

Albemarle County Planning Commission
April 26, 2016

The Albemarle County Planning Commission held a regular meeting on Tuesday, April 26, 2016, at 6:00 p.m., at the County Office Building, Auditorium, Second Floor, 401 McIntire Road, Charlottesville, Virginia.

Members attending were Karen Firehock, Vice Chair; Mac Lafferty, Jennie More, Daphne Spain, Pam Riley, Bruce Dotson and Tim Keller, Chair. Bill Palmer, UVA representative, was present.

Other officials present were Mandy Burbage, Senior Planner; Megan Yaniglos, Principal Planner; Rebecca Ragsdale, Senior Planner; Elaine Echols, Acting Chief of Planning; John Anderson, Civil Engineer; David Benish, Acting Director of Planning; Sharon Taylor, Clerk to Planning Commission and Greg Kamptner, Deputy County Attorney.

Call to Order and Establish Quorum:

Mr. Keller, Chair, called the meeting to order at 6:00 p.m. and established a quorum.

Committee Reports

Mr. Keller invited committee reports.

The following committee reports were given:

Mr. Lafferty reported Places29 Hydraulic Road Committee met.

Ms. Spain reported the following:

- Places29 North Committee met and received a report on Hollymead Dam modifications and map for alternatives routes on Route 29N from May 23 to September (Route29Solutions.org);
- Pantops Community Advisory Committee met; discussed public safety station being constructed; interest in a pedestrian bridge over 250; request for parcels available for development in the Pantops area to use in economic development plans for the county; and when workshop for Pantops Master Plan might be scheduled.

Ms. Firehock reported Southern Albemarle Neighborhoods CAC met and questions raised on why large piles of dirt remain at the prior landfill on the Fifth Street Station site.

Ms. Riley reported the following:

- Fifth and Avon Street Citizen Advisory Committee (CAC) met.
- Historic Preservation Committee received report from Steve Thompson on the Carr-Greer Farmhouse at the Ivy Creek Natural Area Center (ICNA) and discussed appearance/upkeep of the Farmhouse and the idea of providing additional signage and education about the Carr and Greer families at the Farmhouse.

Ms. More reported on the following:

- ACE Committee met; reviewed five properties and points ranking system; discussed language change in the riparian protection zones; and financial impacts the group might have to deal with.
- Crozet CAC met and received staff presentation on comp plan and future predictions on full build-out; Kyle Redinger spoke on Adelaide with some public comment; and deferred discussion on two community meetings to the next meeting.

Mr. Dotson reported the Places29 Rio Citizens Advisory Committee (CAC) met and discussed Economic Development generating several ideas.

Mr. Keller reported roundtable discussions associated with the farm winery, brewery and distillery events zoning text amendment.

There being no other committee reports, the meeting moved to the next item.

Other Matters Not Listed on the Agenda from the Public:

Mr. Keller invited comment from the public on other matters not listed on the agenda. There being no comments, the meeting moved to the next item.

Review of Board of Supervisors Meetings – April 3 and April 16, 2016

Mr. Benish reviewed the Board of Supervisors actions taken on April 3 and April 16, 2016.

Consent Agenda

- a. **ZTA-2016-05 Family Day Home Amendment** – Resolution of Intent (Rebecca Ragsdale)
- b. **Approval of Minutes** – February 23, 2016

Mr. Keller asked if any Commissioner would like to pull an item from the consent agenda.

Mr. Lafferty said he did not want to pull it, but he would like some clarification when they are talking about daycare in going from five to four does the four include family members.

Mr. Benish replied that Rebecca Ragsdale who is the expert on that says no.

There being no further questions, Mr. Keller asked for a motion.

Motion: Mr. Lafferty moved and Ms. Firehock seconded for approval of the consent agenda.

The motion passed unanimously by a vote of 7:0.

The consent agenda was approved and the meeting moved to the next agenda item.

Item Requesting Indefinite Deferral

ZMA-2016-00004 Avinity Cash Proffer Amendment

MAGISTERIAL DISTRICT: Scottsville

TAX MAP/PARCELS: 091000000016A0, 091000000016C0, 091000000016E0,
09100000001400(portion)

LOCATION: 2085 Avinity Loop which intersects Route 742 Avon Street Extended; Rezoning also includes properties adjacent to Route 20 Scottsville Road

PROPOSAL: Reduce cash proffer amount from ZMA201300016.

PETITION: Request to amend proffers on property zoned Planned Residential District (PRD) which allows residential (3-34 units/acre) with limited commercial uses.

ENTRANCE CORRIDOR: Yes

PROFFERS: YES

COMPREHENSIVE PLAN: Urban Density Residential (6.01-34 units/acre) and supporting uses such as religious institutions, schools, commercial, office and service uses in Neighborhood 4. (Megan Yaniglos)

APPLICANT REQUESTS INDEFINITE DEFERRAL.

Mr. Keller noted the applicant has requested indefinite deferral on ZMA-2016-00004, Avinity Cash Proffer Amendment.

Mr. Benish explained that staff will not provide a staff report since the applicant has requested indefinite deferral and the item will be re-advertised as a public hearing. However, as a matter of course since it had been advertised what the Planning Commission has typically done is open the public hearing just to see if anyone in the audience came to speak to it. Otherwise, the Commission's option is to accept

deferral, staff will re-advertise, and the rezoning request will be put on the agenda when the applicant is ready.

Mr. Keller opened the public hearing and invited public comment. There being none, the public hearing was closed and the matter before the Commission for action.

Motion: Mr. Lafferty moved and Ms. Firehock seconded to accept the applicant's request for indefinite deferral of ZMA-2016-00004 Avinity Cash Proffer Amendment.

The motion was approved unanimously by a vote of 7:0.

Mr. Keller noted that the request was indefinitely deferred.

The meeting moved to the next item.

Item Requesting Deferral

SP-2016-00005 Southland Rivers Edge

MAGISTERIAL DISTRICT: Rivanna

TAX MAP/PARCEL: 078B0010010100

LOCATION: Winding River Lane, approximately 700 feet from the intersection of Route 250 and Route 20

PROPOSAL: Construction of PWSF on an existing high tension power transmission to include a monopole extension with antenna placed at 135' and associated ground equipment within a 450 square foot lease area

PETITION: Tier III PWSF under section 22.2.2(14) of the Zoning Ordinance

ZONING: C-1 Commercial – retail sales and service; residential by special use permit (15 units/ acre)

OVERLAY DISTRICT: EC Entrance Corridor; FH Flood Hazard; Steep Slopes Overlay - Preserved Slopes; SC Scenic Byways

COMPREHENSIVE PLAN: Neighborhood 3-Pantops; River Corridor – parks, golf courses, greenways, natural features and supporting commercial and recreational uses (Elaine Echols)

STAFF REQUESTING DEFERRAL TO MAY 10, 2016

Mr. Benish explained this was a similar situation to the last in that staff is requesting deferral; however, this deferral request is to a date specific on May 10th. The applicant is agreeable to that date.

Mr. Keller opened the public hearing and invited public comment. There being none, he closed the public hearing to bring the matter before the Commission for action.

