified as follows:

- B. By Deed of Dedication and Easement and Bill of Sale dated April 1, 2008, recorded in the Clerk’s Office of the Circuit Court of Albemarle County, Virginia in Deed Book 3580, pages 497-505 (“Easement”), Owners granted an Easement to the County of Albemarle providing access over the Property to the County’s Greenway Trail. Owners shall construct a vehicular and pedestrian travel way (“Travel Way”) from the proposed parking area to the edge of the Greenway Trail, in the approximate locations shown on the Conceptual Plan

To the extent the location of the Travel Way on the Conceptual Plan is

inconsistent with the locations shown on the Easement, Owner shall execute an amendment to the Easement, in a form acceptable to the County of Albemarle, to correct any such inconsistencies. The improvements shall be shown and constructed as part of a final site plan for development of the rezoned Property and shall be maintained by the Owner.

Subsection C of the Proffer shall be modified as follows:

A contribution of five hundred dollars (\$500.00) shall be made to the County to upgrade the existing bridge that formerly served the Old Lynchburg Road that lies in the proposed Greenway easement. This contribution shall be made prior to Final Site Plan approval. This Proffer has been satisfied.

**Proffer # 9.** The Property may be located in the Monticello View Shed, and should the Thomas Jefferson Foundation determine the Property is visible from Monticello, the Owner shall select a roof material in an earth-tone color that satisfies the Monticello view shed guidelines as determined by the Thomas Jefferson Foundation. Prior to final site plan approval the Owner shall provide written documentation to the County Director of Community Development that the Thomas Jefferson Foundation has either: (i) determined the Property is not visible from Monticello, and therefore not subject to Monticello View Shed guidelines; or (ii) approved the proposed roof material color for the buildings within the Property.

**Proffer # 10.** The Owners shall provide for bicycle access to the Property by inclusion of bicycle lanes in its improvements to the frontage of 5<sup>th</sup> St. Said improvements shall be shown and constructed as part of a final site plan for development of the Property.

Thank you again for all of your assistance. Please do not hesitate to contact me should you have any questions.

Sincerely,



E. Randall Ralston

## ATTACHMENT A

### 24.2 PERMITTED USES

#### 24.2.1 BY RIGHT

The following uses shall be permitted in any HC district, subject to the applicable requirements of this chapter.

1. Automobile laundries.
2. Automobile, truck repair shops.
3. Automobile service stations (with canopies to be located at the rear of the structure).
4. Building materials sales.
5. Churches, cemeteries.
6. Clubs, lodges (reference 5.1.02).
7. Convenience stores.
8. Educational, technical and trade schools.
9. Factory outlet sales - clothing and fabric.
10. Feed and seed stores (reference 5.1.22).
11. Financial institutions.
12. Fire extinguisher and security products, sales and service.
13. Fire and rescue squad stations (reference 5.1.09).
14. Funeral homes.
15. Furniture stores.
16. Food and grocery stores including such specialty shops as bakery, candy, milk dispensary and wine and cheese shops.
17. Home and business services such as grounds care, cleaning, exterminators, landscaping and other repair and maintenance services.
18. Hardware.
19. Nurseries, day care centers (Reference 5.1.06)
20. Hotels, motels and inns.
21. Light warehousing.
22. Machinery and equipment sales, service and rental.
23. Mobile home and trailer sales and service.
24. Modular building sales.
25. Motor vehicle sales, service and rental.
26. New automotive parts sales.
27. Newspaper publishing.
28. Administrative, business and professional offices.
29. Office and business machines sales and service.
30. Eating establishment; fast food restaurants.
31. Retail nurseries and greenhouses.
32. Sale of major recreational equipment and vehicles.
33. Wayside stands - vegetables and agricultural produce (reference 5.1.19).
34. Wholesale distribution.
35. Water, sewer, energy and communications distribution facilities.
36. Public uses (reference 5.1.12).
37. Temporary construction headquarters and temporary construction storage yards (reference 5.1.18).
38. Indoor theaters.
39. Heating oil sales and distribution (reference 5.1.20).

