

**COUNTY OF ALBEMARLE
PLANNING STAFF REPORT SUMMARY**

Project Name: ZMA201900007 Hyland Park	Staff: Mariah Gleason
Planning Commission Public Hearing: December 17, 2019	Board of Supervisors Public Hearing: To Be Determined
Owner: Highland Park Investments, LLC	Applicant: Ashley Davies, Riverbend Development
Acreage: 10.88 acres	Rezone from: No change in zoning proposed. Applicant proposes changes to previous proffers approved with ZMA2004-18 and ZMA2011-01.
TMP: 078E00000000A2, 078E00000000A4, 078E0000100100, 078E0000100200, 078E0000100300, 078E0000100400, 078E0000100500, 078E0000100600, 078E0000100700, 078E0000100800, 078E0000100900, 078E0000101000, 078E0000101100, 078E0000101200, 078E0000101300, 078E0000101400, 078E0000101500, 078E0000101600, 078E0000101700, 078E0000101800, and 078E0000101900 Location: Developed and undeveloped parcels located within the Fontana Subdivision. Parcels are located in three areas; one parcel is along Fontana Dr at the intersection of Fontana Dr and Glenleigh Rd, one parcel is located on Via Florence Rd about 1500 feet from the intersection of Fontana Dr and Via Florence Rd, and the remaining nineteen parcels are located on Glenleigh Rd.	By-right use: R-4 Residential - 4 units/acre
Magisterial District: Rivanna	Proffers: Yes
Proposal: Amend the previously approved proffers for ZMA2004-18 and ZMA2011-1 associated with Phase 4C of the Fontana Subdivision.	Requested # of Dwelling Units: No change.
DA (Development Area) – Neighborhood 3-Pantops Comprehensive Plan Area	Comp. Plan Designation: Neighborhood Density Residential – residential (3-6 du/acre). Secondary religious assembly uses, schools and child care, institutional, commercial/retail AND Parks and Green System – stream buffers, floodplain, and steep slopes, privately owned open space, natural areas of the Pantops Master Plan Area.
Character of Property: The properties are at different stages of development. The lot furthest east contains a primitive pathway and will not be developed further. Lots located on Glenleigh Rd have been graded and are under various stages of construction and the lot located along Via Florence Rd is currently wooded and undeveloped.	Use of Surrounding Properties: All surrounding uses are residential in nature.
Affordable Housing: Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	AMI (Area Median Income): No affordable housing provided. A proffer from previously approved ZMA2004-18

	provides cash contributions to the County for the purpose of affordable housing.
Factors Favorable: <ol style="list-style-type: none"> 1. Allowing a “by-right” credit for dwelling units that could have been constructed on these properties before ZMA2004-18 is consistent with several recently approved rezoning requests. 2. Proposed revisions to the architectural standards will allow future residents to select from a greater variety of façade color options while still supporting Monticello’s goal of protecting culturally important viewsheds. 3. Adopting consistent language throughout the proffers will improve the clarity of the proffer statement document. 4. Omitting proffers that have been satisfied will facilitate more up-to-date County records. 	Factors Unfavorable: <ol style="list-style-type: none"> 1. The cash proffered by the applicant and accepted by the Board when the property was originally rezoned was consistent with the cash proffer policy and was a reasonable condition intended to address the impacts from the rezoning. 2. Approval of the requested reduction in cash proffers would be inconsistent with previous Board actions for similar requests.
RECOMMENDATION: Staff recommends approval of ZMA20190001107 Hyland Park, provided the proposed revision to Proffer #7, concerning the annual adjustment of cash proffers, is removed from the zoning map amendment proposal prior to the Board of Supervisors meeting.	

STAFF PERSON:
PLANNING COMMISSION:
BOARD OF SUPERVISORS:

Mariah Gleason
December 17, 2019
To Be Determined

ZMA201900007 Hyland Park

PETITION

PROJECT: ZMA201900007 Hyland Park

MAGISTERIAL DISTRICT: Rivanna

TAX MAP/PARCEL(S): 078E00000000A2, 078E00000000A4, 078E0000100100, 078E0000100200, 078E0000100300, 078E0000100400, 078E0000100500, 078E0000100600, 078E0000100700, 078E0000100800, 078E0000100900, 078E0000101000, 078E0000101100, 078E0000101200, 078E0000101300, 078E0000101400, 078E0000101500, 078E0000101600, 078E0000101700, 078E0000101800, 078E0000101900

LOCATION: Developed and undeveloped parcels located within Fontana. Parcels are located in three areas; one parcel is along Fontana Dr at the intersection of Fontana Dr and Glenleigh Rd, one parcel is located on Via Florence Rd about 1500 feet from the intersection of Fontana Dr and Via Florence Rd, and the remaining nineteen parcels are located on Glenleigh Rd.