Motion: Mr. Lafferty moved and Ms. Firehock seconded to accept the applicant's request for deferral of SP-2016-00005 Southland Rivers Edge to May 10, 2016.

The motion was approved unanimously by a vote of 7:0.

Mr. Keller noted SP-2016-5 Southland Rivers Edge was deferred to May 10, 2016.

The meeting moved to the next item.

Public Hearing Items:

ZMA-2016-00003 Out of Bounds Cash Proffer Amendment

MAGISTERIAL DISTRICT: Jack Jouett

TAX MAP/PARCEL: 0600000006500; 060L0000501900; 060L0000502000; 060L0000502100; 060L0000502200; 060L0000502300; 060L0000502400; 060L0000502500; 060L0000502600; 060L0000502700; 060L0000502800; 060L0000502900; 060L0000503000; 060L0000503100; 060L0000503200; 060L0000503300; 060L0000503400; 060L0000503500; 060L0000503600; 060L0000503700; 060L0000503800; 060L0004A00400; 060L0004A00500; 060L0004A00600

LOCATION: Located on Barracks Road (Route 654) across from its intersection with Georgetown Road (Route 656). 225 Out of Bounds Road, Charlottesville, Virginia 22901.

PROPOSAL: Reduce cash proffer amount from ZMA201500005.

PETITION: Request to amend proffers on property zoned NMD Neighborhood Model District - residential (3 – 34 units/acre) mixed with commercial, service and industrial uses.

OVERLAY DISTRICT: Entrance Corridor (EC); Airport Impact Area (AIA) PROFFERS: YES

COMPREHENSIVE PLAN: Neighborhood Density Residential- residential (3-6 units/acre); supporting uses such as religious institutions, schools, and other small-scale non-residential uses in Neighborhood 7. (Megan Yaniglos)

Ms. Yaniglos presented a PowerPoint presentation to summarize the staff report. An email was distributed regarding the Fiscal Impact Analysis of ZMA-2015-09 (Spring Hill Village) from Steven Allshouse dated March 31, 2016.

Purpose of the Public Hearing

This is a request for ZMA-2016-03 Out of Bounds Proffer Amendment to change the previously approved cash proffer amounts as follows (FIAC's recommendation):

- \$4,918.00 for each single family detached unit
- \$3,845.00 for each single family attached or townhouse unit

Out of Bounds is a previously approved rezoning. It was rezoned from Residential to Neighborhood Model in December, 2013 with a maximum of 56 units. Some of the development has been built, including the Bennington Road extension and Georgetown Road, but a majority of the units are yet to be built. At this time 15 units have been built that they are not requesting because they have already paid the cash proffer amount.

The approved application plan for the Neighborhood Model District has a mix of attached units, affordable units, and the existing single family house will remain.

Specifics of Proposal

- At the time of the rezoning the applicant proffered the cash proffers for the residential units in the following amounts:
 - \$20,460.51 for each single family detached unit
 - \$13,913.18 for each single family attached or townhouse unit.
- With ZMA-2016-03 the applicant requests to change the cash proffer amounts to the FIAC recommended amounts as follows:
 - \$4,918.00 for each single family detached unit
 - \$3,845.00 for each single family attached or townhouse unit
- No other changes to the zoning are being proposed.

Factors for Consideration

Factors Favorable:

1. The applicant's requested cash proffer amounts would be consistent with the current Capital Improvements Program (CIP) and Capital Needs Assessment (CNA) and would be consistent with the amounts recommended by the Fiscal Impact Advisory Committee (FIAC).
2. Acceptance of the proffered amounts is consistent with the County's Cash Proffer Policy which sets a maximum amount but no minimum amount.

Factors Unfavorable:

1. The Planning Commission has not completed its review of the Cash Proffer Policy, as requested by the Board of Supervisors; however, the applicant's proffered new amounts based on the current CIP and CNA are consistent with State law.

2. 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.

Staff Recommendation

- In light of the re-evaluation of the maximum cash proffer amount by FIAC, which is based on the current CIP and CNA, staff must recommend approval of this rezoning amendment ZMA-2016-03 Out of Bounds Proffer Amendment, with the revised proffers submitted by the applicant.

Mr. Keller invited questions for staff.

Mr. Lafferty asked if they know how this will effect school enrollment, and Ms. Yaniglos replied that she did not ask the schools for the numbers and not sure about that information.

Mr. Lafferty noted that most of our schools are in capacity now if not over capacity.

Ms. Yaniglos suggested staff can get that information together for consideration and provide it to the Board.

Mr. Lafferty said it is hard to make a decision when without all of the information that we said we would be evaluating. As a matter of fact, he was not even sure why this is coming to the Planning Commission and not directly to the Board of Supervisors.

Mr. Benish pointed out the request is an amendment to the action on the rezoning, and the typical path for that is through the Planning Commission. However, it is the Commission's discretion to determine how to act and what recommendations you make on it.

Mr. Lafferty said he was a little bit surprised since we typically have not been involved in calculating the proffers. Generally in our reports from the staff we will get it and it will say that a proffer was offered and the Commission will assume that it is right. The Commission has not been typically involved in those calculations.

Mr. Benish said the cash proffer policy approach was sort of an accepted approach through that policy and the modeling process gave us numbers that were accepted as the standard. The basis for our recommendations for these cash proffer amounts here are based on the recalculation of that process. He thinks what the Commission has expressed some concern about is those modified numbers are much lower based on the recalculation of the CIP. However, what is before you is essentially a similar process that we originally took with Out of Bounds applying the cash proffer amounts that were calculated through that cash proffer process.

Mr. Lafferty said as he understands it the old cash proffer guidelines were a maximum and one would assume that it was negotiable up to that maximum.

Mr. Benish said that is correct the cash proffer amounts have been set as the maximum amount as the policy was drafted.

Mr. Lafferty asked were they set or was it negotiable.

Mr. Benish replied they were theoretically negotiable; but, what the cash proffer policy identified was the maximum amount so it was up to that amount. However, the typical practice had been through reviews because most applicants in the past had proffered the maximum amount.

Mr. Kamptner pointed out that the applicants always had the option to make the case as to why a lower cash proffer could be made. Just to add a little more to the response from Mr. Benish on what is before you tonight, he pointed out that staff recognizes that we are dealing with a couple of issues that are in the state of flux. One is that we have FIAC's recommended amount based on the current CIP and CNA and

FIAC's recommendation has not yet been accepted by the Board. So the cash proffer policy has not been revised yet. The other thing that is in the state of flux, as the Commission knows, is that the cash proffer policy is currently in the process of being repealed, and that is coming to the Planning Commission on May 10th. However, right now the cash proffer policy is still in effect. The Commission has the information in the staff report to weigh. One thing that he would bring to the Commission's attention is the second paragraph in the discussion section, which kind of highlights it. There is not one single number that is reasonable. When these cash proffers were proffered the proffer statement signed by the owner acknowledges that the proffers are reasonable and they were accepted by the Board. So he would just point the Commission to that paragraph as well because you are not tied to FIAC's recommended number.