40. Temporary nonresidential mobile homes (reference 5.8).
41. Uses permitted by right pursuant to subsection 22.2.1 of section 22.1, commercial, C-1.
42. Indoor athletic facilities.
43. Farmers' market (reference 5.1.47).
44. Stormwater management facilities shown on an approved final site plan or subdivision plat.
45. Tier I and Tier II personal wireless service facilities (reference 5.1.40).
46. Storage yards.
47. Laboratories/Research and Development/Experimental Testing; gross floor area of the establishment does not exceed 4,000 square feet per site.
48. Manufacturing/Processing/Assembly/Fabrication and Recycling; gross floor area of the establishment does not exceed 4,000 square feet per site.
49. Storage/Warehousing/Distribution/Transportation; gross floor area of the establishment does not exceed 4,000 square feet per site (reference 5.1.60).

#### 24.2.2 BY SPECIAL USE PERMIT

The following uses shall be permitted by special use permit in the HC district:

1. Commercial recreation establishment including but not limited to amusement centers, bowling alleys, pool halls and dance halls.
2. Septic tank sales and related service.
- ~~3. Livestock sales.~~
- ~~4. Veterinary office and hospital (reference 5.1.11).~~
- ~~5. Drive-in theaters (reference 5.1.08).~~
6. Energy and communications transmission facilities (reference 5.1.12).
7. Hospitals, nursing homes, convalescent homes (reference 5.1.13).
8. Auction houses.
9. Unless such uses are otherwise provided in this section, uses permitted in section 18.0, residential - R-15, in compliance with regulations set forth therein.
10. Commercial kennels - indoor only (reference 5.1.11).
11. Stand alone parking and parking structures (reference 4.12, 5.1.41).
12. (Repealed 3-2-16)
13. Uses permitted by right, not served by public water, involving water consumption exceeding four hundred (400) gallons per site acre per day. Uses permitted by right, not served by public sewer, involving anticipated discharge of sewage other than domestic wastes.
14. Warehouse facilities not permitted under section 24.2.1 (reference 9.0).
15. Animal shelter (reference 5.1.11).
16. Tier III personal wireless service facilities (reference 5.1.40).
17. Body shops.

## PROFFER STATEMENT

ZMA No. 201200007

Tax Map and Parcel Number(s): Portions of 76-55A; 76M1-1 and 76-55C

Owner(s) of Record: **FTV Investments, LLC**

Date of Proffer Signature: May 30, 2016

FTV Investments, LLC, a Virginia limited liability company is the owner (the "Owner") of Tax Map and Parcel Numbers: Portions of 76-55A; 76M1-1; 76-55C; and of a 16,585 square foot parcel known as the "Old Tebbs Lane/Connector" {no TMP number assigned} (the "Property") which is the subject of rezoning application ZMA No. 201200007, a project known as "5<sup>th</sup> Street Development" (the "Project").

Pursuant to Section 33 of the Albemarle County Zoning Ordinance (Chapter 18 of the Albemarle County Code), the Owner hereby voluntarily proffers the conditions listed below which shall be applied to the Property if it is rezoned to the zoning district identified above. These conditions are proffered as a part of the requested rezoning and the Owner acknowledges that the conditions are reasonable. Each signatory below signing on behalf of the Owner covenants and warrants that it is an authorized signatory of the Owner for this Proffer Statement.

1. **The original Proffer Number 1 provided as follows:** *The development of the site will be in general accord with the plan entitled "Conceptual Site Plan", prepared by John McNair and Associates, dated on January 8, 2002 and revised on April 2, 2002.*

**Requested action:** This Proffer is to be modified as follows: The general location of buildings, walkways, retaining walls and access point to greenway shall be in the general location shown on the attached conceptual plan entitled "5<sup>TH</sup> STREET DEVELOPMENT APPLICATION PLAN" dated December 9, 2013, as updated and last revised April 18, 2016; prepared by Collins Engineering (hereinafter the "Conceptual Plan"), as determined by the Director of Planning and Zoning Administrator. Minor modifications to the plan which are in general accord with the general location of buildings, walkways, retaining walls and access point to greenway may be made to ensure compliance with Zoning Ordinances. Modifications are to be considered in terms of minimizing or improving impacts on adjoining properties and roadways.

