

Summary of Revisions Needed for ZMA2015-007 Brookhill

Engineering- Mark Graham (acting as Engineering reviewer)

1. I will not recommend acceptance of Proffer 1.A or 1.b as written. This will function much better if the proffer requires substantial completion, as determined by the County Engineer, prior to issuance of building permits rather than completion and bonds released prior to a Certificate of Occupancy. Two reasons for this: 1) Completion with bond release can occur many additional months beyond when the road improvements are operationally safe and convenient for use. This occasionally include some unforeseen circumstance beyond the control of the developer. (e.g. relocation of a utility line not previously found) 2) Related to the first reason, we have repeatedly seen circumstances where a Certificate of Occupancy requirement harms an innocent prospective property owner. The typical scenario is the new family has sold their old house based on the builder's commitment to complete the house by a date. The builder does complete the house per schedule, but no C.O. may be issued because the developer has not completed the proffer requirement. (this has included a wife who is 8 ½ months pregnant, children who are seriously ill, pets that are dying, the family losing the mortgage commitment due to the extra time, and a family who couldn't afford the extra cost of staying in a motel for 2 months).
2. I will not recommend acceptance of Proffer 1.C. as written. This proffer will function much better if it requires substantial completion, as determined by the County Engineer, prior to issuance of a building permit for the 500th dwelling. This is for the same reasons as noted in the first comment, plus recognizing a condition of the 500th single family detached dwelling is meaningless. First, there is no commitment with this Code of Development to build 500 single family detached dwellings. The developer could build 499 single family dwellings and the rest as single family attached or multi-family dwellings. That could result in the needed connection never being complete. Second, while a detached home may be assumed to generate more traffic, attached or multi-family homes also generate traffic. Based on my review of the submitted traffic study, I concur the connection is not needed before the 500th dwelling, but we do need to see it completed before this development goes much further than this.
3. I will not recommend acceptance of Proffer 1.D. as written. First, the second sentence contradicts itself. That sentence starts by saying the improvement will be completed prior to the later of two conditions and concludes by saying "...whichever occurs first." Second, this raises the same concern as raised above with respect to a commitment tied to issuance of a Certificate of Occupancy. This proffer will function much better if it requires substantial completion, as determined by the County Engineer, prior to issuance of a building permit for the 200th dwelling. Next, the commitment to dedicate the necessary right of way should include all necessary grading and drainage easements for completion of the improvements shown on the plat.
4. Proffer 1.E is acceptable with the following clarification on the intent of the proffer. The shelter will be expected to be equal or better to those currently used by Charlottesville Area Transit (CAT), as determined by the Director of Community Developer and CAT. Also, completed concurrently means the facility must be ready for use, as determined by CAT, as part of the substantial completion of the road improvements.
5. The last sentence of Proffer 1.G should be revised to clarify that once the public streets are completed and become part of the VDOT Secondary Street program, the Owner no longer has the authority to regulate the traffic on the streets.
6. I will not recommend acceptance of Proffer 2.A as written. This will function much better if the proffer requires substantial completion, as determined by the County Engineer, prior to issuance of the 50th building permit for a dwelling. This is for the same reasons as stated above in comments. Additionally, this proffer should include a commitment to complete the improvements within each subdivision plat concurrently with the streets being determined to provide a safe and convenient access.
7. I will not recommend acceptance of Proffer 5 as written. I noted that Marshall Swift provides a large number of building cost indices and this proffer is note specific as to which is proposed. I note the County has historically used the index for masonry walls in the Mid-Atlantic as a basis for

- adjustment. This proffer needs to be specific as to which cost index will be used.
8. I will not recommend acceptance of Proffer 6 as written. I note satisfaction of this proffer anticipates the County and Owner to reach agreement on the value of the proffered improvements within 30 days of approval of this zoning. This is impracticable. First, the proffer cannot obligate the County to agree with the Owner's position. If agreement is not reached within the 30 days, this becomes a zoning violation and all activity in the development may be required to stop until this is resolved. That is a difficult position. Second, noting the value of the elementary school site is to include improvements, I do not see how the value of those improvements can be agreed upon until there is an approved plan for the improvements. Third, this proffer anticipates a credit for cash proffers will be provided long before the proffers may be delivered to the County. This leads to a number of "what ifs" that are not addressed. For example, should the value of the improvements on the elementary school site be evaluated annually per Proffer 5? If so, would this also include possible reassessments of the property value by the County or private appraisals by the Owner? For all of the above reasons, I strongly encourage the Owner to take the time in advance of this application being heard by the County Board to see if an agreed value can be reached with staff and then recommend this be used by the County Board in its evaluation.
 9. I will not recommend acceptance of Proffer 7 as written. First, I note the last sentence of the first paragraph allows the County to use this property as a public park, but the second paragraph requires the property to be returned to the Owner within 10 years if it is not used as an elementary school. That contradiction needs to be addressed. Second, per Proffer 6, the Owner has already received a credit towards the cash contribution in Proffer 3 with this property. Thus, the County is effectively being penalized for not using school site within a timeframe. That may suggest the elementary school provides a value to the Owner that should be included in the credit calculations per Proffer 6. Third, I believe this proffer should include the same flexibility for "other public facilities as provided in Proffer 8. Without this, the proffer effectively obligates a future County Board to make decisions that may not be aligned with its goals at that time. Fourth, and finally I believe the proffer needs to be clear this is to be a minimum 7 acres of usable ground with an access entrance location approvable by VDOT for this school. This site provides no value to the County unless it is demonstrated this site is usable and accessible. At a minimum, I recommend the second paragraph be struck from Proffer 7 and the County's use of this property not be restricted.
 10. I recommend the County's use of the property identified with Proffer 8 not be restricted. The County is providing a cash proffer credit based on the agreed upon value of the property. If this property includes a restriction on the uses of the property, I believe that restriction must be included in the consideration of the property value.
 11. I recommend that 2.4.2 of the Code of Development to be modified to allow the Director of Community Development to allow removal and replacement of trees in any wooded buffer with a determination that the existing trees create a substantial risk to people or property or they are diseased or dying. I have seen too many narrow buffers that included thin pine trees protected from the wind before development but creating a substantial risk to people and property after the development has occurred. Similarly, I have seen diseased trees where it is not clear the Homeowner's Association has the right to remove them before other trees are infected. As outlined here, that risk would be thrust onto the Homeowner's Association regardless of their concerns.
 12. I recommend that 2.8 of the Code of Development include notation that private streets/roads are only allowed as specified by the Subdivision Ordinance or Zoning Ordinance. Nothing in this section preempts those regulations.
 13. I recommend that 2.12 of the Code of Development include a commitment to serve all houses by gravity sewer laterals in connecting to the public sanitary sewer lines. We have experienced a number of recent developments taking advantage of a loophole in the County Code to use pressure laterals that will become problems in the future.

