July 19, 2021
Rev. 1: November 15, 2021
Rev. 2: February 7, 2022
Rev. 3: May 16, 2022
Rev. 4: August 15, 2022

OLD IVY RESIDENCES

Zoning Map Amendment Application Narrative

Tax Map Parcels 60-51, 60-24C, 60-24C1, 60-24C3, 60-24C4

ZMA 2021-00008

Introduction

Greystar is the contract purchaser of 35.39 acres of real property and improvements northeast of the Route 250 Bypass and Old Ivy Road intersection, west of the University Village retirement community and Huntington Village (the "Property"). The Property consists of five parcels, all zoned for residential use:

Tax Map Parcel	Short Name	Acres
06000-00-00-024C	24C	11.58
06000-00-00-024C1	24C1	2.53
06000-00-00-024C3	24C3	13.29
06000-00-00-024C4	24C4	2.47
06000-00-00-05100	51	5.52
Total Acreage		35.39

Greystar proposes to develop a residential community on the Property, consisting of single-family homes (attached and detached) and multifamily buildings, to serve the need for housing in this part of Albemarle County, which is reflected in the Urban Density Residential land use designation for most of the subject property in the Comprehensive Plan. Greystar proposes a maximum of 525 units, which equates to an average density of approximately 15 dwelling units per acre (DUA) for the 35.39 acre Property. The residences planned for the Property are proposed to be entirely for-rent, at least initially, in response to a strong interest in rental properties in the area.

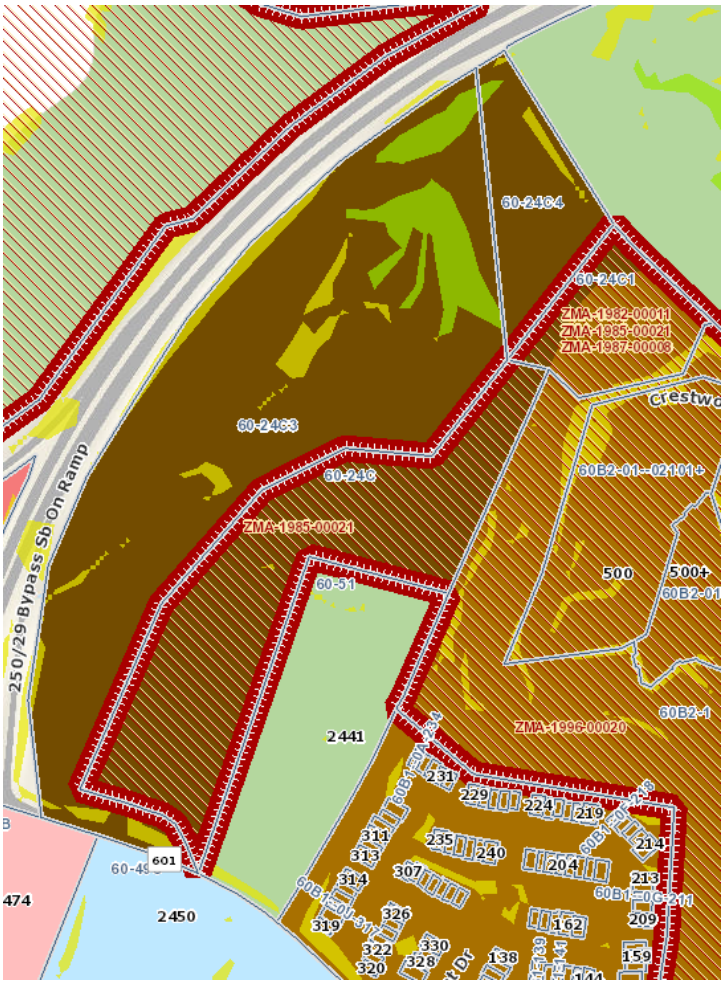
This application includes a proposed Concept Plan and Proffer Statement. The proposed proffers would require the Property to be developed in general accord with the major elements of the Concept Plan. These elements are listed in the Proffer Statement and highlighted in this Narrative.

Existing Zoning and Proffers

The existing zoning and land use restrictions are not uniform across the parcels.

The chart below summarizes the currently applicable land use regulations for the Property.