2. **The original Proffer Number 2 provided as follows:** *The Owners shall restrict the uses on the property to hotels, motels, restaurants, service stations, convenience stores, and gift, craft or antique store.*

**Requested action:** This Proffer is to be amended as follows: The uses of the Property shall be limited to those listed in Attachment A.

3. **The original Proffer Number 3 provided as follows:** *Vehicular access from 5<sup>th</sup> street to development on the properties subject to ZMA 99-13 and 99-13 shall be provided by a single entrance to be shared with the existing Holiday Inn. The final site plan for development of the subject properties shall cause the existing entrance to the Holiday Inn to be modified to be used as an "in only" entrance as shown on the Conceptual Site Plan and the modified entrance shall meet Virginia Department of Transportation standards for one –way commercial entrances. Additionally, the final site plan shall provide the Holiday Inn with an additional entrance for two-way traffic flow. This additional entrance shall be at a minimum safe distance from the "in only" entrance as determined by the Albemarle County Engineering Department.*

**Requested action:** Vehicular access from 5<sup>th</sup> Street to development on the properties subject to ZMA201200007 shall be provided by a single entrance to be shared with the existing Holiday Inn. The final site plan for development of the subject properties shall cause the existing entrance to the Holiday Inn to be modified to be ingress only, as shown on the Conceptual Plan and the modified entrance shall meet Virginia Department of Transportation standards for commercial entrances. Additionally, the final site plan shall provide the Holiday Inn with a second entrance for ingress/egress, as shown on the Conceptual Plan.

4. **The original Proffer Number 4 provided as follows:** *All proposed buildings shall be sited so that the fronts of the buildings are oriented to face 5<sup>th</sup> Street as generally shown on the Conceptual Site Plan.*

**Requested action:** Proposed Building A shall be sited so that the front of the building shall be oriented to face 5<sup>th</sup> Street as generally shown on the Conceptual Plan. Proposed Building B shall be sited so that the front of the building shall generally be oriented to face 5<sup>th</sup> Street as shown on the Conceptual Plan. Proposed Building C shall be sited so that the front of the building shall generally be oriented to face 5<sup>th</sup> Street as shown on the Conceptual Plan.

5. **The original Proffer Number 5 provided as follows:** *All fuel islands shall be located behind a building as generally shown in the Conceptual Site Plan.*

**Requested action:** Proffer Number 5 shall be removed in its entirety.

6. **The original Proffer Number 6 provided as follows:** *All existing and new utility lines on the proposed site shall be underground. The placement of these underground utilities shall be shown and constructed as part of any final site plan for development of the rezoned properties.*

**Requested action:** Proffer Number 6 shall be removed in its entirety.

7. **The original Proffer Number 7 provided as follows:** *As part of a preliminary site plan submittal for any development on the rezoned property, the owner shall conduct a Traffic Study which reflects the traffic impacts of all proposed uses and the existing Holiday Inn (Tax Map 76 parcel 55C). All improvements identified by the traffic study shall be subject to VDOT and County*

*Engineering approval and provided prior to the issuance of certificate of occupancy. These improvements, if required by the traffic study, may include, but shall not be limited to, a traffic signal at the entrance from 5<sup>th</sup> Street; and extension of the turn lane in the northbound lane of 5<sup>th</sup> Street coming from Interstate 64, and an extension of the existing turn lane from 5<sup>th</sup> Street southbound to the entrance of the proposed development.*

**Requested action:** As part of an initial site plan submittal for any development on the rezoned property, the owner shall conduct a Traffic Study which reflects the traffic impacts of all proposed uses and the existing Holiday Inn (Tax Map 76 parcel 55C). All improvements identified by the traffic study shall be subject to VDOT and County Engineer approval and provided prior to the issuance of certificate of occupancy. These improvements, if required by the traffic study, may include, but shall not be limited to, a traffic signal at the entrance from 5<sup>th</sup> Street; and extension of the turn lane in the northbound lane of 5<sup>th</sup> Street coming from Interstate 64, and an extension of the existing turn lane from 5<sup>th</sup> Street southbound to the entrance of the proposed development; and elimination of the “left out” from the property.

