

**SUMMARY**  
**COUNTY OF ALBEMARLE**

<b>Project Name:</b> ZMA201600019 2511 Avinity Drive	<b>Staff:</b> Elaine K. Echols, FAICP
<b>Planning Commission Public Hearing:</b> Sept. 26, 2017	<b>Board of Supervisors Public Hearing:</b> TBD
<b>Owner:</b> James Moss	<b>Applicant:</b> Justin Shimp
<b>Acreage:</b> 0.91 acres	<b>Rezoning:</b> R1 Residential to PRD Planned Residential District
<b>TMP:</b> 090000000035L0	<b>Proffers:</b> No
<b>School Districts:</b> Cale Elementary, Walton Middle, Monticello High	<b>By-right use:</b> Residential with existing house on nonconforming lot
<b>Magisterial District:</b> Scottsville	<b>Requested # of Dwelling Units:</b> 24
<b>DA (Development Area):</b> N4 of Southern Urban Neighborhoods	<b>Comp. Plan Designation:</b> Urban Density Residential
<b>Character of Property:</b> developed with a single family house	<b>Use of Surrounding Properties:</b> townhouses and single family residential
<b>Factors Favorable:</b> <ol style="list-style-type: none"> <li>1. Proposed density is in keeping with the recommended density for Urban Density Residential as shown on the Master Plan.</li> <li>2. Relegated parking is provided, in keeping with the Neighborhood Model.</li> <li>3. Affordable housing may be provided with the development.</li> </ol>	<b>Factors Unfavorable:</b> <ol style="list-style-type: none"> <li>1. Feasibility to accomplish the rezoning has not been established: the applicant has not demonstrated permission to use Avinity Drive for access to the development.</li> <li>2. Offsite easements will be required in order to accomplish the development as proposed. The ability to obtain these easements has not been demonstrated.</li> <li>3. It appears that ARB requirements for landscaping and street trees cannot be met with the proposed development. Buildings, parking, and a courtyard are shown to cover almost the entire site and there is little flexibility to modify the plan and retain the courtyard should site changes be needed.</li> <li>4. Insufficient information has been provided to justify why a PRD of less than 3 acres should be approved, given the fact that it does not share any features, other than potential access, with the adjoining PRD.</li> <li>5. No information other than setbacks and building height has been provided to ensure architectural compatibility with the adjoining development.</li> <li>6. Affordable housing information is not sufficiently detailed to ensure that the project will truly provide 20% affordable units.</li> <li>7. No provision is made for connecting to the property to the south of this parcel.</li> </ol>
<b>RECOMMENDATION:</b> Due to the outstanding issues listed under unfavorable factors, staff cannot recommend approval of ZMA201600022.	

**STAFF PERSON:**  
**PLANNING COMMISSION:**  
**BOARD OF SUPERVISORS**

**Elaine K. Echols, FAICP**  
**September 26, 2017**  
**TBD**

**ZMA201600022 2511 Avinity Drive**

**PROJECT DESCRIPTION**

PROJECT: ZMA201600022 2511 Avinity Drive

MAGISTERIAL DISTRICT: Scottsville

TAX MAP/PARCEL: 090000000035L0

LOCATION: 2511 Avinity Dr., approx. 70 feet south of the intersection with Avon St. Ext.

PROPOSAL: Rezone property to allow for apartments

PETITION: Request for 0.9 acres to be rezoned from R1 Residential zoning district, which allows residential uses at a density of 1 unit per acre to PRD Planned Residential District which allows residential use (3 – 34 units/acre) with limited commercial uses. A maximum of 24 multifamily units is proposed for a density of 26 units/acre.

OVERLAY DISTRICT(S): ENTRANCE CORRIDOR

PROFFERS: No

COMPREHENSIVE PLAN: Urban Density Residential – residential (6.01-34 units/acre); supporting uses such as places of worship, schools, public and institutional uses, neighborhood scale commercial, office, and service uses in Neighborhood 4 of the Southern and Western Urban Neighborhoods.

POTENTIALLY IN MONTICELLO VIEWSHED: Yes

**CHARACTER OF THE AREA**

The property is located on Avon Street Extended, south of Cale Elementary School. It is directly south of the Avinity townhouse development, which is currently under construction. The Lake Reynovia residential development is across Avon Street; low-density residential development is to the east and south. Attachment A shows the location of the development.