Tax Map 60 Parcel	Acres		Zoning District	Permitted Uses
24C1	2.53	1.561	R10	Health Care Facility (per University Village Approved Application Plan)
		0.969	R15	By Right Uses in R15 District upon satisfaction of Road Proffer (per ZMA 85-21)
24C3	13.29		R15	
24C4	2.47		R15	
24C	11.58		R15	
51	5.52		R1	By Right Uses in R1 District



In order to achieve R-15 zoning across the Property without the restrictive proffers or zoning plans associated with prior rezoning actions, the following actions are being requested:

TMP 60-51: ***Rezone from R-1 to R-15***. This parcel, zoned R-1, is proposed to be rezoned to R-15.

TMP 60-24C3, 60-24C4: ***Satisfy 1985 Road Proffer; Rezone Steep Slope Overlay District***.[1]The largest parcel and the abutting small parcel to the north, which abut the Bypass, are already zonedR-15 but are subject to a proffer associated with ZMA85-21[2], which states that these parcels may only be developed at an R-1 level until Old Ivy Road has been improved to the satisfaction of the Board of Supervisors (the "1985 Road Proffer"). Further, a zoning map amendment to rezone preserved steep slopes to managed steep slopes on these parcels is required to permit them to be disturbed in a manner described in more detail in the attached materials prepared by Timmons Group entitled "Old Ivy Residences Preserved Slopes Zoning Map Amendment."

TMP 60-24C1: ***Satisfy 1985 Road Proffer; Rezone Steep Slope Overlay District; Rezone portion from R-10 (with Plan and Proffers) to R-15***. This small interior parcel is split-zoned. A small portion is zoned R-15 and subject to the 1985 Road Proffer. The remaining portion is zoned R-10 and subject to ZMA 1982-11, as amended by ZMA 1987-08 and ZMA 1996-20[3]. The parcel needs to be rezoned to R-15, and the master plan and proffers associated with ZMA 1987-08 and ZMA 96-20 need to be superseded by the new zoning. The Zoning Map Amendment to reclassify preserved slopes as managed slopes applies to this parcel as well because it is part of the same legal parcel as TMP 60-24C4; the boundary line between these two Tax Map parcels was eliminated upon invalidation of the Certificate of Take affecting TMP 60-24C4. In addition, the Applicant's survey shows the boundary line between TMP 60-24C1 and TMP 60-24C4 is in a different location than what is reflected in the County GIS map. The preserved slopes are present in TMP 60-24C1 when the surveyed boundary line is used.

TMP 60-24C: ***Satisfy 1985 Road Proffer (No Rezoning Required)***[4]. The second largest parcel immediately east of TMP 60-24C3 is also subject to the Road Proffer.

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[1] To confirm that the 1985 Road Proffer has been satisfied with regard to the four parcels that are subject to it, the 1985 proffer must technically be amended, to confirm that it no longer applies. Any proffer amendment is technically a rezoning amendment, even though the actual zoning district for the subject parcels is not proposed to be changed to a different district. Similarly, the Applicant's proffering of new commitments in connection with this application similarly technically functions as a rezoning amendment. As such, the proffers associated with this application will refer to the four applicable parcels being "rezoned from R-15 Residential with proffers to R-15 Residential with proffers."

[2] The image on this page was prepared using the County's GIS mapping system. Note that the GIS records are inaccurate, which results in a map that is not entirely correct, for TMP 60-24C3 and 60-24C4 are both also subject to the 1985 Road Proffer, but the map indicates otherwise.

[3] An Official Determination of Development Potential for Tax Map 60, Parcel 24C1+, dated June 15, 2000, states that the 1.561 acres of TMP 60-24C1 is governed by ZMA 96-20, which has a proffered master plan showing a health care facility in this location, and controlling proffers. The applicant transferred Parcel X, including this 1.561 acre portion, before approval of ZMA 1996-20.

[4] Except as otherwise noted in footnote 1.

To explain both the varied zoning status of the parcels and the access easement over the University Village, University of Virginia, and Ivy Gardens properties to the east, a brief property history has been included in an Appendix for reference.

Subject Property

The Property is currently owned by three separate entities, as shown in the table below.

Tax Map Parcel	Owner
60-24C	The Filthy Beast, LLC
60-24C1	
60-24C4	
60-24C3	Father Goose, LLC
60-51	Beyer Family Investment Partnership, L.P.