Ms. Firehock said also just to confirm my recollection of the changes to the State Code that the changes to proffer policies that counties are now being required to enact are not retroactive. Therefore, it is at our discretion whether or not we want to take prior approved proffers and change them.

Mr. Kamptner asked to clarify two changes. The one change that became effective July of 2013 was the law that requires cash proffers be applied to either new capital facilities or changes to existing capital facilities that increase capacity. Since that law came into effect the cash proffers that had been received had been applied consistent with that state law. So when staff is looking at projects to which the cash proffers would be applied they go through that analysis. There have been some close calls where a group of us will gather to discuss and make sure that we are complying with that statute. The other law that you may be talking about is the law that will become effective July 1st of this year. That is probably one of the primary drivers of the repeal of the cash proffer policy. That will apply only to applications for zoning map amendments that are filed on and after July 1st. That bill is not a factor in this analysis.

Ms. Firehock thanked Mr. Kamptner.

Mr. Keller said he would just add one piece because FIAC keeps being referred to in the FIAC report. He served on that committee as the Commission's representative and he attended every meeting. It was about a year ago that this report occurred and we did not anticipate the changes that occurred in this legislative session. At that point with a reworking of the CRIM Model it was determined that the numbers were lower. There was discussion about whether there should be a retroactive component to that. While that is not called out in that report there certainly was discussion about it and the feeling was that was for future development projects that came in. However, that lower number was most likely more realistic and there was not anything about going backwards for those numbers. This is just a clarification before we open the public hearing. He opened the public hearing and invited applicant and public comments.

Mr. Lafferty said it is not retroactive and so we would look back and make adjustments.

Mr. Kamptner pointed out that it had been a while since he had looked at the report. But, based upon what Mr. Keller has just explained that was FIAC's recommendation that its new recommended dollar values not be applied retroactively.

Mr. Keller said he needs to clarify that since it does not state that in the report.

Mr. Kamptner said that it does.

Mr. Keller said the implication from our discussions was that we were talking about that point forward. There were some side discussions; but, there was not a vote on the issue of looking retroactively. There were discussions about the impacts that might have in terms of the amount that might come in. He thinks that is most likely why in that report it was just a recommendation for a new set of numbers.

Mr. Keller opened the public hearing and invited the applicant to come forward.

Valerie Long, with the law firm of Williams Mullen representing the owner and the applicant of the property, said Mr. Vito Cetta is the principle of the owner, Barracks Heights, LLC. There are a couple of

comments that she might start out with in response to Mr. Lafferty's question on why this application is even before the Planning Commission and why doesn't it go straight to the Board. Unfortunately, as Mr. Benish indicated because it is a proffer amendment we don't have a choice. We would be pleased to have it go directly to the Board, and we share your opinion that this is a broader policy issue for the Board to discuss.

Ms. Long said we would, of course, request that it meet with your recommendation for approval for the reasons that she will state. This project is already underway. Ms. Yaniglos indicated there were 15 units that had been constructed. There actually has been 18 units that have been sold; however, some of them have not yet been constructed and people have not moved in yet. But, Mr. Cetta who is here tonight has confirmed that there is not a single purchaser of any of the units in this project that is under the age of 60. So to address your question Mr. Lafferty about the impact on the school system at least thus far we expect that there is no impact. These units are being marketed to older folks who are ready to either downsize or at least to stop having to take care of a yard and other things who want to be close to town. They are selling their farms out in the county and moving closer to town on small lots with nice amenities in a beautifully designed convenient project.

Mr. Long noted the price points for these units also exceed what is commonly considered the threshold price at which the property tax revenue that is generated with each of these units exceeds the estimated fiscal impact of the units on the county. They have changed; but, historically that number has always been about \$600,000 or \$650,000. These units have all sold in excess of \$700,000. Many of them are selling for almost a million dollars when people start fitting out the basements, adding lots of amenities and things like that. The tax revenue that is generated from them will exceed the impacts to the county.

Ms. Long said the fiscal impact analysis prepared for one of Mr. Cetta's other projects, Springhill Village project on Avon Street, is in the staff report. There was apparently not one done for Out of Bounds. The one for Spring Hill Village is a little complicated to understand. However, the conclusions as best we can tell using our formula looks like the numbers that are proffered are about equal to the costs for the impacts from the project on the county. But, it also says that the model that was used is not consistent with the state law requirements because it includes CIP projects that don't expand capacity. So even a very conservative model says that the Springhill Village project proffered amounts cover the impacts. The Springhill Village project is quite different it involves different types of units not nearly as high priced. Those units will most likely, she thinks they will all agree, will have young families that will have children which will go to Cale Elementary School. So if you extrapolate the argument of the county's fiscal impact experts are saying Springhill Village's proffered amounts will cover the impacts of the Springhill Village style community. Then it is fairly easy to conclude in my opinion that the same proffered amounts would more than cover the fiscal impacts of a project like Out of Bounds, which has much higher price points and thus generate much higher tax revenue for the County and they don't expect further to generate any impacts on our public schools.

Ms. Long said so we think that under the new rules of state law, the state law says yes the proffers were accepted back in December of 2013 after the state law had been enacted. I think there is an argument that the proffer amounts that have been accepted thus far by the county violate state law because they were accepted by the county based on a formula that no longer complied with state law. So Mr. Cetta is not trying to be disagreeable on this application. The project is very successful; but, the state law says the proffers have to be based on a formula that only counts CIP projects that expand capacity. The theory makes sense that proffers are intended to mitigate the impacts caused by growth and development. If CIP projects are not responding to expansion needs or capacity needs it is not appropriate to add those to the formula for purposes of calculating the proffers. So all we are doing is asking the county to modify the proffers so that they can be in compliance with state law. We have not pulled the numbers out of the air. As was discussed this was a committee that Mr. Keller and others spent months and months. She thinks the committee met twice a month for a number of months. It was thoroughly vetted, discussed and analyzed by a broad cross section of the community. Staff expertise and input was provided. We have exactly matched the numbers that are in that report. So all we are asking is that the county accept the numbers that are consistent with its own committee's report and recommendations and which both the staff and the county attorney have suggested is appropriate to be accepted.

Ms. Long said in response to Mr. Keller's comment about the retroactivity that is an issue we followed as well, we had hoped that the county might enact blanket legislation that would essentially make these lower figures in effect intermediately. We think that would be the most legal response to the state law changes. Unfortunately, since that did not happen we have no choice but to come forward, pay the application fees for a proffer amendment and to ask that the numbers be revised in the proffers for each and every application. So you are right the numbers are not automatically retroactive nor is there anything in the policy that says it is inappropriate for applicants to come back before you and request on a case by case basis that the proffers be amended. The time they were accepted in 2013 the applicant and the county, assuming the county did not know that the proffer figures was in violation of state or they would not have adopted them. The applicant did not know that. So all we are asking again now is that they be adjusted to be in compliance with state law.

Ms. Long said they have the two points: we just want to be in compliance with state law, and in addition this project is adequately covering the estimated fiscal impacts with the requested proffer amounts. She would be happy to answer any questions on that issue and respond to anything. We likewise would ask that you move it on to the Board. We would certainly ask for your support given the facts at hand. It is an excellent project and it has been very well received. Mr. Cetta has gone above and beyond in working with these neighbors. I think the buildout and the construction is going very well. It is a beautiful project; it is selling well; and will continue to contribute to the county. It exactly complies with the comprehensive plan. It implements a number of amenities that are being well received in improving the quality and the tax base of that area in a way that furthers the county's comprehensive goals.