**SPECIFICS OF THE PROPOSAL**

The applicant proposes to replace a single family house on a parcel of a little less than one acre with two apartment buildings, a plaza-amenity, and parking area to be accessed from Avinity Drive. Twenty-four units are proposed for a density of 26 units per acre. The plan is included as Attachment B. There are no proffers; however, the applicant has placed a note on the plan which says, “20% affordable housing.”

**APPLICANT’S JUSTIFICATION FOR THE REQUEST**

The applicant cites the Comprehensive Plan as the justification for the request.

**COMMUNITY MEETING**

A community meeting for this project was held on March 22, 2017. There were approximately 19 attendees including three persons who represented the applicant. The following concerns were raised:

- Limited numbers of parking spaces may cause spill over into the Avinity development
- Right of access to Avinity Drive and responsibilities for maintenance
- Potential damage to the Avinity Drive median with construction trucks
- Limited amenity area causing new residents to believe they can use amenities in the Avinity development
- Architectural compatibility of the two developments.

## **PLANNING AND ZONING HISTORY**

The property was zoned R1 Residential in 1980. No subdivision activity has taken place since that time. However, a proffer for access to this property from Avinity Drive (to replace the driveway to the single family house) was accepted with ZMA200600005 Avinity. An easement for access to 2511 Avinity was platted with a subdivision for Avinity; however, no deed of easement with conditions was filed. This issue is discussed later in the report.

## **COMPREHENSIVE PLAN**

**Land Use:** The property is designated for Urban Density Residential development in the Southern and Western Urban Neighborhoods Master Plan. Density is recommended at 6.01 – 34 units per acre. The development proposes a density of 26 dwellings per acre, which is within the density range. No other specific recommendations are made in the Master Plan for this area.

**Density and Infill:** The Comprehensive Plan promotes different levels of density for new development in the development areas based in large part on context. Sensitivity to existing neighborhoods is important with infill development and redevelopment. Strategy 2o in the Development Areas Chapter speaks to redevelopment in this way:

Redevelopment can bring about a positive change to an area; however, care should be taken in designing new buildings and structures. Creating a more urban area with greater densities can affect existing neighborhoods as well as historic buildings and sites. Care is needed so that redevelopment complements rather than detracts from nearby neighborhoods or historic properties. Massing, scale, building style, materials, and other architectural elements should tie together new and old buildings. Guidelines for redevelopment may be needed to help ensure compatibility. Strategy 6b addresses this issue, as well. The [Economic Development Chapter](#) provides recommendations on ways the County could promote redevelopment of areas to transform them into attractive and accessible centers for employment.

While low density development generally is not anticipated in the Development Areas, the location and proposed design weigh heavily in rezoning decisions.

To help determine compatibility with Avinity, staff asked if elevations could be provided showing architectural characteristics. The applicant has indicated that it is premature to provide such drawings and said that compatibility will be assured by the Architectural Review Board. This issue is discussed later in the report.

### ***Neighborhood Model:***

The following text describes how the proposed development meets or does not meet the principles of the Neighborhood Model.