Description of Proposed Project

The Project proposes a variety of housing types, including single family detached, single family attached, duplexes, and multi-family units. As shown on the Concept Plan, a maximum of 525 units is proposed. The proposed Proffer Statement would proffer the 525-unit maximum as a major element of the Concept Plan, meaning this limitation would be a legally binding requirement on the Property that runs with the land. The following is a current projected conceptual breakdown of units by type, but is subject to change during the site plan process:

Single family detached: 65 units
Single family attached (townhouse): 47 units
Single family attached (duplex): 54 units
Apartments: 324 units

This breakdown is approximate and is subject to change at the site plan stage.
Notably, the Project likely will be comprised entirely of rental units, even the single-family units. This community would be the first of its kind in the area providing a unique residential community and expanding the range of housing options for this part of the County. Market research demonstrates a demand for single-family residences for young families, young professionals, graduate students and retirees who desire more space but are not interested in, or able to purchase a home at this stage of their lives. The cost of home ownership continues to rise across all price points throughout the area, and this rental offering will significantly increase the inventory and accommodate this strong market demand. Rental single-family dwellings are a growing trend in residential development. A recent news article reported that "built-to-rent homes make up just over 6% of new homes built in the U.S. every year, according to Hunter Housing Economics, a real estate consulting firm, which projects the number of these homes built annually will double by 2024."[5] The Applicant has determined there is a significant market demand for detached rental units in this part of the County. While there are a few apartment communities nearby, most are designed and sized for singles or younger students.

The community is laid out and oriented around the existing pond, which will be integrated into the Project and serve as a recreational area. The pond will provide open space and stormwater management functions, while being enhanced to improve the ecological and environmental benefits that the pond naturally

[5] Parker, Will. "Built-to-Rent Suburbs are Poised to Spread Across the U.S." *The Wall Street Journal*, June 21, 2021. https://www.wsj.com/articles/built-to-rent-suburbs-are-poised-to-spread-across-the-u-s-11623075610)

provides. Additionally, while steep slopes will be impacted, these steep slopes were previously disturbed and generated by construction and waste fill; they are not naturally occurring. Nevertheless, they will be treated in a sensitive manner, ensuring downstream waters are not impacted. The proposed development has been designed to maximize conservation of forested areas, particularly those adjacent to the Rivanna Trail, by using space already cleared for farmland. By impacting the slopes (to a limited degree), the neighborhood layout can better preserve existing natural forest, which provides an invaluable amenity, prevents environmental concerns associated with deforestation (erosion, stormwater quality, habitat, etc.), and provides a greater degree of conservation. Given the history of these slopes, which were previously disturbed and are man-made, Greystar and the design team agree that the forested areas are more valuable environmentally than the slopes. Further, reducing the grade of these slopes will reduce stormwater drainage across the area while capturing runoff in a stormwater conveyance system. Reducing overland flow and the total amount of runoff will reduce erosion to the remaining slopes.

Satisfaction of 1985 Road Proffer:

As described herein, parcels 60-24C3, 60-24C4, 60-24C, and the approximately 0.73 acres of parcel 60-24C1 that is zoned R-15 are all subject to the 1985 Road Proffer. The 1985 Road Proffer was accepted in 1985 as part of ZMA 1985-21, which rezoned these parcels from R-1 Residential to R-15 Residential subject to the following proffer:

“The proffer is that the property’s development under proposed R-15 zoning be limited to the number of units currently allowable under the present R-1 zoning until Old Ivy Road is improved to the satisfaction of the Board of Supervisors of Albemarle County.”

While the proffer allows developing this portion of the Property with the setbacks, dwelling-unit type, and other characteristics permitted by the R-15 zoning district regulations, the proffer limits the number of units to the amount that would be allowed if the land were zoned R-1 until Old Ivy Road is improved to the satisfaction of the County Board of Supervisors. The proffer provides that when the Board of Supervisors is satisfied that Old Ivy Road has been improved, then this portion of the Property may be developed consistent with R-15 zoning without restriction on the number of units.

Since the 1985 Road Proffer was accepted and these parcels were rezoned to R-15, a significant number of improvements have been made to Old Ivy Road and to the surrounding road network that significantly improved safety and traffic conditions around the Property. Included with this application package is a multi-page exhibit prepared by Mitchell Matthews Architects that includes historical aerial images of the Property and the surrounding road network from 1990, 1996, and 2021, and which documents the 27 identified improvements that have been made to Old Ivy Road and the surrounding road network in the intervening 36 years (the “Old Ivy Road Improvements Exhibit”). Among the highlights are the following road improvements:

- Leonard Sandridge Drive has been constructed, which provides a direct connection from the University of Virginia north grounds area to the Route 29/250 bypass. Prior to construction, a large portion of vehicles driving to and from that area used both Old Ivy Road and Ivy Road to access the Route 29/250 Bypass and Route 250. Construction of this road dramatically reduced trips along Old Ivy Road.

