

# COUNTY OF ALBEMARLE

## STAFF REPORT SUMMARY

<b>Project Name:</b> ZMA201900002 Hollymead Town Center Area A1 Proffer Amendment	<b>Staff:</b> David Benish
<b>Planning Commission Public Hearing:</b> May 28, 2019	<b>Board of Supervisors Public Hearing:</b> TBD
<b>Owner:</b> Route 29 LLC	<b>Applicant:</b> Rt. 29, LLC Wendell Wood/Nena Harrell
<b>Acreage:</b> Approximately 59.162 acres	<b>Rezone from:</b> No change in zoning proposed. Applicant proposes to reduce cash proffer amount for transit service approved with ZMA2012-05
<b>TMP:</b> 032000000042A0, 03200000004400 04600000000500, 046000000005A0	<b>By-right use:</b> PD-MC which allows large scale commercial uses; and residential by special use permit
<b>Magisterial District:</b> Rio	<b>Proffers:</b> Yes
<b>Proposal:</b> Request to amend one proffer from a previous rezoning (ZMA201200005), the Public Transit Operating Expenses proffer. Applicant is proposing a reduced cash contribution amount towards public transit operating expenses	<b>Requested # of Dwelling Units:</b> No new dwellings or change in residential density is proposed
<b>DA (Development Area):</b> Places 29 Hollymead	<b>Comp. Plan Designation</b> Urban Mixed Use in Centers and Commercial Mixed Use
<b>Character of Property:</b> The property is developed with commercial uses including Kohl's except for several outparcels that will be built-out in the future	<b>Use of Surrounding Properties:</b> Commercial uses: commercial and residential uses and undeveloped land.
<b>Factors Favorable:</b> 1. none	<b>Factors Unfavorable:</b> 1. The applicant/owner signed the current proffer form that states that the conditions are voluntarily proffered as part of the requested rezoning (ZMA 201200005) and acknowledged that the conditions are reasonable. 2. There is a sufficient nexus and rough proportionality between the proffer as written, and any reasonably expected condition or impact caused by the project. 3. (Alternative amendment) Approval of the requested reduction in cash proffers would be inconsistent with previous Board actions for similar requests. 4. The <i>alternative proposal</i> would require additional ZMA applications to be submitted prior to any action by the Commission or Board.
<b>RECOMMENDATION:</b> Staff recommends denial of ZMA201900002 Hollymead Town Center Area A1 Proffer Amendment request to amend the Transit Operating Expenses proffer.	

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

**David Benish  
May 28, 2019  
TBD**

**ZMA201900002 Hollymead Town Center Area A1 Proffer Amendment**

**PETITION**

PROJECT: ZMA 201900002 Hollymead Town Center (HTC) Area A1

MAGISTERIAL DISTRICT: Rio

TAX MAP/PARCEL: 032000000042AO, 03200000004400 (portion), 03200000004500 (portion), 04600000000500

LOCATION: Hollymead Town Center Area A1, the southwest quadrant of Seminole Trail (US 29) and Towncenter Drive in the Hollymead Development Area

PROPOSAL: Request to amend a proffer to reduce the cash contribution towards transit operating expenses.

PETITION: Amend ZMA 201200005 Proffer #4 Public Transit Operating Expenses. The Applicant is proposing an alternate proffer contribution amount over ten (10)) years, or a onetime lump sum towards transit operating expenses.

OVERLAY DISTRICT: EC-Entrance Corridor; AIA-Airport Impact Area; Managed and Preserved Steep Slopes

PROFFER: Yes

COMPREHENSIVE PLAN: Urban Mixed Use (in Centers) — retail, residential, commercial, employment, office, institutional, and open space.

**CHARACTER OF THE AREA**

The site is located along Town Center Blvd and is accessed via Town Center Lane in the Hollymead Town Center development (Attachment A). It is currently developed with commercial uses including Kohl's Department Store. Residential, commercial, and vacant properties surround the parcels in this area (A1).

**SPECIFICS OF THE PROPOSAL**

On September 12, 2007, the Board of Supervisors approved ZMA 200500015 Hollymead Town Center, Area A-I, which rezoned the portion of Hollymead Town Center where Kohl's is now located. The rezoning was approved with proffers, some of which are related to public transit.

The applicant is requesting a modification to the Public Transit Operating Expenses proffer (Proffer #4 ZMA 201200005) to reduce the cash contribution amount of \$500,000 paid over ten (10) years (\$50,000 per year) to either: 1) \$250,000 paid over 10 years; or, 2) \$200,000 payable in a lump sum within 14 days of the approval of this amended proffer (see the applicant's proposal and justification, Attachment C).