<b>Pedestrian Orientation</b>	Sidewalks are shown on the rezoning plan across the frontage of Avon Street, along Avinity Drive, and within the development. Staff notes that a sidewalk along Avinity Drive will require an agreement with the owner of this property in Avinity. Additionally a sidewalk shown on the northern property line will require offsite easements. This principle will be met when it is demonstrated that permission exists or can be given for improvements and construction on the adjoining property. <b><i>This principle is met in theory. It is discussed later in the report.</i></b>
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<b>Mixture of Uses</b>	This proposal is for residential use and, due to the small size of the parcel and proximity to both a school and employment area, no mixed use element is viewed as necessary. <b><i>This principle is not applicable.</i></b>
<b>Neighborhood Centers</b>	The development is not part of an identified center; however, it is near Cale Elementary School which acts as a center for the neighborhood. The closest designated center on the Master Plan is near Monticello High School. <b><i>This principle is met.</i></b>
<b>Mixture of Housing Types and Affordability</b>	A single housing type is shown on the plan which, given the size of the site and its location adjacent to a mixed housing type development, is acceptable.  Regarding affordability, a note on the plan says, “20% affordable housing”. Additional language will be needed to provide the parameters for providing this housing. <b><i>This principle is met in theory. It is discussed later in the report.</i></b>
<b>Interconnected Streets and Transportation Networks</b>	The application plan shows a vehicular connection to Avinity Drive but no pedestrian or vehicular connection to the property to the south. Provision for an interconnection to the south will help set up opportunities for redevelopment of those properties in the future. <b><i>This principle is partially met.</i></b>
<b>Multi-modal Transportation Opportunities</b>	The closest transit stops are at Piedmont Virginia Community College and at the Albemarle County Office Building on 5 <sup>th</sup> Street, making access to transit difficult. Bike racks have been shown on the plan to encourage bicycling. <b><i>Given the limited ways in which multi-modal opportunities could be provided, this principle is met.</i></b>
<b>Parks, Recreational Amenities, and Open Space</b>	The amenity area for this development is approximately 1/6 of an acre (48’ x 56’). It represents 6% of the site. However, the development is approximately 400 feet from Cale Elementary School, which serves as a park after school hours. Provided the on-site amenity area is not reduced further in size, staff believes additional amenity area is not necessary. <b><i>This principle is met. To justify the request for a smaller minimum PRD size, staff believes it would be advantageous to share amenities with Avinity</i></b>
<b>Buildings and Space of Human Scale</b>	The application plan contains a note that buildings will not be taller than 3 stories in height. With setbacks of 15 feet, it appears that an appropriate height and distance from the street could be achieved if there is also room to meet Entrance Corridor requirements. However, residents who attended the community meeting held in March were very concerned about the need for compatibility in appearance of units along Avon Street extended. Staff shares their concerns for appropriate form, massing, and general character of the buildings. If elevations cannot be provided now, the applicant could describe features of the proposed development on the application plan describing how compatibility will be achieved. <b><i>This principle is not met.</i></b>
<b>Relegated Parking</b>	A very positive feature of the application plan is the relegated parking provided with the design. However, it is not clear that permission to use Avinity Drive is feasible. Without the ability to use Avinity Drive, relegated parking cannot be achieved on this small parcel. <b><i>This principle is met in theory.</i></b>
<b>Redevelopment</b>	Redevelopment of an existing single family structure is proposed. <b><i>This principle is met.</i></b>

<b>Respecting Terrain and Careful Grading and Re-grading of Terrain</b>	A proposed grading plan was not provided as part of the concept plan; however, there are no identified managed or preserved slopes on the property. Due to the relative flatness of the parcel, no grading information appears to be necessary. <b><i>This principle is not applicable.</i></b>
<b>Clear Boundaries with the Rural Area</b>	The property is not adjacent to a Rural Area boundary. <b><i>This principle is not applicable.</i></b>

Although many of the Neighborhood Model principles are met or can be met with the design, the amount of development proposed creates a very tight site with little to no room for rearrangement of buildings and parking. At present, the plan shows improvements right at the property line in some places, meaning that offsite easements will be required. The Design Planner notes that overhead lines exist along Avon Street, which is an Entrance Corridor (EC). The overhead lines are not shown on the plan, but it appears they are located 15' from the proposed trees, which will not allow sufficient space for required trees in the EC. In addition, planting area on the south side of the parking lots is extremely limited. When final engineering and landscape design is done for the plan, staff worries that the amenity area will be diminished such that it is not really usable.

Regarding affordable housing, a note on the plan says, "20% Affordable Housing," which would indicate that five affordable units will be provided in the development. Staff has asked for clarification on the meaning of the note as well as ways in which meeting the County's goals for 15% affordable units can actually be accomplished. Outside of proffers, which the July 2016 State legislation disallowed for affordable units, the County's Housing Director wonders if the County could consider a rental rate agreement be developed prior to approval, setting forth the terms of rental for these five units. He has noted that the County uses rental rate agreements for (by-right) density bonuses. Normally, staff would work with the applicant to establish parameters for providing affordable housing prior to the Planning Commission's public hearing. In this situation, the applicant has requested a public hearing without working out the details. The County would want to understand the conditions under which affordable units will be provided, in order to know whether the Comprehensive Plan goals have been met.