- As numerous by-right developments were constructed on Old Ivy Road, they were required to construct various entrance improvements and related improvements, such as turn lanes, deceleration lanes, and sidewalks, each as detailed on pages 4-7 of the Old Ivy Road Improvements Exhibit. These numerous improvements significantly improved the safety and function of Old Ivy Road.

- Installation of a traffic signal at Ivy Road and Old Ivy Road (across from St. Anne’s Belfield School) (#2 on the Exhibit). This signal dramatically improved the safety of this intersection, including for those

proceeding east on Old Ivy to Ivy Road as they now had a safer turning movement. In addition, by providing a safe turning opportunity, queue lengths and delays at this location were reduced, which further improved Old Ivy Road.

- Installation of a traffic signal, and re-alignment of Canterbury Road (entrance to the Bellair Subdivision) at the Canterbury Road/Route 250/Ivy Road/Old Ivy Road Intersection across from the Bellair Market (#5 and #25 on the Exhibit). These two improvements, long-sought by the Bellair residents, among others, were significant safety improvements by aligning the intersection and providing a signal to allow safe turning movements. They also reduced congestion in the area, and thus reduced back-ups and other delays that often extended well onto Old Ivy Road.

- Intentional efforts by VDOT to discourage use of the northern exit and off-ramp from the Route 29/250 bypass (at #26 on the Exhibit) in favor of the southern exit off-ramp from the bypass (leading to #27 on the Exhibit). These efforts included modifications to signage to direct travelers to the southern exit, which allows traffic to more easily disperse along Route 250/Ivy Road instead of along Old Ivy Road. This dramatically reduced trips along Old Ivy Road. The addition of a traffic signal at #27 on the Exhibit also increased the safety and reduced delays at that location, removing a long-time disincentive to using this southern exit. By increasing the safety, convenience, and comfort in using the southern exit from the bypass, the number of vehicles using the northern exit reduced, which resulted in a reduction of vehicle trips along Old Ivy Road, and thus improvements to its function and reduction in congestion.

A recent development involves the existing bridge over the Route 29/250 Bypass. The bridge deck and beams are scheduled for replacement by VDOT in 2024 under VDOT's State of Good Repair allocated funding. The Board of Supervisors adopted a resolution for this project on October 7, 2020. The replacement of the bridge deck will add a four-foot-wide shoulder for bicyclists and pedestrians that does not currently exist, which will allow bicyclists and pedestrians to use the bridge. This improvement will logically result in some level of reduction in vehicle trips for those who want to walk from the Property to nearby stores, offices, and destinations, such as the Market at Bellair, the proposed destinations at the former Virginia Tractor Company site, medical offices, and the numerous offices located in the "triangle" between the Bypass, the railroad tracks, and the northern off-ramp from the Bypass (Faulconer Construction, real estate offices, etc.)

In addition to the number of completed improvements documented on the Old Ivy Road Improvements Exhibit, and the imminent repair and replacement of the deck and beams of the bridge over the Bypass, included with this application package is a Transportation Impact Analysis prepared by Timmons Group (the "Traffic Study"). The Traffic Study was researched and developed in consultation with VDOT, the County's Transportation Planner, and the City's Traffic Engineer as to scope and extent of the study, assumptions based on estimates such as for projected increases in background traffic, and related criteria.

The Traffic Study, as updated February 4, 2022, recommends several improvements be included as part of the Project to avoid creating any impacts on Old Ivy Road. The Concept Plan incorporates those recommended improvements, including the following:

- Installation of an eastbound left turn lane on Old Ivy Road at the proposed site entrance, with a minimum of 100 feet of storage and 100-foot taper.

- Installation of a westbound right turn lane on Old Ivy Road at the proposed site entrance, with a minimum of 100 feet of storage and 100-foot taper.