8. **The original Proffer Number 8 provided as follows:** *The Owners shall grant an easement to the County for the “Greenway Easement” as shown on the accompanying Conceptual Site Plan provided that the County holds the owner harmless as provided in Virginia Code §29.1-509(E). This easement shall be granted within 90 days of approval by the Board of Supervisors of ZMA 99-13 and SP 99-59.*

*In conjunction with the Greenway, the Owner(s) shall:*

- A. *In addition to the screening requirements of the Albemarle County Architectural Review Board and Section 32 of the Albemarle County Zoning Ordinance, the owner shall provide a vegetated buffer for the purposes of screening the development from the proposed greenway trail shown on the Conceptual Site Plan. This vegetated buffer shall be provided in a manner consistent with Section 32.7.9.2 of the Albemarle Zoning Ordinance and the landscaping shall be shown on the final site plan and installed as part of any final site plan for development of the rezoned properties.*
- B. *Steps and a vehicle travel way from the proposed parking area to the edge of the proposed Greenway Easement shall be constructed in the approximate locations shown on the Conceptual Site Plan. These improvements shall be shown and constructed as part of any final site plan for development of the rezoned properties and maintained by the owner.*
- C. *A contribution of five hundred dollars (\$500.00) shall be made to the County to upgrade the existing bridge that formerly served the Old Lynchburg Road that lies in the proposed Greenway easement. This contribution shall be made prior to Final Site Plan approval.*

**Requested Action:** The Owners shall grant an easement to the County for the “Greenway Easement” as shown on the accompanying Conceptual Plan provided that the County holds the owner harmless as provided in Virginia Code §29.1-509(E). This easement shall be granted within 90 days of approval by the Board of Supervisors of ZMA201200007.



Subsection A of the Proffer shall be modified as follows:

- A. In addition to the screening requirements of the Albemarle County Architectural Review Board and Section 32.7.9 of the Albemarle County Zoning Ordinance, the owner shall provide a vegetated buffer for the purposes of screening the development from the proposed greenway trail shown on the Conceptual Plan. This vegetated buffer shall be provided in a manner consistent with Section 32.7.9 of the Albemarle Zoning Ordinance and the landscaping shall be shown on the final site plan and installed as part of any final site plan for development of the rezoned properties.

Subsection B: Subsection B of the Proffer shall be modified as follows:

- B. By Deed of Dedication and Easement and Bill of Sale dated April 1, 2008, recorded in the Clerk's Office of the Circuit Court of Albemarle County, Virginia in Deed Book 3580, pages 497-505 ("Easement"), Owners granted an Easement to the County of Albemarle providing access over the Property to the County's Greenway Trail. Owners shall construct a vehicular and pedestrian travel way ("Travel Way") from the proposed parking area to the edge of the Greenway Trail, in the approximate locations shown on the Conceptual Plan

To the extent the location of the Travel Way on the Conceptual Plan is inconsistent with the locations shown on the Easement, Owner shall execute an amendment to the Easement, in a form acceptable to the County of Albemarle, to correct any such inconsistencies. The improvements shall be shown and constructed as part of a final site plan for development of the rezoned Property and shall be maintained by the Owner.

Subsection C of the Proffer shall be modified as follows:

A contribution of five hundred dollars (\$500.00) shall be made to the County to upgrade the existing bridge that formerly served the Old Lynchburg Road that lies in the proposed Greenway easement. This contribution shall be made prior to Final Site Plan approval. This Proffer has been satisfied.

9. **Requested Action:** The following Proffer shall be added:

The Property may be located in the Monticello View Shed, and should the Thomas Jefferson Foundation determine the Property is visible from Monticello, the Owner shall select a roof material in an earth-tone color that satisfies the Monticello view shed guidelines as determined by the Thomas Jefferson Foundation. Prior to final site plan approval the Owner shall provide written documentation to the County Director of Community Development that the Thomas Jefferson Foundation has either: (i) determined the Property is not visible from

**10. Requested Action:** The following Proffer shall be added:

**OWNER**

Edell M. Manager

**Tax Map and Parcel Number: Portions of 76-55A; 76M1-1; 76-55C and the “Old Tebbbs Lane/Connector” (16,585 square foot – no TMP number assigned)**

## ATTACHMENT A

### 24.2 PERMITTED USES

#### 24.2.1 BY RIGHT

The following uses shall be permitted in any HC district, subject to the applicable requirements of this chapter.