***Relationship between the application and the purpose and intent of the requested zoning district***

The requested zoning district is Planned Residential Development (PRD). According to the zoning ordinance, this district *is intended to encourage sensitivity toward the natural characteristics of the site and toward impact on the surrounding area in land development. More specifically, the PRD is intended to promote economical and efficient land use, an improved level of amenities, appropriate and harmonious physical development, and creative design consistent with the best interest of the county and the area in which it is located.*

*The PRD provides for flexibility and variety of development for residential purposes and uses ancillary thereto. Open space may serve such varied uses as recreation, protection of areas sensitive to development, buffering between dissimilar uses and preservation of agricultural activity. While a PRD approach is recommended for developments of any density, it is recommended but not required that the PRD be employed in areas where the comprehensive plan recommends densities in excess of fifteen (15) dwelling units per acre, in recognition that development at such densities generally requires careful planning with respect to impact.*

A minimum area of 3 acres is required for PRDs. The applicant has requested a special exception to allow a minimum of 0.91 acres for a PRD, citing the location of the Avinity PRD adjacent to this project. Attachment C contains the special exception request, which cites affordability and density as the rationale for the request. In the past, the County has approved acreage of less than the minimum requirement when new property was

being added to an existing PRD and amenities and road systems would be shared. In this case, no sharing of amenities is proposed. It is unknown whether sharing the private street, Avinity Drive, for access is possible. Staff believes that the proposed development provides for an economical and efficient land use, but is not yet convinced that harmonious development has been demonstrated.

The PRD also requires 25% open space, which the applicant believes has appropriately been illustrated and calculated on the Application Plan. Open space is intended to provide active and passive recreation, protect areas sensitive to development, buffer dissimilar uses from one another and preserve agricultural activities. Open space is supposed to remain in a natural state and shall not be developed with any improvements, except for (i) agriculture, forestry and fisheries, including appropriate structures; (ii) game preserves, wildlife sanctuaries and similar uses; (iii) noncommercial recreational uses and structures; (iv) public utilities; (v) individual wells; (vi) in a cluster development, onsite sewage systems if the Department of Health determines that there are no suitable locations for a subsurface drainfield on a development lot; and (vii) stormwater management facilities and flood control devices. In the Development Areas, staff has acknowledged that the role of open space is different from open space in the Rural Area. However, staff has difficulty agreeing with the applicant that the area shown as open space, which includes the area for emergency access, the courtyard, front planting area between Avon Street Extended, all foundation plantings, and almost all on-site sidewalks meets the open space requirements.

Staff noted earlier in the report that the courtyard amenity area along with the Cale Elementary playing fields can serve the recreational needs of the development. For perspective, the image to the right taken from Google Maps illustrates an urban amenity area for a new hotel in Charlottesville. This area is similar in size to the courtyard on the application plan. The minimum open space that has been approved in several Neighborhood Model developments has been 10%. If the applicant does not wish to provide more undeveloped space on the site, he will need to request a special exception to the 25% open space requirement.



Plaza at Residence Inn by Marriott Charlottesville Downtown  
315 W. Main Street

#### ***Anticipated impact on public facilities and services***

Streets: As mentioned earlier in this report, proposed access from Avinity Drive, which is a private street within the Avinity development. Over the course of this review, staff has requested that permission to use Avinity Drive be demonstrated. The adjoining property owner, Avon Properties, LLC, has also contacted the County several times with concerns for rights for passage and future maintenance. The applicant provided copies of deeds and plats, which he says establish rights to use the roads in Avinity. However, after review, the County Attorney's office does not agree that rights to use Avinity Drive for this development exist. Without a deed of easement or knowledge that such an easement will be granted by the owner of Avinity Drive and TMP 091A0-00-00-000A0, there is no way to guarantee that future residents of this development will be able to use Avinity Drive for access.

Staff from the Virginia Department of Transportation (VDOT) reviewed the proposal and did not see any impacts to Avon Street Extended. Their only comment was that a right-turn lane may be needed, which can be dealt with at the site plan stage.

