



**COUNTY OF ALBEMARLE**  
**Department of Community Development**  
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March 7, 2016

Mr. Katurah Roell  
2811 Hydraulic Road.  
Charlottesville, VA 22901

RE: Review Comments on ZMA201200007 – 5<sup>th</sup> Street Commercial and SP201300027 – 5<sup>th</sup> Street Development Drive-Thru

Dear Katurah:

Staff has reviewed your re-submittal of January 19, 2016, in which you have requested proffer and application plan amendments for ZMA1999-13 and a special use permit to allow a drive through window. As you know, Claudette Grant, who reviewed your project from 2012 – 2015 is no longer working for Community Development. In addition, Justin Deel, the reviewing engineer, has also left Community Development. Glenn Brooks, who left the County as County Engineer last Friday, provided comments on your last submittal.

On March 2, the Board of Supervisors approved a zoning text amendment to remove the requirement for a special use permit for drive through windows, replacing it with performance standards. As a result, the special use permit you have requested is no longer needed.

As you may remember, staff met with you, the owners of the property, and Scott Collins on February 23, 2016 to discuss the outstanding issues. We went over the following issues at that meeting, although, not in the detail that is provided below. As we said at that meeting, we believe that you can design a project that both meets the approved fill in the floodplain special use permit and the Neighborhood Model.

The following items are still outstanding and in need of resolution before staff can recommend approval of your project. The most recent comments are provided in *italics*:

**Conformity with the Neighborhood Model**

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***Pedestrian Orientation*** – You are showing sidewalks in the right-of-way across the frontage of the site along 5<sup>th</sup> Street and throughout the site which will help to encourage pedestrian movement. To truly have a pedestrian orientation, however, the building facing 5<sup>th</sup> Street should be moved closer to the sidewalk and a walkway from the public sidewalk to a door or doors at the front of the building provided. (Comments concerning the need for relegated parking were provided early in the review.)

***Neighborhood Friendly Streets and Paths-*** Previous comments and how they have been addressed follow:

**Initial submittal:** Sidewalks and street trees should be provided on new roads constructed.

**Rev. 2:** The revised plan now shows some proposed street trees, landscaping and sidewalks. Although staff may suggest a revised landscape plan, in general, this principle is met.

**Rev. 3:** Because of the location of this site in the Entrance Corridor, a fair amount of landscaping will be expected. There is concern that utility easements may make it difficult to provide the necessary landscaping for this site.

**Rev. 4:** No Change – see EC comments below:

### **Entrance Corridor**

The following comments related to the Entrance Corridor Guidelines have been provided by Margaret Maliszewski:

1. When the ARB reviewed the site layout in February 2014, there was no objection to the orientation of Building C as it was illustrated, with appropriate landscaping. However, proffer #4 states that all buildings will have their fronts oriented to face 5<sup>th</sup> Street, and that orientation is not represented in the layout of Building C. The proffer should be corrected to accurately reflect the layout.
2. When the ARB reviewed the plan in February 2014, they made a number of comments on the proposal. Among those comments were: *Clearly show all utilities and easements on the plan. Increase planting area to avoid planting and utility conflicts without reducing the amount of landscaping proposed.* The plan has not been revised to address the planting/utility conflicts. The primary issue is the EC frontage trees located on and near the sanitary sewer line. Sufficient on-site planting area has not been provided to accommodate required landscaping, so the development can't actually be accomplished as shown. It is recommended that the plan be revised now to show increased planting area and to show that the required landscaping can be accommodated on site, clear of utilities and easements.
3. Note that a Certificate of Appropriateness from the ARB is required prior to final site plan approval. A Certificate of Appropriateness has not yet been granted. Final review (site and architecture) with the ARB is required.

***Rev. 5:*** Issues related to landscaping and the ARB have been addressed for the portion of the site along 5<sup>th</sup> Street. However, please be advised that even though the ARB may be satisfied with the frontage treatments, the Neighborhood Model principles still apply and landscaping is not viewed as the preferred alternative to creating relegated parking. Curb and gutter along the frontage of 5<sup>th</sup> Street is preferred to the rural cross section shown.