The Public Transit Operating Expenses proffer was discussed in 2010 during a rezoning to amend road improvement proffers related the Kohl's site (ZMA 201000014) but was not altered or amended at that time (see further discussion of this review under the Planning and Zoning History section of the report, below). The applicant has returned with this application seeking an amendment to Proffer #4 (ZMA 201200005).

The applicant has also provided an alternative amendment proposal which would require the submittal of a separate rezoning application to amend ZMA201600001, Hollymead Town Center ZMA 201900007 Hollymead Town Center Area A1 Proffer Amendment,

A-2. This alternative proposes to: 1) pay the full amount (\$500,000) of the transit proffer (Proffer #4 of ZMA201200005); 2) delete the requirement for cash proffers for residential units as provided in Proffer #4 of ZMA 201600001, Hollymead Town Center Area A-2; and, 3) amend the Code of Development for Hollymead Town Center A-2 to reduce the maximum number of permitted units from 1222 to 800. While action could not be taken at this time on this alternative proposal until other appropriate applications are submitted and reviewed, staff has provided an initial evaluation of this alternative for the Commission's consideration and input.

### **APPLICANT'S JUSTIFICATION FOR THE REQUEST**

The applicant is seeking an amendment to the transit proffer (Proffer #4) because they believe:

- There is insufficient nexus and rough proportionality between this proffer as written and any reasonably expected condition or impact caused by this project.
- The JAUNT Commuter Service, the *Route 29 Express*, does not actually address any impact caused by the subject development.
- Significant transportation improvements in the area have been implemented since the imposition of the original proffer which reduce transportation concerns.

See the applicant's request and justification, Attachment C.

### **COMMUNITY MEETING**

No meeting was held with the submittal of this most recent application. A community meeting was previously held on April 18, 2016 (Hollymead Fire Station) for a previous ZMA application to similarly amend this transit proffer (ZMA201600002). That request was deferred and subsequently withdrawn. At that prior meeting, there were two members of the public present. The proposed amendment to the public transit operating expenses proffer cash contribution amount was discussed.

### **PLANNING AND ZONING HISTORY**

- ZMA 200500015 — On September 11, 2007, the Board of Supervisors approved the HTC A1 rezoning with proffers and Application Plan.
- ZMA 201000014 — On November 18, 2010, the applicant requested relief from obligations in the proffers to fully complete Meeting Street by a certain date to allow Kohl's to get a certificate of occupancy and to put a sunset date of July 1, 2012 on the transit proffer. Staff was able to support the change related to Meeting Street, but could not support the proposed sunset date, which was less than two years in the future. Staff recommended a sunset date of January 2021.

At the Planning Commission meeting held on January 11, 2011, the applicant told the Planning Commission that he did not agree with staff's recommendation for a 10-year sunset. During this meeting, the applicant also verbally requested that the Commission significantly reduce the transit proffer amount. This had not previously been part of this rezoning application/request and had not been discussed with staff prior to the Planning Commission meeting. The Commission discussed this request at length and ultimately concluded that they could support a reduction to \$25,000/year for a total of \$250,000 and a sunset clause of July 1, 2018.

The next night, January 12, 2011, the Board of Supervisors also heard the request. They were not persuaded to change the transit proffer and allowed the applicant to modify his proffers before opening the public hearing. The applicant amended his proffers to reflect what was approved in 2007. Attachments D and E provide the relevant portions of the minutes for both the November 11 and November 12, 2011 public hearings.

- ZMA 201200005 - On December 11, 2013, the Board of Supervisors approved amendments to proffers related to a transit stop location and greenway. The Rezoning (ZMA 201200005) was a result of a notice of Violation V102012-61 (Notice of Official Determination of Violation for unsatisfied Proffers relating to ZMA 201000014).
- ZMA 201600002 — A application to amend the transit proffer (Proffer #4) was submitted and reviewed. The applicant requested deferral prior to the scheduled Planning Commission meeting. This rezoning was later deemed withdrawn due to inaction on the application.
- JAUNT began operating the 29 *Express* service in May 2016. The route runs from the from downtown Charlottesville (Central Library) and UVA to the Forest Lakes/Hollymead Town Center area. The service runs twice in the morning and twice in the evening. The Board of Supervisors approved this service with the understanding that the proffered funds would be available to help fund the service. Upon the start of this route, the owner was notified to begin payment of the required annual proffer amount. No payments have been received and a Zoning Violation has been issued to the owner.
- ZMA 201900007 - Submittal of this zoning application.