Stormwater Management: Stormwater detention is proposed underneath the eastern parking lot. Underground storage is the only way the proposed development could accommodate stormwater management since the rest of the site would be developed with buildings, parking, a courtyard, and an emergency access area. The County Engineer has said that the applicant has provided no information on where the facility will drain. He has said that an outlet may require an easement from adjacent owner. Although staff has requested a demonstration that offsite easements can be obtained, the applicant has yet to provide the necessary information.

Fire and Rescue: Fire and Rescue staff have reviewed the request and have no concerns. An emergency access easement is shown across the southwestern corner of the property. This same area is also shown for open space. Staff notes that it would be difficult for the emergency accessway to serve the dual purpose of amenity area and emergency access.

Utilities: ACSA and RWSA have indicated that water and sewer service are available for this project.

Schools: Albemarle County Schools estimates that the proposed development will generate five students. It is estimated that three of those students would go to Cale Elementary and two students would go to Burley Middle School and Monticello High School. According to the Schools Division, Cale is currently at capacity. One of the challenges with Virginia Code §15.2-2303.4 is knowing how to advise applicants on ways to mitigate impacts. School enrollment figures change from year to year and district boundaries can change over time. Rather than proffer mitigation of school impacts, the applicant has indicated he will provide 20% affordable housing.

Parks: No additional impacts to parks are expected from this development because playgrounds at all of the County schools act as public parks during non-school hours. The proposed development is approximately 400 feet from Cale Elementary School, which can provide for recreational amenities after school hours.

***Anticipated impact on natural, cultural and historic resources***

There are no known natural, historic, or cultural resources on the property.

***Anticipated impact on nearby and surrounding properties***

The proposed plan shows improvements on adjoining properties which are not owned by the applicant. Landscaping, construction/grading, and drainage easements will be needed if the plan is to be accomplished. To date, no evidence that these easements will be granted has been provided.

As noted above, neighboring property owners raised concerns for sufficient parking area, architectural compatibility, and amenity area at the community meeting for this request. Staff continues to share concerns about architectural compatibility. Staff also worries that final design of the site will result in a reduction in amenity area on the site.

***Public need and justification for the change***

Provision of residential units in the Development Areas is in keeping with the County's growth management goals for residential development at higher densities in the County's designated Development Areas.

**PROFFERS**

No proffers are made by the applicant.

**SUMMARY FOR REZONING REQUEST**

Staff has identified the following factors, which are favorable to this rezoning request:

1. Proposed density is in keeping with the recommended density for Urban Density Residential as shown on the Master Plan.
2. Relegated parking is provided, in keeping with the Neighborhood Model.
3. Affordable housing may be provided with the development.

Staff has identified the following factors, which are unfavorable to this request:

1. Feasibility to accomplish the rezoning has not been established: the applicant has not demonstrated permission to use Avinity Drive for access to the development.
2. Offsite easements will be required in order to accomplish the development. The ability to obtain these easements has not been demonstrated.
3. It appears that ARB requirements for landscaping and street trees cannot be met with the proposed development. Buildings, parking, and a courtyard are shown to cover almost the entire site and there is little flexibility to modify the plan and retain the courtyard should site changes be needed.
4. Insufficient information has been provided to justify why a PRD of less than 3 acres should be approved, given the fact that it does not share any features, other than potential access, with the adjoining PRD.
5. No information other than setbacks and building height has been provided to ensure architectural compatibility with the adjoining development.
6. Affordable housing information is not sufficiently detailed to ensure that the project will truly provide 20% affordable units.
7. No provision is made for connecting to the property to the south of this parcel.

#### **RECOMMENDATION**

Due to the number of outstanding issues, staff cannot recommend approval of this rezoning or the requested special exception to reduce the minimum acreage for a PRD.

#### **PLANNING COMMISSION MOTION –**

A. Should a Planning Commissioner choose to recommend approval of this zoning map amendment:

Move to recommend approval of ZMA201600022 2511 Avinity Drive.

B. Should a Planning Commissioner choose to recommend denial of this zoning map amendment:

Move to recommend denial of ZMA 201600022 2511 Avinity Drive for the reasons identified as factors unfavorable to this request in the staff report.

#### **Attachments**

A: [Location Map](#)

B: [Rezoning Plan dated August 4, 2017](#)

C: [Special Exception Request dated August 7, 2017](#)