- Installation of a westbound right turn lane on Old Ivy Road at the US Route 29/250 on-ramp

The Traffic Study determines that Old Ivy Road will function at acceptable levels of service and safety with the full build-out of the Project, provided that the recommended improvements are constructed as part of the Project. Specifically, the Traffic Study notes that at the main entrance the levels of service ("LOS") would be a LOS B in the AM peak and LOS C in the PM peak, and that "the mainline movements along Old Ivy Road at the proposed site entrance are not adversely impacted by the introduction of the site traffic and the queues will not impact through traffic."

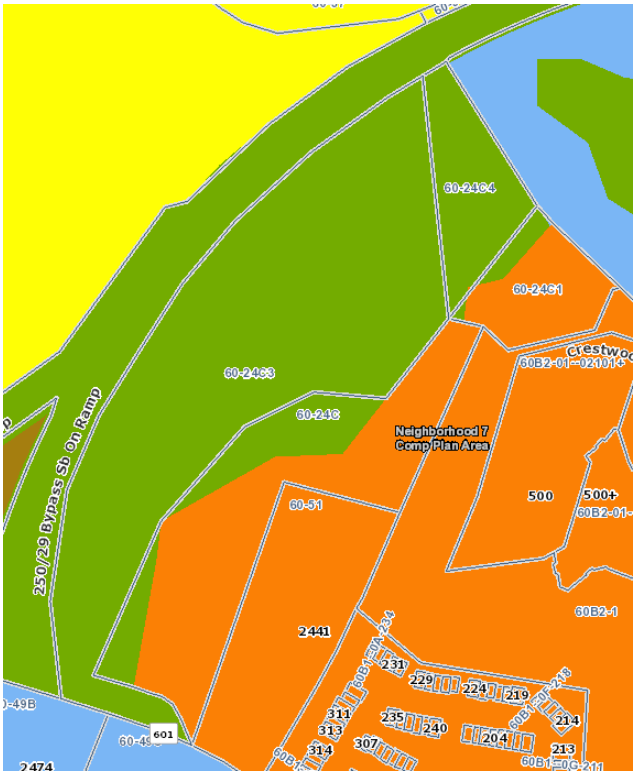
Similarly, regarding the signalized intersection at Ivy Road and Old Ivy Road, the Traffic Study confirms that with the full build out of the Project, that this intersection will operate at an overall LOS B in both the AM and PM peak hours, and that all movements and approaches operate at LOS C or better during peak hours.

Regarding the unsignalized intersection of Old Ivy Road at the US Route 29/250 On-Ramp, the Traffic Study concludes that the mainline eastbound and westbound approaches will operate at LOS A during both peak hours. The northbound approach operates at LOS A during the AM peak hour and at LOS F during the PM peak hour. However, the maximum queue on the northbound approach during either peak hour is 16 feet, or approximately 1 vehicle. There are no queuing issues at this intersection.

Given the conclusions of the Traffic Study with regard to the functionality of Old Ivy Road at the entrance of the site, and the acceptable LOS that will result at either end of Old Ivy (between the by-pass ramps and the signalized intersection at Ivy Road), combined with the numerous impactful improvements that have been completed along Old Ivy Road and the surrounding road network in the past 36 years, we contend that the concerns of the 1985 Road Proffer have been addressed. As such, we ask the Board of Supervisors to confirm that coupled with the improvements and proffers proposed as part of this application, that Old Ivy Road has been satisfactorily improved, and that the 1985 Road Proffer has been satisfied. One of the proposed proffers in thedraft Proffer Statement included with this application would, if approved, clarify that the 1985 Road Proffer has been satisfied and no longer imposes a restriction on the Property.

As noted herein and in the traffic study, the Old Ivy Road corridor to the west of the Project site has existing operational and queuing issues. The additional site traffic from the Project will marginally increase delays but is not responsible for the existing issues. The project's traffic engineers have calculated that at full build out, Greystar will contribute approximately 6% to the total trips. As such, the Applicant, in coordination and discussion with the County's Planning Manager of Transportation, has proposed to proffer an extension of the proposed multi-use path along the property frontage to continue east down Old Ivy Road, as well as a proportional share of cash contribution to the County's Capital Improvement Program for future off site transportation improvements in the area. The Applicant will install a multi-use path as shown on the Concept Plan if the owners of Huntington Village and University Village donate the necessary land at no cost to the Applicant/Owner of Old Ivy Residences to be installed when other road improvements are built to support the Project. The proffer also allows for an alternative if the owners of Huntington Village and University Village do not donate the land necessary for the path, where the Applicant will contribute $500,000 in cash to the County's Capital Improvement Program