PROPOSAL: Request to amend proffers associated with the development of Fontana Phase 4C on property zoned R-4 residential. No new dwellings proposed.

PETITION: Amend the previously approved proffers for ZMA2004-18 and ZMA2011-1 associated with Phase 4C of the Fontana Subdivision. Proposed clerical edits to Proffer #1, Proffer #2, and Proffer #3 to provide specificity and conformity. Amend Proffer #5 to change the design of pedestrian paths from Class A Type 1 to Class B Type 1 primitive paths and to also revise the timing of installation. Amend Proffer #6 to require cash proffers only for units built in excess of the number of units that were allowed by right under the zoning in existence prior to the approval of ZMA200400018. Amend Proffer #7 to reset the annual adjustment of cash proffers to begin January 1, 2019, instead of January 1, 2008. Amend Proffer #9 to update the development's Architectural Standards to permit all earth-tone colors, including cream, instead of only medium shaded earth-tones. Omit Proffers #8 and #10 because they have been satisfied.

ZONING: R-4 Residential - 4 units/acre

OVERLAY DISTRICT(S): Steep Slopes (Managed and Preserved)

PROFFERS: Yes

COMPREHENSIVE PLAN: Neighborhood Density Residential – residential (3-6 du/acre). Secondary religious assembly uses, schools and child care, institutional, commercial/retail AND Parks and Green System – stream buffers, floodplain, and steep slopes, privately owned open space, natural areas of the Pantops Master Plan Area.

POTENTIALLY IN MONTICELLO VIEWSHED: Yes

CHARACTER OF THE AREA

The subject parcels measure 10.88 acres and constitute Fontana Phase 4C, the last phase of the Fontana Subdivision (Attachment 1). All other phases of development have been completed.

These parcels are surrounded by residential development and, similarly, expect to be developed as single-family residential lots, in accordance with the proffered rezoning plan approved with ZMA2004-18. Currently, the subject properties are at different stages of development. The lot furthest east contains a primitive pathway and will not be developed further. Lots located on Glenleigh Rd have been graded and are under various stages of construction and, lastly, the lot located along Via Florence Rd is currently wooded and undeveloped. However, an application to

subdivide the lot along Via Florence Rd has been submitted to the County to create the remaining 15 lots approved with Phase 4C. This application is currently under review by staff.

All of the parcels are zoned R-4 residential (Attachment 2) and designated within Neighborhood 3 of the Comprehensive Plan Area as having Neighborhood Density Residential land uses with some edge areas assigned Parks and Green Systems land uses. The intended development of these parcels is consistent with these designations. Other zoning district overlays these parcels are subject to include Managed and Preserved Steep Slopes.

SPECIFICS OF THE PROPOSAL

The applicant is requesting to amend proffers previously approved with ZMA2004-18 and ZMA2011-01 for parcels in Fontana Phase 4C that are owned by Highland Park Investments, LLC. Specific revisions to proffers are detailed and analyzed in the “Proffer” section below.

The most notable adjustments proposed by the applicant include modifying the construction standards required for pedestrian trails to allow primitive paths (i.e. earth, mulch, or stone dust) in place of approved asphalt paths (Proffer #5) and revising the start date of the annual adjustment of cash proffers to begin January 1, 2019 instead of January 1, 2008 (Proffer #7). The applicant is also requesting a “by-right” credit for this development for nine dwelling units that would have been allowed by-right on the property before the ZMA2004-18 zoning map amendment (Proffer #6). This is consistent with proffer amendments that have been approved by the Board previously, including Brookhill, Foothill Crossing, Oakleigh, and Willow Glen.

APPLICANT’S JUSTIFICATION FOR THE REQUEST

The applicant has stated that this request has been made to accommodate the proposed phasing of the project and associated improvements, such as the pedestrian trails. Requested changes were also an effort by the applicant to update the proffers to omit those that have already been satisfied and create more consistent language throughout the proffer statement. In addition, Monticello has approved the applicant’s request to revise an approved proffer to allow a greater variety of color choices for future owners of residential lots in this section of the Fontana Subdivision, the only portion of Fontana that was subject to Monticello’s viewshed standards.