### **COMPREHENSIVE PLAN**

The property has two designations in the Places29 Master Plan. Most of the property is shown for Urban Mixed Use (in Centers), and smaller areas are shown as Commercial Mixed Use. The applicant is not proposing any changes to the land use with this request.

Chapter 11 – Transportation contains the following recommendations:

Objective 8: Continue to improve public transit service.

Strategy 8a: Continue to use the recommended improvements for public transit in local Development Areas Master Plans and regional transportation plans such as the Long-Range Transportation Plan, the Transit Development Plan, and other studies to determine the location and timing for the provision of transit services.

Strategy 8c: Expand transit service to the Hollymead Development Area, Cedar Hill Mobile Home Park, south of 1-64 on Avon Street Extended, and Route 250 West.

### **DISCUSSION**

The applicant is proposing an amendment to the transit proffer (Proffer #4) to reduce the proffered amount from \$500,000 (\$50,000 per year over 10 years) to either \$250,000 (\$25,000 per year for 10 years or \$200,000 in lump sum within 14 days of approval of this proffer amendment.

JAUNT began operating the 29 *Express* service in May 2016. The route runs from the from downtown Charlottesville (Central Library) and UVA to Forest Lakes/Hollymead area and UVA. The service runs twice in the morning and twice in the evening. The Board of Supervisors approved this service with the understanding that the proffered funds would be available to help fund the service. The commuter route provides a modal option which can help to relieve traffic congestion occurring along the Route 29 corridor. If the Board of Supervisors approves this request to reduce the proffered amount for transit, it could impact the ability of the County to provide the funding to JAUNT to continue this service, or to potentially expand the service. Planning staff have recently met with JAUNT about possible future enhancements to the route and coordination with other commuter and shuttle service provided in the area.

Staff reviewed the applicant's proposal and rationale/justification for the proffer reduction and does not agree with the applicant justification, as discussed below:

- There is insufficient nexus and rough proportionality between this proffer as written and any reasonably expected condition or impact caused by this project.

Between 2002 and 2007, land development was booming, and the County was attempting to keep pace with providing the services and infrastructure. As a result, it was essential that the impacts of each development were assessed, and commitments were made to address those impacts. Several large rezonings were reviewed and ultimately approved in the Route 29 Corridor. These included Albemarle Place (Stonefield), Hollymead Town Center areas A, B, C, and D, and North Pointe. Other rezonings were also taking place throughout the County at that time, such as the Martha Jefferson Hospital in Pantops, Old Trail in Crozet and the 5<sup>th</sup> Street-Avon (5<sup>th</sup> Street Station) project. Analysis of impacts to the County from each of these projects took place and proffers to mitigate those impacts were accepted.

When Hollymead Town Center Area A was first submitted it was a single project with 736,000 square feet of retail/service uses and 1222 dwellings. A transit proffer was discussed at that time because transit had been identified as a real need in the Rt. 29 Corridor. Transit proffers for Martha Jefferson Hospital had been accepted and were being discussed with the Biscuit Run Project. When Hollymead Town Center Area A was initially discussed, the transit proffer was intended to cover all of Area A, which is now Area A1 and A2. When the two projects were split, the transit proffer remained in the A1 proffers. The A2 proffers made provision for affordable housing, a pocket park and greenway, a 2-acre site for a recycling center or other public facility, and cash proffers for the residential uses.

The transit proffer addresses the transportation/traffic impacts generated by Area A1 and A2, a pair of rezonings consisting of 736,000 SF of commercial uses and 1222 dwelling units. At a minimum, Hollymead Town Center Area A1, when complete, will generate approximately 9,430 total primary vehicle trips (4,715 entering and 4,715 exiting) during an average weekday 24-hour period. The provision of transit service would provide another modal option and a potential means to help mitigate the traffic impacts created by these rezonings.

Additionally, the applicant/owner signed the current proffer form that states that the conditions are voluntarily proffered as part of the requested rezoning (ZMA 2012-5) and acknowledged that the conditions are reasonable.

- The JAUNT Commuter Service, the *Route 29 Express*, does not actually address any impact caused by the subject development.

JAUNT began operating the *29 Express* service in May 2016. The route runs from the Central Library, downtown to Forest Lakes/Hollymead area and UVA. The service runs twice in the morning and twice in the evening. The route schedule is provided as Attachment F. Staff opinion is that the service does provide a transportation option that can help address the impacts of this development, as noted in the bulleted section, above. The service also provides area residents and employees a modal alternative to travel by car to and from the area and, by providing this modal choice, can free up capacity on area roads to accommodate additional traffic generated from new development. As noted previously, Planning staff have recently met with JAUNT about possible future enhancements to the route and coordination with other commuter and shuttle service provided in the area.