**Multi-modal Transportation Opportunities**

*As noted above, sidewalks are being provided along the frontage of 5<sup>th</sup> Street and throughout the site. During the site review process, there may be a need for striping bicycle lanes along Fifth Street across the frontage of the site to enhance cycling opportunities for employees and users of the center.*

**Parks, Recreational Amenities, and Open Space** – *The Comprehensive Plan designates a portion of this site for parks and greenways. This is because much of the property is in floodplain. When it was originally rezoned in 1999, the floodplain over the parcel was smaller than it is today. At the time of the rezoning, proffers were made to dedicate an easement for a greenway trail along the northern portion of the property. A portion of this easement has been dedicated. Since your original submittal in 2012, staff has provided the following comments:*

**Rev. 2:** You have described an intention to preserve a significant portion of the overall site as natural areas for public use and benefit. There is no commitment to this. This principle is partially met.

**Rev. 3:** Proffer 8 describes a commitment to the Greenway, but it is no longer shown on the Conceptual Plan. The Greenway should be shown on the Conceptual Plan.

**Rev. 4:** The Greenway is now shown on the Application Plan. This principle is met.

**Rev 5:** *Thank you for your proposed dedication of the greenway easement through your proposed revised proffers and for clearly showing it on the rezoning plan. Although an easement is an acceptable form of dedication, you may find that dedication of real property at this location is advantageous, since the property is located in the floodplain and cannot otherwise be used for the development.*

*With this most recent review of the plan and proffers, staff has noticed that there are some inconsistencies between the existing/proposed proffers and the rezoning plan. The original plan and proffers included an expectation for steps and a travel way from the proposed parking area down to the easement that has already been dedicated. Last year's plan dated 3-9-15 removed the steps that had been shown and proffered with the original zoning plan and proffers. If the Board wishes to approve this rezoning, the inconsistencies will need to be rectified beforehand.*

**Buildings and Spaces of Human Scale** – *Buildings and spaces of human scale are largely a result of heights, massing, orientation, and setbacks from the street. When a building is proposed in an Entrance Corridor, the ARB makes determinations relative to heights, massing and orientation. Issues related to setbacks from the street are addressed under the topic of Relegated Parking.*

**Initial submittal:** Since the site plan submitted does not provide any details regarding building and parking location, staff cannot evaluate the proposal for conformity with this principle.

**Rev. 2:** The revised plan does not show any street sections or building design, and there is no commitment to the building sizes, so it is hard to know how this principle is met.

**Rev. 3:** The revised plan provides square footage for the proposed buildings. The building size seems appropriate for the site. Without knowing the actual location of areas on the site that need to be protected it is difficult to know if there are too many buildings on the property or if the size of the buildings should be scaled down in size.

**Rev. 4:** The Architectural Review Board has addressed this principle in their preliminary review for buildings that can be seen from the Entrance Corridor, however, there is no change for buildings that are not visible from the Entrance Corridor.

**Rev. 5:** *The principles of Relegated Parking, Neighborhood Friendly Streets and Paths, and Buildings and Spaces of Human Scale are all important in making a pedestrian oriented place. The ARB has preliminarily approved the buildings that can be seen from the Entrance Corridor; however, their preliminary approval does not negate the need for Relegated Parking.*

**Relegated Parking** – *Relegated Parking is an important principle that helps create a pedestrian oriented environment. Parking is relegated when it is placed to the side or the rear of buildings along a street. Though discussed extensively throughout the review process, this principle is not met.*

**Initial submittal:** You did not provide any details regarding building and parking location, so, staff cannot evaluate the proposal for conformity with this principle.

**Rev. 2:** The revised plan shows parking along 5<sup>th</sup> Street that is not relegated. This is not consistent with the existing approved plan, which is very specific to certain site design elements, such as relegated parking and buildings closer to the street, that show a relationship to the street. This principle is not met.

**Rev. 3:** No change.

**Rev. 4:** No change.

**Rev. 5:** *The current proffered plan shows buildings set back 125 feet from the pavement and parking between the street and the building. This has been and continues to be an area of major concern by staff because the Comprehensive Plan recommends that relegated parking occur with new development. I can see from correspondence in the files that you and Claudette Grant agreed to disagree on whether or not you needed to meet this principle of the Neighborhood Model. Planning staff continues to believe that your plan needs to be redesigned so that it can meet the principle of relegated parking, which in turn helps to create a pedestrian orientation, improves the ability to create buildings and spaces of human scale, and neighborhood friendly streets and paths.*

*In addition, since your first submittal in 2012, about 4 years ago, the zoning ordinance has changed and now a minimum setback of 10' and a maximum setback of 30' for buildings is required. Staff previously made you aware that this zoning text amendment was in the works and would affect the plan. Your plan must be modified to reflect the change to the maximum building setback of 30'. You may request a special exception to this requirement from the Board of Supervisors; however, staff would not be able to support this request.*