1. Automobile laundries.
2. Automobile, truck repair shops.
3. Automobile service stations (with canopies to be located at the rear of the structure).
4. Building materials sales.
5. Churches, cemeteries.
6. Clubs, lodges (reference 5.1.02).
7. Convenience stores.
8. Educational, technical and trade schools.
9. Factory outlet sales - clothing and fabric.
10. Feed and seed stores (reference 5.1.22).
11. Financial institutions.
12. Fire extinguisher and security products, sales and service.
13. Fire and rescue squad stations (reference 5.1.09).
14. Funeral homes.
15. Furniture stores.
16. Food and grocery stores including such specialty shops as bakery, candy, milk dispensary and wine and cheese shops.
17. Home and business services such as grounds care, cleaning, exterminators, landscaping and other repair and maintenance services.
18. Hardware.
19. Nurseries, day care centers (Reference 5,1.06)
20. Hotels, motels and inns.
21. Light warehousing.
22. Machinery and equipment sales, service and rental.
23. Mobile home and trailer sales and service.
24. Modular building sales.
25. Motor vehicle sales, service and rental.
26. New automotive parts sales.
27. Newspaper publishing.
28. Administrative, business and professional offices.
29. Office and business machines sales and service.
30. Eating establishment; fast food restaurants.
31. Retail nurseries and greenhouses.
32. Sale of major recreational equipment and vehicles.
33. Wayside stands - vegetables and agricultural produce (reference 5.1.19).
34. Wholesale distribution.
35. Water, sewer, energy and communications distribution facilities.
36. Public uses (reference 5.1.12).
37. Temporary construction headquarters and temporary construction storage yards (reference 5.1.18).
38. Indoor theaters.
39. Heating oil sales and distribution (reference 5.1.20).

40. Temporary nonresidential mobile homes (reference 5.8).
41. Uses permitted by right pursuant to subsection 22.2.1 of section 22.1, commercial, C-1.
42. Indoor athletic facilities.
43. Farmers' market (reference 5.1.47).
44. Stormwater management facilities shown on an approved final site plan or subdivision plat.
45. Tier I and Tier II personal wireless service facilities (reference 5.1.40).
46. Storage yards.
47. Laboratories/Research and Development/Experimental Testing; gross floor area of the establishment does not exceed 4,000 square feet per site.
48. Manufacturing/Processing/Assembly/Fabrication and Recycling; gross floor area of the establishment does not exceed 4,000 square feet per site.
49. Storage/Warehousing/Distribution/Transportation; gross floor area of the establishment does not exceed 4,000 square feet per site (reference 5.1.60).

#### 24.2.2 BY SPECIAL USE PERMIT

The following uses shall be permitted by special use permit in the HC district:

1. Commercial recreation establishment including but not limited to amusement centers, bowling alleys, pool halls and dance halls.
2. Septic tank sales and related service.
- ~~3. Livestock sales.~~
4. Veterinary office and hospital (reference 5.1.11).
- ~~5. Drive-in theaters (reference 5.1.08).~~
6. Energy and communications transmission facilities (reference 5.1.12).
7. Hospitals, nursing homes, convalescent homes (reference 5.1.13).
8. Auction houses.
9. Unless such uses are otherwise provided in this section, uses permitted in section 18.0, residential - R-15, in compliance with regulations set forth therein.
10. Commercial kennels - indoor only (reference 5.1.11).
11. Stand alone parking and parking structures (reference 4.12, 5.1.41).
12. (Repealed 3-2-16)
13. Uses permitted by right, not served by public water, involving water consumption exceeding four hundred (400) gallons per site acre per day. Uses permitted by right, not served by public sewer, involving anticipated discharge of sewage other than domestic wastes.
14. Warehouse facilities not permitted under section 24.2.1 (reference 9.0).
15. Animal shelter (reference 5.1.11).
16. Tier III personal wireless service facilities (reference 5.1.40).
17. Body shops.