Consistency with the Comprehensive Plan





The Southern and Western Urban Neighborhoods Master Plan (the "Master Plan"), a component of the County's Comprehensive Plan, designates the Property for Urban Density Residential use, which recommends 6.01 – 34 DUA, and Parks and Green Systems use, which recommends public and privately owned open space areas and the protection of environmental features

The Property is within one of two Priority Areas identified in the Master Plan. Priority Areas are defined as areas "where significant development is underway, future development is to be directed, and investment in public improvements is programmed or recommended" (S+W. 47). The Priority Area for Western Urban Neighborhood is the Ivy Road area, and Ivy Road Shopping Center is the existing Center for such area. As an infill project within a Priority Area identified on the Comprehensive Plan, and given the existing R-15 zoning on the majority of the Property, this application has particular merit.

<u>Urban Density Residential</u>

The primary uses within the Urban Density Residential designation are "multifamily and single-family residential, including two or more housing types." The Project meets and exceeds this description.

The Urban Density Residential designation "represents residential areas with supporting uses and non-residential uses [with density ranges of] 6.01 - 34 dwellings per acre." Master Plan, page 33. The Ivy Road Shopping Center area is in the immediate vicinity of the Property, and the Project would contribute to its existing mix of uses.

At a proposed density of approximately 15 DUA, the Project's density will be well within the range contemplated by the Urban Density Residential designation, and thus consistent with the Comprehensive Plan. The

Comprehensive Plan's gross density range allows the Property's 35.39 acres to be developed with up to 525 residential units. The existing zoning of parcel 60-51, R-1 Residential, is inconsistent with the Comprehensive Plan because it permits a gross density range of only 0.97 (Standard Level) and 1.45 (Bonus Level) dwelling units per acre, well below the desired and designated density for this location. See Zoning Ordinance § 13.3. The Project proposes a density that would achieve the County's desired density in this location. As noted on the cover sheet to the plan set, the Project proposes a maximum of 525 units, which over the total acreage translates to a density of 14.9 dwelling units per acre.

The Project's density also supports Objective 4 of Chapter 8 (Development Areas) of the Comprehensive Plan, recommending the "[u]se [of] Development Areas land efficiently to prevent premature expansion of the Development Areas." The Project clusters units together on the site, and includes apartments, attached townhouses, and duplexes. The Project's residential layout thus makes efficient use of Development Areas land.

The Project's density also supports other goals of Chapter 8 of the Comprehensive Plan, including the following:

- Objective 5: Promote density within the Development Areas to help create new compact urban places.

- Strategy 5b: Encourage developers to build at the higher end of the density range, on greenfield sites, provided that development will be in keeping with design recommendations in the Neighborhood Model.

- Strategy 5c: Encourage developers to build within the density range recommended in the Master Plans on infill sites.