COMMUNITY MEETING

The applicant attended the Pantops Community Advisory Committee meeting on Monday, June 24, 2019 to discuss some of the intended proffer changes with local residents. During the meeting, residents raised concerns about proposed changes to Proffer #10, and substantively related Proffer #5, regarding the types of trails at Fontana. Residents expressed that the current Class B trails have not withstood use by cyclists, noting that while these trails are not public, they are often used by those outside the neighborhood.

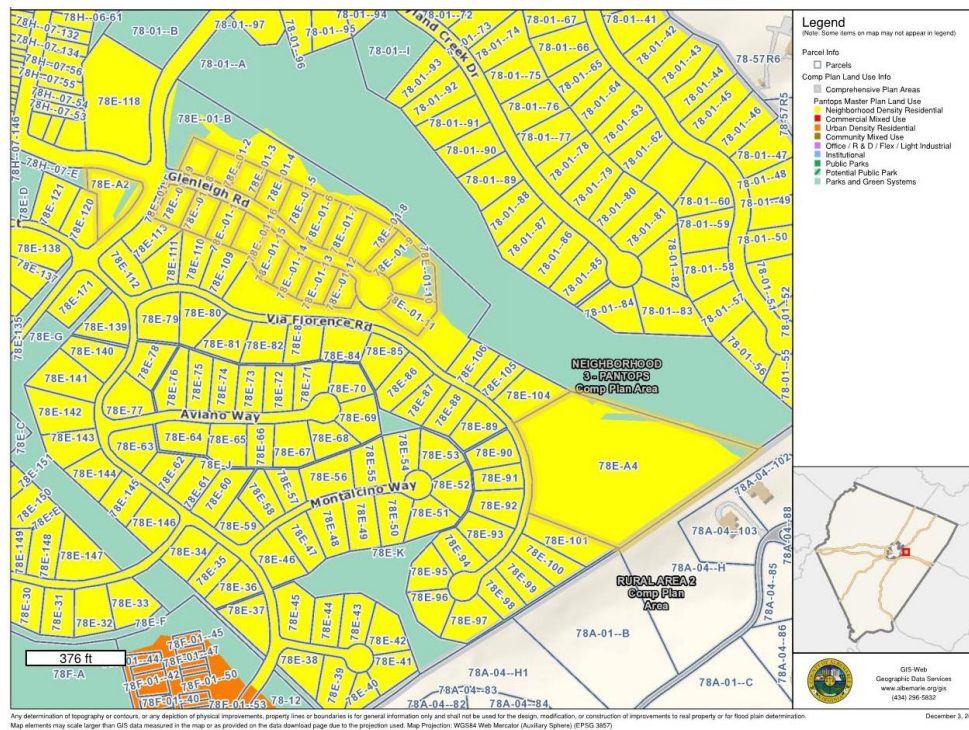
Additional questions pertained to the proposed revision of Proffer #9 which focuses on revising the architectural standards for the development. Residents wondered why the architectural standards for this area are regulated. It was shared that this development falls within the protected Monticello Viewshed and, as such, it is subject to additional regulations limiting building colors and roof materials.

PLANNING AND ZONING HISTORY

- ZMA2004-18 Zoning Map Amendment approved the rezoning of these parcels to R-4 Residential in April 2008 as part of the Fontana Subdivision development proposal. This rezoning was accompanied by a rezoning plan dated July 30, 2007 and ten proffers dated February 24, 2008 and signed March 13, 2008 (Attachment 3).
- ZMA2011-01 Zoning Map Amendment amended Proffer #10 of ZMA2004-18 to replace the Pedestrian Path Plan prepared by Glenn Brooks dated February 25, 2008 with a Pedestrian Path Plan prepared by Terra Engineering and Land Solutions dated June 14, 2011. The rezoning also removed an obligation to build a trail on 6.09 acres zoned R-4 Residential. (Attachment 4).

COMPREHENSIVE PLAN

The subject properties are primarily designated Neighborhood Density Residential within the Pantops Master Plan. Small edge areas on some of the parcels are also assigned Parks and Green Systems land uses (see map insert below). The Neighborhood Density Residential land use allows residential (3-6 du/acre). Secondary religious assembly uses, schools and child care, institutional, commercial/retail while the Parks and Green Systems land uses allows stream buffers, floodplain, and steep slopes, privately owned open space, and natural areas. The applicant is not proposing any changes to these land uses with this request.