Mr. Keller invited questions for the applicant.

Mr. Dotson noted in 2013 the property was rezoned from R-1 to its current zoning. He asked if Mr. Cetta was the owner at that time.

Ms. Long replied that he was.

Mr. Dotson said the second question was Mr. Cetta sent to Wayne Cilimberg back in September, 2015 an email which was forwarded to the Commissioners about Spring Hill. In it Mr. Cetta indicated that we are under construction with Out of Bounds and paying the present proffer amount for townhouses which is over \$14,000 and we can afford these proffers since the selling prices of the homes are from \$500,000 to \$900,000. As you indicated I am also familiar with the \$600,000 or sort of break-even point; however, what happened between September and now is why these proffers are being proposed for change.

Ms. Long said that Mr. Cetta is, if nothing, he is the most honest person I have worked with.

Mr. Dotson agreed.

Ms. Long said Mr. Cetta is here and can explain it. Yesterday Mr. Cetta told me we can afford these proffers; we are paying them and the market is absorbing them; however, the state law says that he is entitled to a reduction in the proffer amount. That is all we are asking for. From a pure legal perspective we are asking for the proffers to comply with the changes to state law; and, frankly from an equitable perspective. The fact the project can support the proffers and can absorb them despite the fact that they exceed the legal levels in my opinion I would contend do not make it appropriate to continue to the proffer levels at the current figures. So yes it is absorbing it and he is incredibly fortunate that he is able to. Spring Hill Village I would note is the exact opposite. That project will not happen and is absolutely on hold if the proffers can't be reduced. That is not at the issue today. So he is very, very fortunate. It is a testament to the quality of the development and the quality of the location; the improvements and the design of the project, and frankly his astute response to market demands providing the project product in that location is highly desirable working with an excellent local builder who knows the market well. So he is very fortunate and grateful. But, that does not mean that it is appropriate to continue it just because it can afford it. Nor, in my opinion is it appropriate to continue it for projects that can't afford it. All we are asking is that it comply with state law and to the extent that there is concern by the Commission or the

Board or others that by lowering the proffers to the requested amount it is creating fiscal impacts on the county we contend that is not accurate for all the reasons I have said.

There being no questions for Ms. Long, Mr. Keller invited further public comment. The being none, the public hearing was closed to bring the matter back to the Planning Commission for discussion and action.

Mr. Keller invited the applicant for a five minute rebuttal.

Mr. Vita Cetta said that he agreed with everything that has been said, and yes we can afford it. He also will give you a perspective. We have processed about 12 projects in the county through rezoning starting in the 1990's. In those days there was no affordable housing and no cash proffers. As we moved through we did add cash proffers and affordable housing. There was not a substantial burden and we all absorbed it. The market just went like that until 2007. As you know the cash proffer went from \$800, \$1,500, \$2,200, \$4,200, and then in 2007 the Commission and Board were on a roll since it looked like good money and decided to raise it to \$20,000. Then the market took a drive. Well I took a dive personally with it at 7 projects and I sent you all my savings. At 76 years old I am here working, and I should not be working. Fortunately, I had a good project since Out of Bounds is a fabulous project. There actually has been 25 units sold and there are not children in that neighborhood. I am one of the buyers. It is close in town and a real winner. It is very much an infill located around Canterbury Hills, sidewalks and new traffic light. The Canterbury Hills people use it all the time. We cut a road into their neighborhood and they use that to go north. It is a very successful project.

Mr. Cetta noted that Spring Hill Village is a totally different story. We are competing with places like Cascadia, which have cash proffer of \$2,000 and \$2,500. It is just absolutely no way that a moderate price house you can afford \$21,000 and \$15,000. You just can't do it. We have been on hold on that project for two years. In Crozet there is property being developed now that is by right with no affordable housing and no cash proffers. Mr. Cetta said in a perfect world you would essentially assess everybody cash proffer. That is the way it is done in California. That way it is a level playing field. Everybody files for a building permit; it is \$50,000 and so it is all even. In this case there is no way that we can ever build that project with those kind of cash proffers. He asked if there were any questions. He noted that it is a wonderful business; but, you can get nailed. Fortunately, there is a gift for us here that maybe we can get these proffers reduced and put some more money in our pocket. We can afford it right now and I will repeat that.

There being no further questions for Mr. Cetta, Mr. Keller closed the public hearing to bring the matter before the Planning Commission for discussion and action.

Mr. Kamptner said he would disagree with Ms. Long one issue about the county's acceptance of the proffers in this case being unlawful. As he said before the amount in the cash proffer policy is a maximum amount. These are sophisticated developers and their proffer statement says that they are being voluntarily provided and that they are reasonable. I recognize the argument that they are making. But, the Board's acceptance of the proffer not only the first time this project was rezoned but when it came through in the amendment last year it was reasonable and it was never challenged.

Mr. Keller thanked Mr. Kamptner.

Mr. Dotson noted a question prompted by Mr. Kamptner's comment was under the policy that is yet to be appealed could someone proffer more than the stated maximum amount. That had never occurred to me.

Mr. Kamptner replied yes, the cash proffer policy does have a provision. However, with my system currently off-line, he would note in section 1 or 2 there is a provision that states that nothing in this policy prevents an applicant from proffering other cash.

Mr. Dotson asked staff if the upcoming agenda item for repeal of the cash proffer policy on May 10th a simple appeal or will there be discussion and ideas provided about how in the future once that is repealed

the county would proceed.

Mr. Kamptner replied yes, staff hopes it will be a simple repeal. The Commission may recall that there were two resolutions of intent. One was to repeal the cash proffer policy because we think that it really does need to be repealed before July 1st. The Commission also adopted a second resolution of intent that initiates the study to develop a new cash proffer policy consistent with the new state law.

Mr. Dotson said so in the interim period of months there would be sort of an intent perhaps to still consider applications, but in line with maybe what the thinking was but had not been adopted as guidelines.

Mr. Kamptner asked if he was asking whether or not the Commission can ignore the cash proffer policy.

Mr. Dotson replied no, he was saying what would happen after it was repealed until a new set of guidelines and procedures are adopted. That would be a number of months he was assuming.

Mr. Kamptner replied that it would be a project by project analysis evaluating the impacts and the range of issues that can be addressed by proffers as being narrowed under the new law. So there would be a whole new type of analysis focused on four areas and it will be done on a case by case basis. As we are interpreting the new standards that case by case analysis is going to be compelled. Speaking to attorneys in Chesterfield County, which has a similar cash proffer policy, they are going to continue with their cash proffer policy as it is. But, the way we read those new standards our cash proffer policy will not meet those new standards.