1. The cemetery delineations proffer should be revised to address the following issues:
 - a. The proffer only calls for delineation of cemeteries within Block 19. Such work can't determine the location of cemeteries outside of Block 19, as indicated in (iii). The proffer wording should be revised accordingly.
 - b. In (iii), "Brookhill dwelling" should be revised to "Brookhill property".
 - c. The permit, plan and plat approvals apply to Blocks 1, 3, 4, 6, 8 and 19.
 - d. Because cemetery delineation could impact block boundaries, delineation should be completed prior to submittal of the first site plan and prior to any subdivision approval or grading permit approval for Blocks 1, 3, 4, 6, 8 and 19. The proffer wording should be revised accordingly.
2. The National Register eligibility proffer doesn't appear to proffer anything that won't already be required by a state or federal agency, so it doesn't appear to be necessary. Clarify the meaning of "including the possible removal of some of the temporal designation".
3. The Code of Development states that the Brookhill manor house will be preserved. A proffer should be established to clarify the methods of preservation. At a minimum, such methods should include: The manor house shall not be demolished; additions shall not compromise the historic character of the property; repairs shall maintain historic fabric and character; and exterior alterations shall not destroy historic materials or the historic character of the property, all as determined by the Director of Planning or his designee.
4. A proffer should be established to address the two historical markers to be installed in the development, as indicated in the Code of Development.
5. A proffer should be established to address the preservation of existing landscaping on the Brookhill parcel and the establishment of the 20' buffer around the Brookhill house as described in the Code of Development.
6. A proffer should be established requiring treatment plans for all cemeteries located within the property of the proposed Brookhill development. The treatment plans shall be submitted by the applicant for review and approval by the Director of Planning or his designee prior to any site plan submittal or subdivision approval or grading permit approval for Blocks 1, 3, 4, 6, 8 and 19.
7. A proffer should be established to address the preservation of the Woodland Camp, at a minimum stating that the camp won't be negatively impacted by grading and construction associated with the greenway/trail system or other development activities.
8. A proffer should be established to indicate that block boundaries as illustrated on the application plan shall be shifted as necessary to accommodate preservation of historic/cultural resources if relevant new information is discovered, as determined by the Director of Planning or his designee.

Zoning- Amanda Burbage/Amelia McCulley

1. Proffer 1 - The proffer language related to the phasing of the proposed transportation improvements is still unclear. With the exception of the Ashwood Connection, the phasing of the internal road network (labelled A, B, C & D in Figure A: Brookhill Traffic Phasing Plan) is not addressed at all in the proffers. The Transportation Improvements proffer should address the timing and triggers for all roadway improvements, not just Polo Grounds Road, Route 29, Ashwood Boulevard, and Rio Mills.
2. Proffer 1C – Tying this proffer to the 500th CO for a single family detached dwelling is problematic if other types of dwelling units or commercial space are developed first. Please revise this proffer to reference a total number of dwelling units and provide an alternate trigger for commercial development.
3. Proffer 1D - Proffer 1C – Tying this proffer to the 200th CO for a single family detached dwelling is problematic if other types of dwelling units are developed first. Please revise this proffer to reference a total number of dwelling units.
4. Proffer 9 - The historic resources proffer should more specifically reference measures that will be taken to preserve the Brookhill manor house, woodland campsite, and any cemeteries that are identified on the property. The proffer should also address the installation of the two historical

markers discussed in the Code of Development. See Margaret Maliszewski's comments for more guidance on adjusting proffer language.

Planning

1. Revise the grading section within the COD (pages 23-24) to reflect the design requirements that are required for managed slopes under section 30.7.5 of the Zoning Ordinance. If the applicant wishes to allow retaining walls that do not meet these standards, add language to allow the exception by the Director of Community Development in coordination with the County Engineer. Language should include circumstances under which the exception may be granted such as to improve the overall design of the project and not for the proprietary interest of the developer/owner.

VDOT

1. In a meeting with the developer on 6/27/16 minor changes to the TIA were requested in the form of revisions to the average speed table(s) through the vicinity of the project. A revised TIA needs to be submitted and approved.
2. The traffic phasing plan as shown in Figure A appears to be in general conformance with the TIA. However, the Department recommends that the Polo Grounds Road improvements be made at the start of the project and not tied to occupancy of the 50th single family home as the Proffer Statement details.