**Respecting Terrain and Careful Grading and Re-grading of Terrain** – *The title of this Neighborhood Model principle changed in 2015 to help better describe expectations for the Development Areas. The first recommendation from the Comprehensive Plan for this principle is to encourage developers to design buildings that fit into the terrain rather than flattening the land for trademark buildings. The Comprehensive Plan also says that where retaining walls are used, they should be no taller than six feet and benched, and planted to blend with the landscape.*

**Initial submittal:** Since the site plan submitted does not provide any details regarding building and parking location, staff cannot evaluate the proposal for conformity with this principle.

**Rev. 2:** While the revised plan does show proposed building and parking locations, there is no commitment to the locations of building and parking, which could change. It is not clear if this principle is met.

**Rev. 3:** Although the revised plan describes a commitment to the building and parking locations, the revised plan needs to be overlayed with the approved plan, which describes areas for conservation easements, FEMA boundaries, etc. This will help determine if there is proposed disturbance to areas that need to be protected.

**Rev. 4:** You have now provided the revised plan with an overlay of the approved plan. However, several of the layers should be turned off, so that one can clearly see if there are any disturbances proposed for areas that should not be disturbed. It appears there may be encroachments into the stream buffer. The combined plans need to be revised to clearly depict the areas of disturbance versus areas of preservation/conservation.

**Rev. 5:** *It is still difficult to know how your proposal meets this principle because there is no proposed grading shown on the plan. In addition, there is a 15' retaining wall at the rear of the site and a retaining wall with no information on height on the south side of the site parallel to I64. The concept plan approved with SP200700063 showed a 10' retaining wall on the eastern part of the site. The 15' retaining wall at the back of the site does not meet the County's expectations for terraced walls rather than high retaining walls; however, we note that this wall also has a flood protection function.*

*From our meeting on February 23, it is clear that you wish to revise this plan to conform to the limits of floodplain disturbance which were approved in 2002 and again in 2008. Making those changes will likely result in shorter retaining walls, so this may not be an issue in the future. According to Margaret Maliszewski, Design Planner and Acting Chief of Current Development, current conditions suggest that the proposed development may be more visible from I64 than was previously thought. The degree of visibility can be considered when the site plan is reviewed by the ARB. Site sections, perspectives, sight lines, etc. will be useful at that time. Depending on the result of those studies, additional trees may be needed on the south and east sides of the site. If the retaining wall is visible, terracing may be appropriate.*

### **Zoning**

The following additional comments related to zoning matters have been provided by Ron Higgins, Chief of Zoning:

**Rev. 4:**

1. Parking note on plan should read "gross" floor area not "grass".
2. Parking requirement should be 5.0 spaces per 1,000 gross sq. ft. for total shown of 26,300 sq. ft. This is 131.5 spaces ( $26,300/1,000 = 26.3 \times 5.0$ ). With the daycare of 25 spaces this totals 157 for the plan. Plan shows a total of 139 proposed. Math is also wrong on the current plan ( $5.5 \times 25 = 137.5$ , not 98).

**Rev. 5:** *Additional Zoning comments on the latest (January 18, 2016) submittal (with proffers) for this ZMA are:*

1. *The second access out of the Holiday Inn parking lot will disturb "preserved slopes". These slopes were previously approved for disturbance with ZMA 1999-13. Since you are*

*requesting a change to the proffered plan, a special exception may be needed to allow for this disturbance. If so, it can be requested as part of a resubmittal and processed with the application as it proceeds to the Board of Supervisors. Staff will have a final answer on this issue by the time of the Planning Commission public hearing on March 15, 2016.*

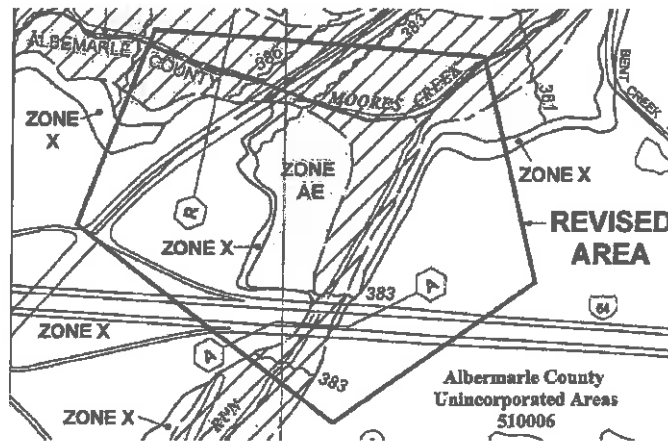
### **Engineering and Water Resources**

**Rev. 4:** The following comments related to engineering and water resources for the rezoning were provided by Justin Deel:

1. The proposed improvements plan shows an inaccurate WPO buffer of 50 feet. The WPO buffer is 100 feet and should be shown as such. Disturbances within the WPO buffer must be approved by the program authority. Types of structures, improvements and activities

which may  
buffer by  
can be  
County Code

2. The  
& Associates  
shows a  
year flood  
be  
topography



be allowed in a stream  
the program authority  
found in Albemarle  
17-604.

provided John McNair  
plan, dated 4/29/2002,  
"proposed FEMA 100-  
limit" that appears to  
contingent upon the  
proposed with that

plan. Your new plan, dated 3/9/2015, shows what appears to be the same floodplain limits, labeled as "approved 100' year floodplain per approved FEMA map revision". This floodplain limit does not appear to be consistent with the FEMA LOMR dated 8/8/2008 (below). When/how were the floodplain limits you're showing approved? Is there a more recent LOMR for this area?

## FEMA LOMR 08-13-1390P

**Rev. 5:** *The following comments were provided by Glenn Brooks, County Engineer:*

1. *Please have the application show the current floodplain limits according to FEMA mapping. The proposed line or CLOMR lines do not appear to be the current regulatory limits.*
2. *Please have the applicant clarify the limits of floodplain fill in the context of the previous approval. It appears that the proposed retaining wall may encroach further than the slope shown on previous concept plans. This would increase the proposed fill.*
3. *Please correct the buffer designation on the plan, and clarify the encroachment into the stream buffers. There is no 50' buffer in the WPO. There is only a 100' buffer. Up to 50' of encroachment and disturbance is permitted with mitigation. This should be compared to what was previously approved.*
5. *Please clarify the frontage improvements on 5<sup>th</sup> Street Extended. It is not clear what is being planned with the changes to the entrance and no future signal. Turn lane improvements should be clarified with VDOT. (Planning staff notes that VDOT said these can be worked out at the site plan stage.)*

**VDOT**

**Rev. 4:** The following comments related to VDOT have been provided by Troy Austin:

1. The traffic study submitted to VDOT for review from the County was dated 10/28/14. The digital copies sent to VDOT from EPR upon request were dated 11/5/14 and 2/16/15. It needs to be confirmed which study is the correct study to be reviewed.
2. There are some concerns with how the traffic model is set up in the study. We will work with EPR directly on correcting the model/study.
3. The application plan does not appear to reflect the traffic mitigation recommended in the traffic study. Prior to the application plan being revised to show the proposed mitigation, we should make sure that the traffic study is acceptable.
4. The proposed median should be extended to prevent a U-turn movement used to access the entrance to Building A.
5. Internal circulation of the site may be better served if the entrance and travelway for Building A closest to 5<sup>th</sup> Street were revised to be a one-way movement. The parking spaces between Building A and 5<sup>th</sup> Street could be angled to accomplish this movement.

**Rev. 4:** *The following comments related to VDOT have been provided by Troy Austin:*

1. In general, VDOT has no objections to the application as submitted. There are design details with the entrance geometry that may need to be modified during the site plan review process. Some of those details include, but are not excluded to:
    - a. The 8' radius on the island should be increased to ease the turning movement of the left-turn from 5<sup>th</sup> Street into the site.
    - b. The 12' width of the egress lane may need to be wider to make it easier for larger vehicles to making the turning movement.
    - c. Turn lane warrants will need to be evaluated to determine if additional storage and/or right-of-way is necessary.
    - d. A merge lane may be necessary for the egress lane rather than having the taper tie into the through lane.
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### **Proffers**

#### **1. Proffer 1: Title**

**Rev. 4:** The title of the referenced plan should be consistent throughout the proffers and should be the correct title as shown on the plan. Also if there is a revised date on the plan, this date needs to also be referenced in the proffers. Proffer #1 needs to reference correct title of Application Plan and date.