Mr. Dotson said the reason he asked in part is that he thinks this is a very interesting case for Out of Bounds. On the one hand we are not provided any information on school impacts; however, he knows it is in the Greer Elementary and the Albemarle High School attendance area which are the two most impacted areas. On other hand, testimony has been provided by Ms. Long that the nature of this product and the buyers are not generating students and beyond that given the price of the units they are probably bringing in more money than would be their cost. So is that is something that is going to be addressed in the guidelines.

Mr. Kamptner replied that they are going to be looking at everything, and we will have to. In this particular case the information that you have heard so far tonight is something that you can weigh. One advantage of it being a legislative decision is that you are allowed to consider a number of factors.

Mr. Dotson said one last question of staff just in terms of scheduling this for the Board strikes me as there would be some advantage to having this on the same agenda as Springhill. He did not know if that was possible or not, but it would seem useful to have the two together.

Mr. Benish replied that he can't remember when Springhill is scheduled. However, staff can try to work with the clerk of the board in scheduling those items. He believed the items were scheduled for a later date than next month. Staff will try to get the two items coordinated.

Mr. Dotson suggested if nothing else that would get Out of Bounds more quickly before the board.

Mr. Lafferty said he understands one of the benefits of the previous proffer was to give the developer a figure that they could work into estimating the cost of their project and the profitability. In doing this it is going to change from year to year depending on the financial status of the county, as he understand it, and there will be an evaluation that has to take place before the developer can factor those figures into what it is going to cost to do it. That seems to me will be quite a delay because there is a lot of research that will have to go into that. Yet, they get calls from the developers that they want to streamline it and want to move the bulldozer in tomorrow. How do we take these figures into account? It will take longer to go through the process to get a finite financial figure, which will delay the application.

Mr. Benish said he was not sure of the question.

Mr. Lafferty asked are all of my assumptions right, will this delay the process.

Mr. Benish replied depending on what alternatives are to evaluate the impacts of the development conceivably if we utilize new procedures for evaluating proffers; but, that depends on the Board's action in what is before you today.

Mr. Lafferty asked would it be possible to come up with figures that would be a compromise if you could say these would probably be adequate for the evaluation of the proffer.

Mr. Benish replied that he did not want to speak for the applicant, but did not believe the numbers they are interested in are the FIAC's numbers and not a negotiated number. These are proffers that have to be volunteered by the applicant.

Mr. Lafferty said he really was not trying to address this particular one, but felt they were going to see more and more of these come up and just wondered if we could have a standard response.

Mr. Benish said he thinks our intent is to try to work towards that response. However, they are working on it right now and to tell you how long it is going to take and what is involved is a work in progress right now. He just does not have a good answer right now for him.

Mr. Lafferty noted that is problem because he does not have a very good answer for the applicant.

There being no further questions or comments, Mr. Keller asked for a motion.

Motion: Ms. Firehock moved and Ms. More seconded to recommend denial of ZMA-2016-00003 Out of Bounds Proffer Amendment due to the fact that 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.

Mr. Keller invited discussion. There being no further discussion he asked for a roll call.

The motion passed by a vote of 7:0 to recommend denial of ZMA-2016-00003 Out of Bounds Proffer Amendment.

The meeting moved to the next item.

ZMA-2016-00001 Hollymead Town Center (A2)

MAGISTERIAL DISTRICT: Rio

TAX MAP/PARCEL: 0320000004500, 0320000005000

LOCATION: Hollymead Town Center Area A-2, the southwest quadrant of Seminole Trail (US 29) and Towncenter Drive to the west of Area A-1 in the Hollymead Development Area. PROPOSAL: Request to amend proffers

PETITION: Amendment to rezoning for 44.29 acres on property zoned Neighborhood Model District zoning district which allows residential (3 – 34 units/acre) mixed with commercial, service and industrial uses.

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

PROFFERS: Yes

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

Ms. Echols presented a PowerPoint presentation to summarize the staff report for Hollymead Town Center, Area A-2 - ZMA 2016-00001 - Affordable Housing Proffer Reduction -PC April 26, 2016.

This is a staff report on another kind of proffer reduction; however, it a little bit different than the one you

just reviewed. It has to do with a reduction in the amount of affordable housing to be provided in a mixed use development, Hollymead Town Center Area A-2. Unless you have worked with Hollymead Town Center you probably are not aware that there were five rezonings that went into Hollymead Town Center. As shown on the graphic there were five separate rezonings (Areas A-1, A-2, B, C and D) and some of these were by different developers and different property owners when this first began. There are different property owners today. The current request is for Area A2.

History -

- ZMA-2007-00001 – The property was rezoned to Neighborhood Model District (NMD) with the plan for up to 1,222 dwelling units (DUs) and up to 368,700 non-residential sq. ft., mostly commercial but some office uses as well
- ZMA-2010-00006 – In 2010 the applicant came in and asked for an Amended Code of Development, Application Plan, and proffers as they relate to a single block. That is block B. The applicant wanted to have that block revised for a prospective movie theater in Block B. That was approved.
- ZMA-2010-00013 – The applicant followed up with a request to reduce the size of the pocket park in Block B and to change the phases to reduce the number of dwelling units required before a building permit can be issued for any commercial space.

That was something the Planning Commission reviewed and made a recommendation on. The Commission did not support the applicant's request as it was made, and it went to the Board of Supervisors. The Board of Supervisors said yes, we want you to make the changes that the Planning Commission requested; go back to the Planning Commission; and then you can come back to us. The applicant deferred, but he never resubmitted. In the meantime the applicant found a buyer for the residential section of the development and was working on a site development plan for that section. The developer continues to want to proceed with that residential section of the plan, which is not necessarily a problem, and would like to have a reduction in this affordable housing amount as his next step.

Just to show you a little more about where these things are on a specific plan Ms. Echols pointed out Block B where the rezoning took place and the residential area where the applicant is interested in having a site development plan approved.

Proposed Proffer Changes are:

1. Reduce proffered housing amount from 20% of 15%
2. Base calculation on market rate units instead of total units constructed
3. Reduce area for pocket park in Block 1 as it was in the prior rezoning that was never completed.
4. Change phasing plan, which was in the prior rezoning that was never completed.

Staff wondered if maybe the applicant had not modified the proffers in a way that they really intended to because if you look at Attachment D in the staff report as they described they just wanted to reduce the amount from 20% down to 15%. Staff cannot support the proposed proffer changes for 2, 3 and 4. Staff cannot support the way the applicant is proposing the calculation to take place because it is not consistent with the Affordable Housing Policy. Staff does not believe that reducing the area for the pocket park in Block 1 is appropriate because they have not addressed the issues that were raised in the 2010-13 ZMA. Also, changing the phasing plan is also a part of that which needs some more review. What they wanted to do was to go ahead and get just this particular change made, and then come back and follow up with another ZMA that took care of some other things.

Factors Favorable

1. Requested affordable housing reduction from 20% to 15% is consistent with the County's affordable housing policy

Factors Unfavorable

1. The applicant's requested change in the way the affordable units to be provided is inconsistent with other accepted affordable housing proffers and the County's affordable housing policy.
2. A request to reduce the area proposed for a pocket park is premature due to lack of information.

