

**RESOLUTION DENYING ROUTE 29 LLC'S APPEAL AND AFFIRMING
THE ZONING ADMINISTRATOR'S AUGUST 7, 2018 DETERMINATION**

WHEREAS, on December 11, 2013, the Albemarle County Board of Supervisors approved ZMA 2012-005 Hollymead Town Center A1 with proffers; and

WHEREAS, Proffer 4 requires the contribution of \$50,000 cash per year to the County for a period of ten years and a total cash contribution of \$500,000 to be used for operating expenses relating to public transportation service to Hollymead Town Center; and

WHEREAS, Proffer 4 requires the first payment to be made within thirty days after demand by the County after public transportation service is provided to Hollymead Town Center, and payments two through 10 to be made by the anniversary date of the first contribution; and

WHEREAS, public transportation service was established to the Hollymead Town Center on May 2, 2016 and is ongoing, and on May 20, 2016, the first \$50,000 contribution was requested in writing to be paid to the County by June 20, 2016; and

WHEREAS, Route 29 LLC did not make the payment, and filed suit against the County seeking relief from the requirements of Proffer 4; and

WHEREAS, on May 7, 2018, the first three contributions of \$50,000 each, or \$150,000, was requested in writing to be paid by June 18, 2018, and Route 29 LLC did not make the payment; and

WHEREAS, on August 7, 2018, the Zoning Administrator issued a Notice of Official Determination of Violation to Route 29 LLC for failure to pay the amount due pursuant to Proffer 4; and

WHEREAS, Route 29 LLC appealed the Zoning Administrator's August 7, 2018 determination to the Board as provided by Virginia Code § 15.2-2301, asserting that Proffer 4 should have been previously amended and should still be amended.

NOW, THEREFORE, BE IT RESOLVED that, upon consideration of the foregoing, the executive summary prepared for the Appeal of the Zoning Administrator's Determination and all of its attachments, and the information presented at the Board of Supervisor's December 5, 2018 meeting, the Albemarle County Board of Supervisors hereby denies Route 29 LLC's appeal and affirms the Zoning Administrator's August 7, 2018 determination that Route 29 LLC is in violation of Proffer 4 because public transportation service is provided and Route 29 LLC has failed to make three annual \$50,000 contributions to the County for a total of \$150,000, and has thereby failed to satisfy Proffer 4 accepted in conjunction with ZMA 2012-005.

* * * * *

I, Claudette K. Borgersen, do hereby certify that the foregoing writing is a true and correct copy of a Resolution duly adopted by the Board of Supervisors of Albemarle County by a vote of _____ to _____, as recorded below, at a meeting held on December 5, 2018.

Clerk, Board of County Supervisors

	Aye	Nay
Mr. Dill	_____	_____
Mr. Gallaway	_____	_____
Ms. Mallek	_____	_____
Ms. McKeel	_____	_____
Ms. Palmer	_____	_____
Mr. Randolph	_____	_____