- Significant transportation improvements in the area have been implemented since the imposition of the original proffer which reduce transportation concerns.

The completed transportation improvements noted in the applicant's justification were improvements anticipated as needed at the time of rezoning and identified as needed to address regional existing and future transportation/traffic demands and traffic generated from the development of the Hollymead Town Center. A number of those improvements were proffered with the approval of the ZMAs for Hollymead Town Center Areas A, B, C, and D. Transit service was identified then, and continues to be identified now, in the County's Comprehensive Plan and transit planning studies as a needed service to address transportation and public service needs for the Route 29 Corridor and Hollymead.

#### Alternative Amendment Proposal:

The applicant has also provided an alternative proposal which would require the submittal of a separate rezoning application(s) to amend ZMA201600001, Hollymead Town Center A-2. This alternative proposes to:

- 1) pay the full amount (\$500,000) of the transit proffer (Proffer #4 of ZMA201200005);
- 2) delete the requirement for cash proffers for residential units as provided in Proffer #4 of ZMA 201600001, Hollymead Town Center Area A-2; and,
- 3) amend the Code of Development for Hollymead Town Center A-2 to reduce the maximum number of permitted units from 1222 to 800.

Staff opinion is the this not a viable alternative for the following reasons:

- The reduction/deletion of previously accepted cash proffers for residential development is not consistent with the Board's current policy regarding changes to cash proffers.

The amount proffered by the applicant and accepted by the Board when the property was rezoned was consistent with the County policy at the time. These proffers were determined to be a reasonable condition intended to address the impacts from the rezoning. Nothing in the 2013 or 2016 State proffer legislation precludes the County from accepting proffers that were approved prior to the new legislation that were deemed to be reasonable at the time.

The Board and Planning Commission have previously reviewed two similar requests to reduce approved cash proffer amounts from prior rezoning actions. Like the Willow Glen request, applicants for Spring Hill Village (originally approved in October of 2014) and Out of Bounds (originally approved in December of 2013) requested to reduce previously approved cash proffer amounts. Both requests were denied by the Board in July 2016. Out of Bounds is a residential Neighborhood Model District rezoning (NMD) that was approved for up to 56 units. All but three units have been completed in the Out of Bounds development. Spring Hill Village, also an NMD rezoning, allowing up to 100 units, has not yet moved forward with final site plan approval or construction.

- A reduction in density from (1222 to 800 dwelling units) is generally not encouraged in the designated Development Areas.
- Eliminating the cash proffers for the remaining units would result in a potential loss of approximately \$2.5 - \$5.0+ million (depending on unit mix and other factors) in cash proffer funding that would be used toward new capital projects/improvements that help address the impacts of this residential development on public infrastructure.

- No information or justification has been provided by the applicant that demonstrates the overall benefit, or neutral impact, to the County of this proposal.

## **SUMMARY**

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

1. Staff finds no factors favorable to this rezoning request.

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

1. The applicant/owner signed the current proffer form agreeing that the conditions are voluntarily proffered as part of the requested rezoning (ZMA 201200005) and acknowledged that the conditions are reasonable.
2. There is sufficient nexus and rough proportionality between this proffer as written and any reasonably expected condition or impact caused by this project
3. Approval of the *alternative proposal* for a reduction/elimination of cash proffers for ZMA201600001, Hollymead Town Center Area A-2 would be inconsistent with previous Board actions for similar requests to reduce approved cash proffers amounts offered to address impacts of residential development. The cash proffers offered by the applicant, and accepted by the Board when the property was originally rezoned, were consistent with the proffer policy at the time and were acknowledged as a reasonable condition intended to address the impacts from the rezoning.
4. The *alternative proposal* would require additional ZMA applications to be submitted prior to any action by the Commission or Board.

## **RECOMMENDATIONS**

Staff recommends denial of ZMA201900002 Hollymead Town Center Area A1 Proffer Amendment request to amend the Transit Operating Expenses proffer.

## **PLANNING COMMISSION MOTION**

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

Move to recommend approval of ZMA201900002 Hollymead Town Center Proffer Amendment, with amendments to Proffer #4 as requested by the applicant

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

Move to recommend denial of ZMA201900002 Hollymead Town Center Area A1 Proffer Amendment. *Should a commissioner motion to recommend denial, he or she should state the reason(s) for recommending denial.*

### Attachments:

- A – [Location Map](#)
- B – [Existing approved proffer](#)
- C – [Applicant's Justification and Proposed Proffer](#)
- D – [BOS Meeting Minutes](#)
- E – [Planning Commission Meeting Minutes](#)
- F – [JUANT 29 Express Route Schedule](#)