3. A request to change phasing for the project is also premature due to lack of information or a justification.

Staff had talked to the applicant and they indicated that they had not intended to put those other two items, 2 and 3, in the proffers. The applicant said they would make that change, understood that the calculation needed to be in accord with the Affordable Housing Policy, and they were okay with going back to that. The applicant is here and can speak to this.

Staff Recommendation:

Staff recommends approval of ZMA-2016-00001 Hollymead Town Center (A2) with the change to Proffer 1 to reflect the basis of calculation on the total constructed units (not the market rate units) and removal of changes to the area of pocket park and phasing. In other words, staff can recommend approval of a portion of that proffer change and thinks the applicant is willing to do that. If the Planning Commission wants to approve this staff has recommended language in the staff report, which should say Hollymead Town Center – Area A2.

Mr. Keller invited questions for staff.

Ms. Firehock asked staff to go back to the list of the three proffers and if staff said the applicant did not want to do the second or third changes since those are inadvertently included.

Ms. Echols replied that it was actually the third and fourth proffer changes. The applicant said they will make the change for the second one to be as staff has recommended.

Ms. Firehock said the only thing the Commission is being asked to look at tonight is changing the 20% to 15%. She asked if that was correct.

Ms. Echols replied that is what staff understands the applicant has intended. So if the Commission takes an action you are going to need to cover these other items so that the record is clear for it. However, she thinks we need to hear from the applicant for them to confirm or otherwise say what it is that they are looking for. However, staff looked at the request with what is in the staff report and what I have said about what the applicant wants to do is subsequent to the staff report having been written.

Ms. More asked because of the discussion section when the applicant proffered the 20% if they were hoping to retain the ability to provide cash in lieu and would that be part of the language with the 15%.

Ms. Echols replied no, they are not looking at changing anything right now other than the 20% down to the 15%. A subsequent rezoning request would be brought to you that deals with other aspects of those proffers. However, right now they are just trying to deal with the percentage.

Mr. Lafferty noted that staff said there were several owners and they had gone through a number of steps with different owners. He asked is the current owner the owner that bargained for the 20%.

Ms. Echols said she would back up and talk about the different owners. Of the different areas in Hollymead Town Center, A-1, A-2, B, C and D, all of those were different owners. In this particular case the person who was the applicant for the rezoning for A-1 and A-2 is no longer a part of the project. She suggested the applicant/owner can talk to the Commission more about what that relationship was. However, they retained ownership of Hollymead Town Center Area A-1 and A2 and whether or not they were aware of what the proffer was doing at the time she can't say. She just knows that the owner of the property signed the proffers and we have what I think may be one of the partners. However, I don't want to say too much because I am not knowledgeable of how those arrangements were made.

Mr. Keller opened the public hearing and invited the applicant to address the Commission.

Nena Harrell, representing the development, said she would answer Mr. Lafferty's question first that it was the prior owner who agreed to the proffers. The economy was raging in 2007 when these proffers

were agreed to. Things certainly have changed as we have heard Mr. Foley speak many times lately on the budget meetings after 2007 everybody is looking for funds. So that is part of the reason that we are back now. Nothing really has happened with this project since the proffers were agreed to. Mr. Wood was the owner prior to these proffers and sold the property; the developers went bankrupt, and so he took the property back. Then Mr. Wood had to take the property back subject to the proffers that they had agreed to, which are proffers that economically just will not work.

Ms. Harrell said she would like to confirm what Ms. Echols said on the issue that the pocket park was inadvertent. These proffers have gone through many iterations in the last nine years with many county staff members and so that was not intended to be in there. The second and third one were not supposed to be there regarding the pocket park and the phasing. The phasing will be addressed with another proffer. We had agreed not to address it with this proffer. We will address that later, but not with this proffer. One of the things Ms. Echols addressed, and we will agree to whatever the county proffer policy is for affordable housing; but, it came up when we were discussing reducing it from the 20% that had been agreed to at the time to the current county policy of 15%. The calculation is a little bit of a gray area. When the policy has been addressed with regards to a buyout the 15% has been applied to the net units. But, when it is addressed with regards to rental units it is addressed on the gross units. If you are building an apartment complex of 200 units and you want 15% affordable units that is 30 units. It is simple, 230 units. But, if you have been building 230 units and take the 15% of that it is in essence 5 more units. So it just seems like it has been applied a little bit inconsistently with the for sale units and the for rent units. But, whatever the county proffer policy is would be what we have agreed to. It is a little bit of an oversight in the language, and has led to some discussion. However, we are agreeing to whatever the policy is. She would be happy to answer questions. She thinks that Mr. Lafferty's question was very appropriate because this was agreed to at a totally different time and by a totally different owner since Mr. Wood was not the owner at all at that time.

Mr. Lafferty said it was his understanding that the county says that the 15% is the minimum, and it can be higher than that. He assumed Mr. Wood read over the details of the contract when he bought the land back.

Ms. Harrell replied that Mr. Wood did not buy it back, but protected his interest and took it back. They certainly were aware; but, we basically knew we had no choice and had to protect our interest there. So that is how it all evolved. They would like to eventually come back with a new code of development because what was agreed to in 2007 just can't happen economically. There were many things agreed to at the time. She has been to a lot of the budget meetings lately and that is one of the things Mr. Foley mentioned that things have changed dramatically. So it cannot develop the way the code of development in 2007 said it would develop; and, this is just part of it. We do have a developer now who is interested in doing apartments and affordable housing, but the numbers have to work to do anything.

Ms. Harrell asked to add something totally unrelated in that they did affordable housing voluntarily years before there was an affordable housing policy. She thinks Briarwood Subdivision was one of the most affordable housing subdivisions and still continues to be. In this town there was not an affordable housing policy. It was done because there was a demand and it was the right time and right thing for the county. Many residents still can't afford to live in this county and so we are very proud of the fact that we have done it voluntarily. However, the numbers have to work.

Mr. Lafferty said they certainly appreciate that; but, we are still deficient in affordable housing.

Ms. Harrell agreed that they are and thinks our rules and regulations don't necessarily help us. Having worked with first time homebuyers for years she thinks we are very deficient in affordable housing.

Mr. Keller invited further public comment.

Morgan Butler, with the Southern Environmental Law Center, said he had not planned to speak tonight, but wanted to share a thought. The applicant just mentioned that they are basically going to be coming back and are going to need to come back with an entirely new code of development soon. The staff

report mentioned that there is a rezoning already in the works and should be coming before the Commission perhaps in May and this affordable housing piece is just a part of that. So it seems that it does not make a whole lot of sense to view this one in isolation and perhaps it should be put in the context of this apparently much larger and much more substantive application that is coming back before you.

Neil Williamson, with Free Enterprise Forum, said we have no position on this application or this amendment. However, we feel as though Mr. Butler's comments are inappropriate for determining how an application goes forward. You have before you an applicant who has paid a fee who has moved forward following the channel in the chain of command and asking that applicant to do anything but allow you to discuss this specific issue would be a disservice.

The being no further public comment, Mr. Keller invited the applicant for rebuttal.

Nena Harrell said when they had their pre-app meeting they did not discuss it exactly the way maybe we should have. So Ms. Echols thought it better if we do it in two separate amendments and that is why they are doing it separately. They did not really want to pay \$2,688 twice to do it separately; but, it seemed like that was the appropriate way to move it forward after our pre- app meeting. So that is why it is in two sections.