The Neighborhood Model: Staff has reviewed the proposal against the Neighborhood Model Principles and found that due to the nature of this zoning map amendment, the majority of principles are not applicable to this request. Of the principles that could be evaluated against the proposed proffer amendments (four out of the twelve principles), the intents of applicable principles were largely found to be met through the fulfillment of proffers that are not changing or have been satisfied

and the provision of elements approved within subsequent development plans associated with these parcels. The detailed Neighborhood Model analysis is provided in Attachment 5.

Affordable Housing: No affordable housing is provided with this development. However, a previous approved proffer from ZMA2004-18 provides cash contributions to the County for the purpose of affordable housing. Per ZMA2004-18:

3. *Affordable Housing: The Owner shall contribute \$2, 809.00 cash per dwelling unit, up to an aggregate maximum contribution of \$95, 500.00 (equivalent to \$ 19, 100 cash per unit as cash in lieu of five (5) affordable dwelling units) to the County for the purpose of affordable housing. Each cash contribution shall be due and payable with each application for a building permit. Each cash contribution shall be used for the purpose of funding affordable housing programs in Albemarle County. If this cash contribution has not been exhausted by the County for the stated purpose within ten (10) years after the last payment of the contribution, all unexpended funds shall be applied to any public use serving Neighborhood 3 Pantops.*

This proffer remains unchanged with this proffer amendment, except for a minor clerical edit to specify "...\$19,100 cash per dwelling unit..."

ZONING ORDINANCE REQUIREMENTS

Relationship between the application and the intent and purposes of the requested zoning district:

The zoning district will not change with the approval of this zoning map amendment. The subject parcels will remain within the R-4 Residential zoning district.

Anticipated impact on public facilities and services:

The anticipated impact of this development on public facilities and services (i.e. streets, schools, fire & rescue, and utilities) was evaluated during original ZMA2004-18 zoning map amendment, wherein the County approved the development of the Fontana Subdivision in its entirety. To offset potential impacts of this development on public facilities and services, the County accepted cash proffers (Proffer #6 and Proffer #3). These two cash proffers will still be in place with the proposed proffer revisions offered by the applicant. Please note that while the proposed revision to Proffer #6 is consistent with current County practices, it's revision will result in less cash contributions for these aspects. For more information, please refer to the discussion and analysis of Proffer #6 provided in the "Proffer" section below.

Anticipated impact on environmental, cultural and historic resources:

The anticipated impact of this development on environmental resources was evaluated during the original ZMA2004-18 zoning map amendment. The proposed changes to the proffers do not impact environmental, cultural and historic resources.

Anticipated impact on nearby and surrounding properties:

Development of these parcels is in alignment with the rezoning plan adopted in April 2008. No changes are being made to the extent or density of development anticipated.

However, local residents raised concerns at the community meeting about the performance standards of future pedestrian trails that were being amended with the proposed revision to Proffer #5. The revision requests the proffered pedestrian trails be developed to the performance standards

of Class B – Type 1 primitive nature trails, which are surfaced with earth, mulch or stone dust, instead of Class A – Type 1 low-maintenance pedestrian paths, which are surfaced with asphalt. Current pedestrian paths throughout the Fontana Subdivision are built to Class B performance standards, so while this change would constitute an alignment with current pedestrian path infrastructure, residents expressed concerns that the existing facilities have not withstood use by cyclists.

Public need and justification for the change:

The County's growth management policy says that new residential development should occur in the designated Development Areas where infrastructure and services are provided rather than in the Rural Area. The development of these parcels supports the County's growth management policy, the completion of the approved rezoning plans from ZMA2004-18 and ZMA2011-01, and the Pantops Master Plan's vision for dense, residential development with supporting green spaces and amenities.

PROFFERS

Revised proffer language is contained in the Draft Proffer Statement (Attachment 6). The applicant has also provided a redlined version of the draft proffer statement which offers a clearer comparison being the existing approved proffers and the proposed revisions (Attachment 7).

Proposed revisions to the ten previously approved proffers are detailed below with staff analysis and comments for individual proffers provided in *italics*.

Proffer #1: Conformity with Plans. No substantive changes. Language was included specifying the original drawing date of the rezoning plan document.

Staff review found no issue with the proposed revision.

Proffer #2: Final Grading Plan. No substantive changes. One minor clerical edit to consistently use the term "dwelling units" throughout the document. Current proffer language uses the term "residential units".