**Rev. 5:** *The title of the proffered plan has been corrected; however, be aware that the revision dates identified in the proffer will need to be changed if changes are made to the proffered plan. In addition, please replace the words "Conceptual Site Plan" with the words, "Conceptual Plan" for consistency and to avoid future confusion.*

#### **2. Proffer 2: Uses**

**Rev. 5:** *Attachment A USES PERMITTED IN HC and inclusion of the zoning ordinance section for by-right and special uses for the Commercial – C-1 district are incongruous. The 1999 rezoning included the following proffer:*

*The Owners shall restrict the uses on the property to hotels, motels, restaurants, service stations, convenience stores and gift, craft or antique shops.*

*It appears that you no longer wish to be held to this small group of uses; however, the list of uses in HC which you have chosen to restrict yourself to are mostly contained in the C1 list of permitted and special uses that you have also proffered. You can't proffer uses that exist in the HC district. You can, however, "proffer out" uses. A good way to do that would be to review the list of uses permitted by-right and special use in the HC district and cross-through the ones that you would not want to have on the property. Once clarity is provided in the uses that would be allowed on the property, staff can provide feedback on the appropriateness of those uses at this location.*

3. Regarding proffer 3; the proffer needs clarification and updating. It is unclear what an "in-only entrance" is exactly. There is no "Engineering Department".



**Rev. 5:** *This has been corrected.*

**4. Proffer 4: Siting of Buildings**

**Rev. 5:** *Staff does not support removal of original proffer number 4 related to the siting of buildings.*

**5. Proffer 5: Fuel Islands**

**Rev. 4:** Are fuel islands still proposed? The proffer talks about them but they are not on the Conceptual Plan.

**Rev. 5:** *You have asked to remove this proffer in its entirety. This proffer needs to be reconciled with the list of uses that you have proposed which includes convenience stores with gasoline pumps.*

**6. Proffer 6: Utilities to be Provided Underground**

**Rev. 5:** *Staff notices that between the submittal prior to June 15 and the June 15 submittal, the proffer relating to undergrounding all utilities was changed. The original proffer read,*

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.

*Since placing new utilities underground is required in Sec. 32.7.5.2 of the Zoning Ordinance, you cannot proffer it. While undergrounding existing overhead utility lines would create a more attractive site, staff believes that Sec. 32.7.5.2 is sufficient as a requirement and can support removal of the proffer altogether.*

**7. Proffer 7**

**Rev. 4:** This proffer needs updating. It may need to refer to "initial site plan" in the county process. County Engineering should refer to County Engineer.

**Rev. 5:** *These changes have been made.*

**8. Proffer 8**

**Rev. 4:** Does this proffer refer to the correct ZMA and SP number?

**Rev. 5:** *Instead of referencing ZMA 99-13, Proffer 8 should reference ZMA201200007.*

**9. Proffer 8. A. –**

**Rev. 4:** Correct the code reference in proffer 8A to 32.7.9

**Rev. 5:** *The code reference change has been made; however, with the reworded proffer, there is reference to a proposed greenway trail shown on the "Conceptual Site Plan" [sic]. Because there is no greenway trail shown on the proffered plan, corrections either need to be made to the proffer or the plan. Also, please note the need to do a "find and correct" stroke with the proffers to ensure that Conceptual Site Plans are either the Conceptual Plan or an initial or final site plan.*

**10. Proffer 8.B. – Steps and a Vehicle Travelway**

**Rev. 5:** Staff notes that between the 5<sup>th</sup> and 6<sup>th</sup> versions of the plan under consideration with the rezoning, steps that are referenced in 8.B. disappeared off the plan. Are you proposing to retain the steps? The proffer indicates that you are. Please consider creating a connecting Class A path from 5<sup>th</sup> Street to the vehicle travel way shown on the plan and referenced in the proffer. (The travelway is intended for greenway trail maintenance.)

11. Proffer 8. C. –

**Rev. 4:** Has this been satisfied? If yes, this should be noted.

**Rev. 5:** This item has been corrected.

**SP- Drive-Thru**

*While the special use permit is not required for a drive through window, the proffered plan will need to comply with the new performance standards. Minor modifications are needed to the drive through shown on the plan; however, staff recommends a redesign of the site which will most likely affect the drive through arrangement.*

As I said before, we stand ready to assist you with a redesigned plan and proffers that can meet the recommendations of the Comprehensive Plan and your approved special use permit. I look forward to the Planning Commission's input at Tuesday night's meeting.

Sincerely,



Elaine K. Echols FAICP

Acting Chief of Planning, Community Development

C: FTV Investments, LLC  
Scott Collins, Collins Engineering