Mr. Keller invited questions for the applicant.

Ms. More said we have looked at the changes in the pocket parks and the phases as things that are going to be addressed in the future. You talked about an entirely new code of development. So are there further changes that will be made and is that something that could all be made at one time or looked at.

Ms. Harrell replied the code of development is going to take some time to do because the county has different ways they like to see it done now. She thinks everybody on staff will agree that this code of development is a mess and can't use any other word to describe it. So it is going to take some time to come back with a code of development. We have a developer right now that would like to do a project. Unfortunately, we can't do it comprehensively because we will lose the developer if we do. So we are going to have to do it a piece at a time. With regards to the pocket park that has nothing to do with anything now or anything coming in the future since that was when we had a movie theater years ago and the movie theater went by the wayside because it was taking too long to get through the rezoning process. So the code of development will be some months away. However, we have filed for a second amendment with regards to the phasing and a few other things in our current zoning.

Ms. More asked if the goal is a more comprehensive look at changes.

Ms. Harrell replied yes, we would like to do that since it needs to be done because there are way more units in there than can ever be developed. It just will not work or much of the code of development will not work.

Ms. Riley said at least it seems that you are implying through your comments about changing the code of development that there will be a reduction in units overall or that is one of the goals.

Ms. Harrell replied they believe it is a realistic goal. They think what is in the code of development is unrealistic since it would require parking garages and the cost would be unbelievable. So we think it is going to require a lowering in density. We still want to keep as much density as possible; but, the way it is approved now is not going to be the way the property will ultimately develop.

Ms. Riley asked if she had any sense of what the percentage of reduction is.

Ms. Harrell replied no, she would not want to address that tonight.

Ms. Riley said at the end that additional impact would be a further reduction of affordable housing units in

essence if you are just reducing the overall number of units.

Ms. Harrell said if you are reducing the overall number of units it goes down in every regard.

There being no further questions, Mr. Keller closed the public hearing to bring the matter before the Commission for discussion and action.

Ms. Firehock said she had a clarifying question for Mr. Kamptner to ensure she understands this properly. The amount of affordable housing that was proffered at 20% was perfectly legal because an applicant at any time can proffer more than the minimum percentage that we request. We want 15% as a minimum, but if a nice developer comes along and wants to give us 20% that is perfectly legal.

Mr. Kamptner replied yes.

Mr. Keller invited further discussion or questions to staff.

Ms. Firehock said they would only be dealing with the change in percentage.

Ms. Echols provided three recommendations for the Planning Commission's action. The first recommendation (A) is for approval as recommended by staff; the second recommendation (B) is for approval as requested by the applicant; and the third recommendation (C) is for denial of the request.

Mr. Keller asked for clarification on C. because there were three parts. If they were to agree with one or two of those, then we need to clarify the ones they agree with and the ones that we don't.

Ms. Echols agreed.

Mr. Keller said that was the pocket park.

Ms. Echols noted A. was the recommendation for approval as staff has recommended.

Mr. Keller said so if they wanted deal with just the affordable housing but not the pocket park.

Ms. Firehock said that she was confused.

Ms. More said staff was saying that A. would be the choice, but, do we need to add language to be clear that we are not addressing the pocket park or the phasing. Or, is A. the way staff has written it to cover that.

Ms. Echols replied yes, she thinks Mr. Benish was saying that we should do that. Are there any questions about the method of calculation? The Commission did not ask that question. But, she would like to offer that when the statement about the cash proffers and being in lieu we have not been able to uncover any projects where there has been a different application than what is with the affordable housing policy. So part of our recommendation is that we stick with the way the affordable housing policy was written in terms of recommending how to accept a proffer.

Mr. Lafferty said it is written as being a minimum.

Ms. Echols replied yes, it is a minimum. But, what she is talking about is the number of units constructed or 15% of the number of units to be constructed.

Ms. More said that is the language of the total residential units.

Ms. Echols replied that was correct.

Mr. Lafferty asked if that would be prorated. If you are going to build 100 units and you have 20% and you

build 50 units would you say 10 of those have to be affordable housing.

Ms. Echols replied that they come in on the site plan. So whatever we have on the site plans and however it is the proffers generally set up the mechanism for how 15% will be ensured on every site plan. So as we get site plans in we look for 15% with a little bit of variation in how that gets applied. But, anyway we do it site plan by site plan so we would never be less than 15%.

Mr. Benish said if their build out winds up being less than what is approved by zoning they still have to do 15% of what is built.

Mr. Benish said that is part of the confusion because it is tracked on an ongoing basis up to the time that they don't build any more.

Ms. Firehock said she was willing to make a motion; but, just wanted to make a comment first and then she would like to hear what others think. She remembers when the economy went south she was starting a nonprofit at the time. It was a dumb time to start a business. However, she was concerned with the notion that everyone who has a project that has not been built since 2006/2007 as it fills up they have a justification to come back and ask for their proffers to be changed. Because that is the basis for this request she thinks by supporting this request we need to be aware of the precedent that we may be setting. In this case she thinks they would be saying that the market just does not support what they offered back then - times are good but now they are not. So for how long will we continue to go ahead and let everyone reduce their proffers since there are quite a few unbuilt units in the county? It was reported to us one day and it is a high number so there is quite a lot of backlog. She was very concerned about the precedence that we would be setting.

Ms. Firehock said the other point is that as we were just alluding to and even the applicant's representative has stated that we are willfully inadequate in our supply of affordable housing. Our current process by which we advertise it is also deficient and we will be talking about that in future work sessions. But, she has a very serious heartburn with the notion. She understands that the buyer does not want to do it at 20%; however, any buyer can say they don't like your proffers, go to the Planning Commission and the Board and get rid of them or reduce them and say that the economy used to be good, but now it is not. So I have a problem with that argument because of the precedent setting nature.

Mr. Lafferty agreed.

Ms. Firehock moved and Mr. Lafferty seconded to recommend denial of the proffer change to reduce the amount of proffered housing from 20% to 15% for ZMA-2016-00001 Hollymead Town Center (A2) for the reason that the proffer was voluntarily offered and was reasonable at the time and meets a serious need in the county for affordable housing which still exists.

The motion passed by a vote of 5:2. (Dotson/Keller nay)

The Planning Commission recessed at 7:25 p.m. and the meeting reconvened at 7:33 p.m.

ZTA-2016-00004 Flood Hazard Overlay District

The Planning Commission opened a public hearing to receive comments on its intent to recommend adoption of an ordinance amending Sec. 18-30.3.2, Flood Insurance Rate Map and Flood Insurance Study, of Chapter 18, Zoning, of the Albemarle County Code. This ordinance would amend Section 18-30.3.2 to refer to and incorporate the flood insurance rate maps and flood insurance study effective on and after May 16, 2016. A copy of the full text of the ordinance is on file in the office of the Clerk of the Board of Supervisors and in the Department of Community Development, County Office Building, 401 McIntire Road, Charlottesville, Virginia. (Mandy Burbage)

Ms. Mandy Burbage presented a PowerPoint presentation to summarize the executive summary for ZTA 2016-04 Flood Hazard Overlay District (FHOD).

