

PROFFER STATEMENT

Rezoning Application Number: ZMA No. 201200007

Tax Map and Parcel Number(s): TMP 07600-00-00-055A0; and portions of TMP 076M1-00-00-00100; and of TMP 07600-00-00-055C0, consisting of 0.430 acres, more or less, as shown on Attachment A.

Zoning: HC Highway Commercial to HC Highway Commercial

Owner of Record: FTV Investments, LLC, a Virginia limited liability company

Date of Proffer Signature: September 1, 2016

FTV Investments, LLC, a Virginia limited liability company, is the owner (the "Owner") of Tax Map and Parcel Number: TMP 07600-00-00-055A0; and portions of TMP 076M1-00-00-00100, and of TMP 07600-00-00-055C0 {the "Property"} which is the subject of rezoning application ZMA No. 201200007, a project known as "5th 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 location of buildings, including orientation, walkways, retaining walls and access point to greenway shall be in the general locations shown on the attached conceptual plan entitled "5TH STREET DEVELOPMENT APPLICATION PLAN" dated December 9, 2013, as updated and last revised July 28, 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 locations of buildings, walkways, retaining walls and access points to greenway may be made to ensure compliance with the Zoning Ordinance. Modifications are to be considered in terms of minimizing or improving impact on adjoining properties and roadways, to address Architectural Review Board requirements, or to comply with the Flood Hazard Overlay District.

2. The uses of the Property shall be limited to those listed in Attachment B.

3. Vehicular access from 5th Street to the Project shall be provided via a shared entrance with the existing use on the remainder of TMP 07600-00-00-055C0. This entrance shall be modified to be used for left turn movements from 5th Street and right-in/right out traffic movements only, as shown on the Conceptual Plan. The modified entrance shall meet Virginia Department of Transportation ("VDOT") standards for commercial entrances and will be constructed in conjunction with

improvements shown on the first final site plan. The Owner shall provide for an additional interconnection and ingress and/or egress for the use on the remainder of TMP 07600-00-00-055C0, as shown on the Conceptual Plan, in conjunction with improvements shown on the first final site plan.

4. All off-site traffic improvements and on-site improvements designed to manage ingress and egress to 5th Street shown on the Conceptual Plan shall be completed prior to the first certificate of occupancy, provided that any off-site traffic improvement shown on the Conceptual Plan shall not be required if VDOT determines that the particular off-site traffic improvement is not required.

5. 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"), Owner granted an Easement to the County of Albemarle providing access over the Property to the County's Greenway Trail.

- 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 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 construction shown on the final site plan for development of the Property.
- B. The Owner 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. The Travel Way shall be constructed to meet Class A (low maintenance multi-use/shared use path) standards in accordance with the County's Design Standards Manual. The Travel Way shall be shown on the first final site plan and installed by the Owner in conjunction with the improvements shown on the first final site plan approved for development of the Property. The Travel Way shall be maintained by the Owner.
- C. To the extent the location of the Travel Way on the Conceptual Plan is inconsistent with the locations shown on the Easement, the Owner shall, at its sole expense, prepare and execute an easement and accompanying easement plat, if necessary, in a form acceptable to the County of Albemarle, to correct the location of the Easement.

6. The Owner shall select and use roof materials on Buildings A, B and C, as shown on the Conceptual Plan, that are non-reflective earth tone or brown stone colors, and that are in general accord with the Monticello view shed guidelines as promulgated by the Thomas Jefferson Foundation.

7. The Owner shall provide for bicycle access to the Property by inclusion of bicycle lanes in its improvements to the frontage of 5th St. The bicycle lanes shall be shown on the first final site plan and installed by the Owner in conjunction with the improvements shown on the first final site plan approved for development of the Property.

8. The Owner shall grant an easement to the County for the "Primitive Trail Connection" as shown on the Conceptual Plan, provided that the deed of easement to the County may include a provision in which the County holds the Owner harmless as provided in Virginia Code § 29.1-509(E). The easement shall be granted within 90 days of the County's request for the trail easement. The Primitive Trail Connection shall be for pedestrian access only and shall be constructed to meet Class B (primitive nature trail) standards in accordance with the County's Design Standards Manual. The Primitive Trail Connection shall be shown on the first final site plan and installed by the Owner in conjunction with the improvements shown on the first final site plan approved for development of the Property. The Primitive Trail Connection shall be maintained by the Owner; however, at its discretion, the County may assume maintenance of the Primitive Trail Connection by informing Owner in writing that it will take over maintenance of the Primitive Trail Connection.

OWNER:

FTV Investments, LLC, a Virginia limited liability company

By: E. Randall Ralston

Its: Manager

COMMONWEALTH OF VIRGINIA:

CITY/COUNTY OF ALBEMARLE, to-wit:

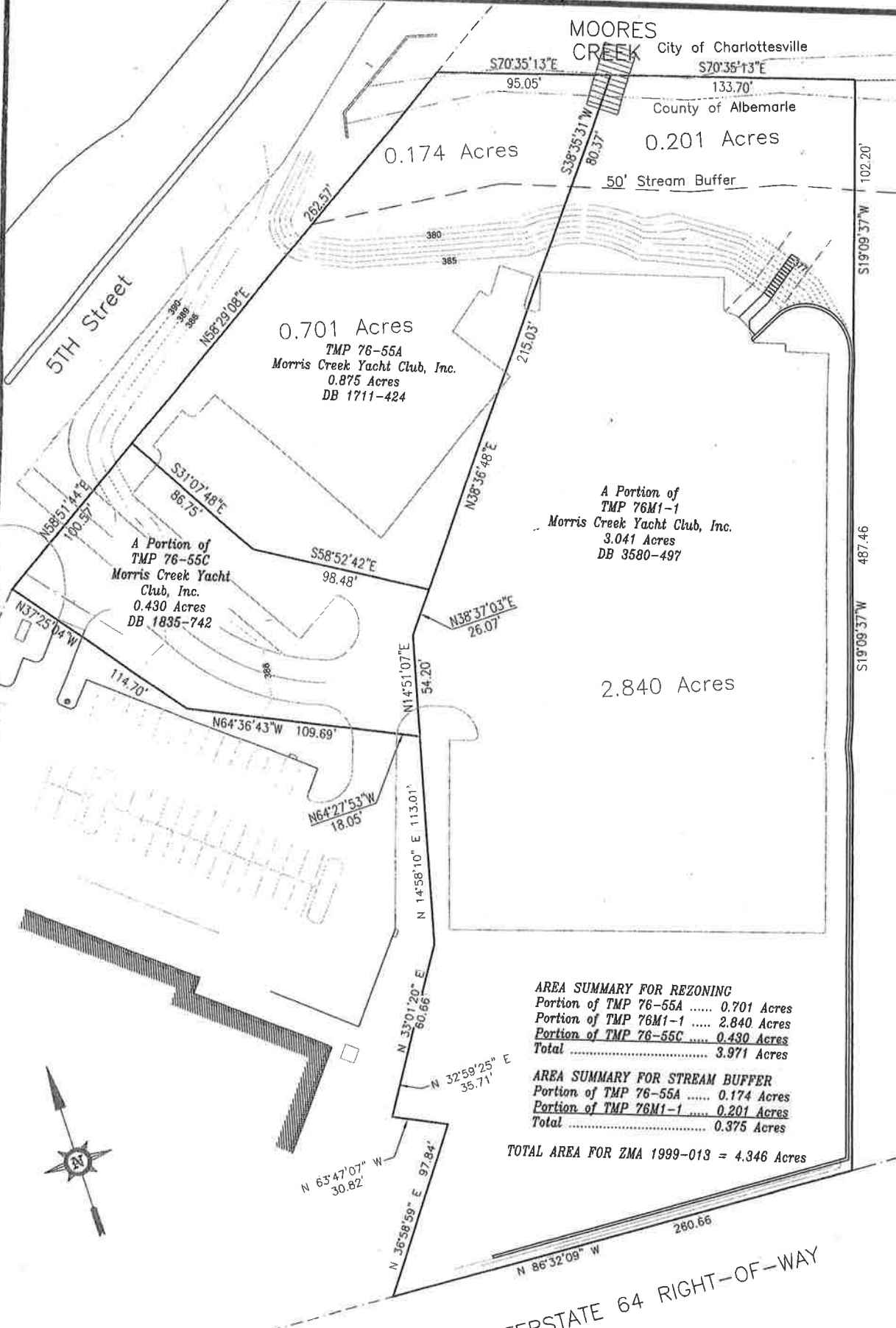
The foregoing Proffer Statement was acknowledged before me this 1st day of September, 2016, by E. Randall Ralston, as Manager of FTV Investments, LLC, a Virginia limited liability company.

My commission expires: August 31, 2019.



Betty C. Dickenson
Notary Public

7102546
Notary Registration Number



MERIDIAN
 PLANNING GROUP, LLC
 1413 Sagem Place, Suite One
 Charlottesville, VA 22901
 (P) 434.882.0121


EXHIBIT SHOWING AREA SUMMARIES FOR
 REZONING APPLICATION ZMA-1999-013
 PORTIONS OF
 TAX MAP 76M1, PARCEL 1
 TAX MAP 76, PARCELS 55A & 55C
5TH STREET COMMERCIAL CENTER
 DISTRICT, COUNTY, VIRGINIA
 SHEET: 1 of 1
 FILE: .DWG
 SCALE: 1" = 50'
 DATE: OCTOBER 19, 2012

ATTACHMENT B

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. The zoning administrator, after consultation with the director of planning and other appropriate officials, may permit, as a use by right, a use not specifically permitted; provided that such use shall be similar to uses permitted by right in general character, and more specifically, similar in terms of locational requirements, operational characteristics, visual impact and traffic generation. Appeals from the zoning administrator's decision shall be as generally provided in section 34.

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1. Automobile laundries.
 2. Automobile, truck repair shops.
 - ~~3. Automobile service stations (reference 5.1.20).~~
 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. (Repealed 6-3-81)
 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; provided that the gross floor area of the establishment may exceed 4,000 square feet per site by special exception approved by the board of supervisors.
48. Manufacturing/Processing/Assembly/Fabrication and Recycling; gross floor area of the establishment does not exceed 4,000 square feet per site; provided that the gross floor area of the establishment may exceed 4,000 square feet per site by special exception approved by the board of supervisors.
49. Storage/Warehousing/Distribution/Transportation; gross floor area of the establishment does not exceed 4,000 square feet per site; provided that the gross floor area of the establishment may exceed 4,000 square feet per site by special exception approved by the board of supervisors.
50. Drive-through windows (reference 5.1.60). (Added 3-2-16)

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.