Staff review found no issue with the proposed revision.

Proffer #3: Affordable Housing. No substantive changes. One minor clerical edit to consistently use the term "dwelling units" throughout the document. Current proffer language uses the term "units".

Staff review found no issue with the proposed revision.

Proffer #4: Trees. No changes.

The proposal would not change this proffer.

Proffer #5: Pedestrian Paths. The applicant is requesting to make the following modifications related to the proffered pedestrian paths:

- Paths will be installed "in the general location" shown on the Plan "or as shown on an approved final site plan or plat". Current proffer language does not allow for the path locations to be modified from the locations shown on the proffered plan.

- Path will be constructed in accordance with the design standards for Class B-Type 1 primitive nature trails of earth, mulch or stone dust, as opposed to the standards for Class A-Type 1 pedestrian paths of asphalt, as stated in the current proffer language.
- The pedestrian path installation will be required to be completed when 50% of the dwelling units in each phase have received certificates of occupancy. Current proffer language states that the paths must be complete, to the satisfaction of the County Engineer, before the County issues the ninth (9th) building permit.

As noted elsewhere in the staff report, local residents have expressed concern regarding the new construction materials proposed for the pedestrian paths. Current pedestrian paths throughout the Fontana Subdivision are built to Class B performance standards, so while this change would constitute an alignment with current infrastructure, residents are concerned that the existing facilities have not withstood use by cyclists. Staff is unable to confirm that the surface materials proposed in revised Proffer #5 will be adequate for supporting use by pedestrians and cyclists.

Evaluation of the proposed amendment against the Neighborhood Model Principles found the pedestrian path network offered by this proffer are secondary connections to required sidewalk facilities approved in the road plans for these parcels. As such, these pathways may act more as a neighborhood amenity than the primary or sole means of safe travel for pedestrians and cyclists.

Proffer #6: Cash Proffer. The applicant is requesting that a by-right unit credit be applied to relieve the development of paying cash proffers for those dwelling units that would have been allowed by-right on the property before the ZMA2004-18 zoning map amendment. In addition, the revised language removes the requirement that cash contributions “be used for the improvements for schools, libraries, public safety, parks and transportation as identified in the County’s Capital Improvement Program”. Lastly, a few minor clerical edits were made to consistently use the term “dwelling units” throughout the document. Current proffer language uses the term “units”.

The staff report for ZMA2004-18 confirms that nine (9) dwelling units would have been achievable under the previous zoning of the property. This request is consistent with prior cash proffers that have been approved by the Board, including Brookhill, Foothill Crossing, Oakleigh, and Willow Glen.

Proffer #7: Annual Adjustment of Cash Proffers. The applicant is requesting that the timing of the annual adjustment for cash proffers begin January 1, 2019, as opposed to January 1, 2008 as stated in the current proffer language.

This request is not consistent with any prior cash proffer amendments the County has approved. Below is a table of previous zoning map amendments that have made similar requests and the actions taken.

ZMA	DATE APPROVED	PROFFER NAME	CASH PROFFER REDUCTION
ZMA2006-19	10/10/2007	Willow Glen	ZMA2016-13 Applicant indefinitely deferred following a Planning Commission meeting where the Commission, by a vote of 5:0, recommended denial. https://lflweb.albemarle.org/weblink/search.aspx?dbid=3&searchcommand=%7b%5bCDD-Planning%5d:%5bApplicationNumber%5d=%22ZMA201600013%22%7d

ZMA2006-16	11/14/2007	Leake (Glenmore)	ZMA2016-06 Applicant deferred following a Planning Commission meeting where the Commission, by a vote of 7:0, recommended denial. Application resubmitted but the application was later Withdrawn due to inactivity, per the zoning ordinance. https://lfweb.albemarle.org/weblink/search.aspx?dbid=3&searchcommand=%7b%5bCDD-Planning%5d:%5bApplicationNumber%5d=%22ZMA201600006%22%7d
ZMA2012-03	12/11/2013	Out of Bounds	ZMA2016-03 Board denied application request to reduce cash proffers on July 13, 2016. https://lfweb.albemarle.org/weblink/search.aspx?dbid=3&searchcommand=%7b%5bCDD-Planning%5d:%5bApplicationNumber%5d=%22ZMA201600003%22%7d
ZMA2012-04	12/11/2013	Avon Park II	ZMA2014-06 Board approved application request on May 10, 2017, but the request for cash proffer reductions was removed from the proposal prior to the Board of Supervisors meeting. https://lfweb.albemarle.org/weblink/search.aspx?dbid=3&searchcommand=%7b%5bCDD-Planning%5d:%5bApplicationNumber%5d=%22ZMA201400006%22%7d
ZMA2013-16	12/12/2014	Avinity II	ZMA2016-04 Applicant indefinitely deferred. https://lfweb.albemarle.org/weblink/search.aspx?dbid=3&searchcommand=%7b%5bCDD-Planning%5d:%5bApplicationNumber%5d=%22ZMA201600004%22%7d
ZMA2013-17	10/8/2014	Springhill Village	ZMA2015-09 Board denied application request to reduce cash proffers on July 13, 2016. https://lfweb.albemarle.org/weblink/search.aspx?dbid=3&searchcommand=%7b%5bCDD-Planning%5d:%5bApplicationNumber%5d=%22ZMA201500009%22%7d