As background, the Flood Hazard Overlay District is a zoning overlay district that:

- Restricts buildings, development and uses within the 100-year floodplain to prevent the loss of life and property in the event of a 100-year flood. (more restrictive than FEMA minimums)
- Boundary based on FEMA Flood Insurance Rate Maps (FIRMs)
- Albemarle County's Flood Hazard Overlay District was created and adopted in 1980 with the original Zoning Ordinance and was last updated April 2, 2014 to maintain our compliance with the National Flood Insurance Program standards.
- Adoption of these standards is mandatory for our participation in the FEMA Flood Insurance Program
- The County was last required to update its FHOD regulations in 2014 to ensure compliance with National Flood Insurance Program Standards. Albemarle County exceeds these standards and is regarded as having a model floodplain ordinance in Virginia.
- Floodplain boundaries are not changed by this amendment and simply incorporates a new effective date for the Flood Insurance Rate Map (FIRM) and Flood Insurance Study.
- Current Zoning Text Amendment (ZTA) incorporates new effective date for Flood Insurance Study and FIRM panels (May 16, 2016)

The map detail as shown is the source of the change and the new effective date is the result of the Scottsville levee going from provisionally accredited to accepted effective May 16, 2016. This changes the effective date of the FIRM panel and the Flood Insurance Study. FEMA requires that the County ordinance refer explicitly to this date. The language in Section 30.3.2 talks about subsequent changes being accepted. However, after speaking with FEMA over the phone and DCR they assured us that a change in a map effective date was not covered by that general language. The new effective date is May 16, 2016. In order to maintain our participation in the Flood Insurance Program we have to amend our ordinance by May 16, 2016. Failure to revise the ordinance by the effective date will result in the County being dropped from the Flood Insurance Program. Therefore, we are on an expedited schedule.

Schedule

- Planning Commission resolution of intent adopted on **April 19, 2016**.
- Planning Commission public hearing on **April 26, 2016**.
- Board of Supervisors hearing on **May 4, 2016** to meet that deadline.
- Mandatory adoption by **May 16, 2016**.

The expedited schedule is to ensure adoption by May 16.

Staff Recommendation:

- Following the public hearing, staff recommends that the Planning Commission recommend approval of the proposed ordinance (Executive Summary Attachment A dated 4.11.16).

John Anderson, Albemarle County Flood Plain Manager, was present to assist with technical questions.

Mr. Kamptner explained that FEMA did tell us about the language in our ordinance that refers to the map date and including all subsequent revisions and amendments said that would apply to the letters of map revisions and letter of map amendments that are usually done on a case by case basis by an applicant based on an engineering study; however, this language would not apply to a change in the effective date. What they said was a new effective date had to be expressly stated in the ordinance per federal regulation.

Mr. Keller asked when the change comes in for the Woolen Mills area, which he thinks they are waiting for, if there would not be a date problem on that.

Ms. Burbage replied no, she believes that is a letter of map revision.

Mr. Kamptner said it will either be a letter of map revision or a letter of map amendment. If FEMA were to

amend the map panel, then that would require us to update the reference in this section.

Mr. Keller asked if it would be the same process again, and Mr. Kamptner replied yes.

Mr. Keller thanked Mr. Kamptner for the clarification.

There being no further questions for staff, Mr. Keller opened the public hearing and invited public comment.

Neil Williamson, with the Free Enterprise Forum, said flood insurance is critically important and it is admirable that the county move swiftly to make this happen. He noted that we are able to do this type of swift action and you had three years and did not do the proffer amendment that you should have done for the 2013 law. However, that is water under the bridge so to speak and he encourages the Commission to approve this amendment.

There being no further public comment, the public hearing was closed to bring the matter back to the Planning Commission for discussion and action.

Motion: Ms. Riley moved and Mr. Lafferty seconded to recommend approval of the proposed ordinance for ZTA-2016-00004 Flood Overlay District.

The motion carried by a vote of 7:0.

Mr. Keller noted that a recommendation for adoption of the proposed ordinance for ZTA-2016-00004 Flood Overlay District will be forwarded to the Board of Supervisors.

Old Business

- Discussed status of application for Woolen Mills flood map revised.

Ms. Firehock asked the status of the application to get the Woolen Mills flood map revised. She noted that the applicant is trying to do that and asked Mr. Anderson if he knows if they have heard.

John Anderson replied that he got that zoning application several days ago and had a meeting with the developer and the design engineer several weeks ago. It often happens in some of these meetings and over time different staff enter, leave and come and go. So I came to it more recently and Ms. Echols helped him to come to an understanding of what is going on and so did the developer and the design engineer. Some of the correspondence from FEMA indicates that it has been accepted by FEMA and it is no longer a conditional letter of map revision; it is a letter of map revision and it has put a case number on it. So Philadelphia recognizes the planning action that was taken several years back, development in the floodplain, and have revised and accepted the redrawing floodplain boundaries. That is what he has in his office now to look at and it is sort of a matching up just to make sure. He knows there were some little changes the county engineer, Glen Brooks, had recommended some slight design changes to in his mind to ensure that they were not exceeding the redrawn limits of the floodplain. It is more of a comparison and it is not a rerouting through FEMA.

Ms. Firehock said she was glad to hear that there is progress being made.

There being no further old business, Mr. Keller invited new business.

New Business

- Mr. Dotson thanked staff for the two-month advanced schedule of items coming before us. It is very much appreciated.

- Ms. Firehock said she met with the Chairman about trying to come up a date for the next work session, which they tentatively have proposed for affordable housing. However, she sees on the schedule that it is now the farm winery, brewery, and distilleries. She does not want to short change that very important topic and was just wondering if they should try to find a different date since they need to do some inquiries. We don't have any commitments for anyone to attend on that date; but, were just going to get ready to send that out. She asked for staff's comment.

Mr. Benish said they can continue to work on it, but tentatively based on a very brief conversation with Mr. Keller he had put affordable housing on for the July work session because as he had understood that it might be difficult to get the invitees and everyone arranged for June. The dates on the preapproved agenda for work sessions are July 19 and August 16. However, staff will continue to work on the list every month.

Ms. Firehock agreed they would look for work sessions in July or August. As a first step she and Ms. Riley would query the various entities on what dates are available for them.

- Transportation Planner, Gerald Gatobu will be leaving on May 5th.
- After next Wednesday Planning Division will be 2½ planners short.
- John Anderson is covering for Glenn Brooks.
- The next Planning Commission meeting will be held on Tuesday, May 6, 2016.

There being no further new business, the meeting moved to adjournment.

Adjournment

With no further items, the meeting adjourned at 7:46 p.m. to the Tuesday, May 3, 2016 meeting at 6:00 p.m. at the County Office Building, Second Floor, Room 241, 401 McIntire Road, Charlottesville, Virginia.



David Benish, Secretary

(Recorded and transcribed by Sharon C. Taylor, Clerk to Planning Commission & Planning)

Approved by Planning Commission
Date: 6-21-2016
Initials: SCT