In regards to Hyland Park, this development has platted the majority of the approved lots, construction has begun/finished on several properties, and proffer payments have already commenced.

Currently, with the annual adjustments beginning in 2008, the 2019 amounts due are:

CIP contribution: \$21,233.09
Affordable housing contribution: \$3,408.21

In summary, staff does not support the requested revisions to Proffer #7 and recommends that this request be omitted from the proposal.

Proffer #8: Final Approval. The applicant is requesting that this proffer be omitted, as it has been satisfied with the completion of Phases 1, 2, 3, 4A, and 4B of the Fontana Subdivision. The current proffer states that an erosion and sediment control permit for grading on Phase 4C cannot be submitted until improvements for Phases 1, 2, 3, 4A, and 4B are complete and all associated bonds held by the County are released.

Zoning has confirmed that this proffer has been satisfied.

Proffer #9: Architectural Standards. The applicant is requesting to update the development's Architectural Standards to permit all earth-tone colors, including cream, instead of restricting structures to medium shaded earth-tones, as stated in the current proffer language.

The representative for Monticello has confirmed that this revised proffer language satisfies Monticello's viewshed concerns. County staff has no concerns with this proffer change.

Proffer #10: Plan for Pedestrian Paths for Phases 1, 2, 3, 4A, and 4B of Fontana Subdivision: The applicant is requesting that this proffer be omitted, as it has been satisfied with the completion of Phases 1, 2, 3, 4A, and 4B of the Fontana Subdivision. The current proffer states that the grading for Phase 4C cannot begin until the pedestrian paths for Phases 1, 2, 3, 4A, and 4B are constructed.

Zoning has confirmed that this proffer has been satisfied.

SUMMARY

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

1. Allowing a “by-right” credit for dwelling units that could have been constructed on these properties before ZMA2004-18 is consistent with several recently approved rezoning requests.
2. Proposed revisions to the architectural standards will allow future residents to select from a greater variety of façade color options while still supporting Monticello’s goal of protecting culturally important viewsheds.
3. Adopting consistent language throughout the proffers will improve the clarity of the proffer statement document.
4. Omitting proffers that have been satisfied will facilitate more up-to-date County records.

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

1. The cash proffered by the applicant and accepted by the Board when the property was originally rezoned was consistent with the cash proffer policy and was a reasonable condition intended to address the impacts from the rezoning.
2. Approval of the requested reduction in cash proffers would be inconsistent with previous Board actions for similar requests.

RECOMMENDATION

Staff recommends approval of ZMA20190001107 Hyland Park, provided the proposed revision to Proffer #7, concerning the annual adjustment of cash proffers, is removed from the zoning map amendment proposal prior to the Board of Supervisors meeting.

PLANNING COMMISSION MOTION:

A. Should the Planning Commission recommend the ZMA for approval: Move to recommend approval of ZMA201900007 with proffer revisions as recommended by staff.

B. Should the Planning Commission recommend the ZMA for denial: Move to recommend denial of ZMA201900007, with the reasons for denial (state reasons).

ATTACHMENTS:

- 1 – [Location Map](#)
- 2 – [Zoning Map](#)
- 3 – [ZMA2004-18 Action Letter](#)
- 4 – [ZMA2011-01 Action Letter](#)
- 5 – [Staff Analysis of Application’s Consistency with the Neighborhood Model Principles](#)
- 6 – [Draft Proffer Statement \(dated December 5, 2019\)](#)
- 7 – [Proffer Comparison \(dated December 5, 2019\)](#)