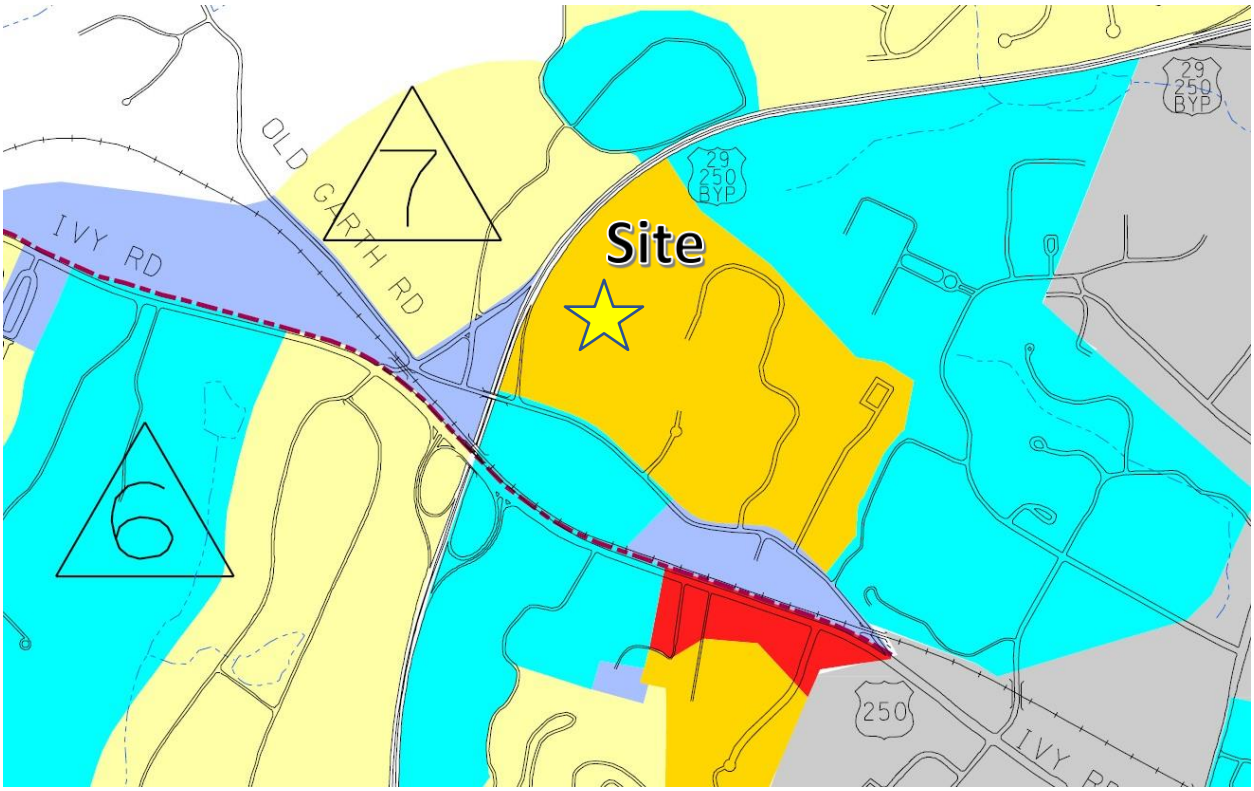
- Objective 6: Promote infill and redevelopment that is compatible with surrounding neighborhoods and uses.

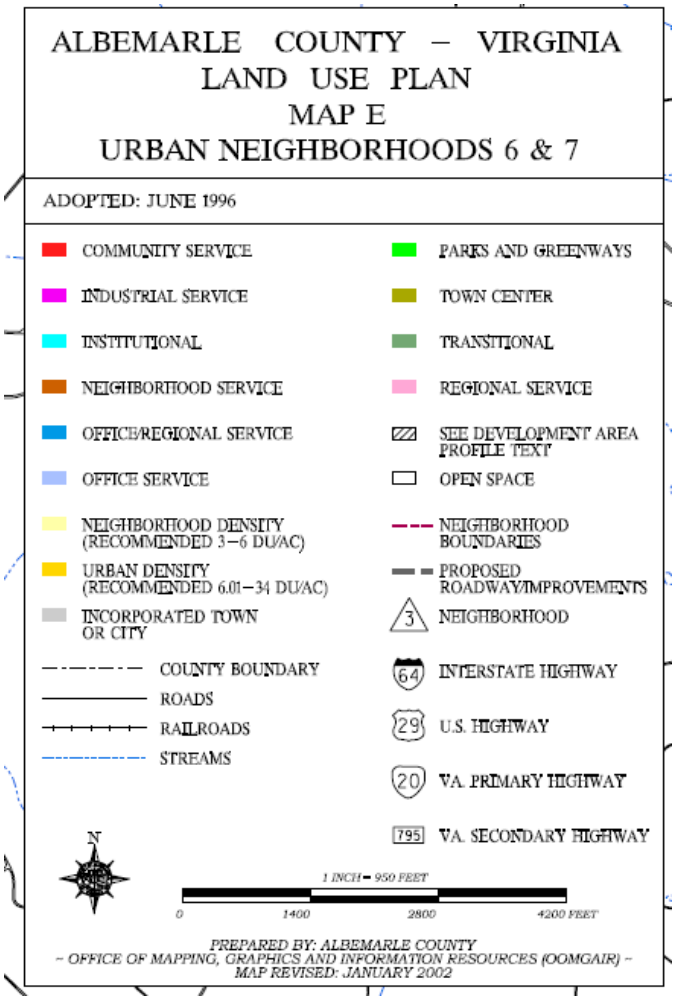
- From the Implementation Section of the Comprehensive Plan:
  - Development Areas - Indicators of Progress:
  5. Increase in residential proximity to public transit, schools, parks, libraries, and grocery stores.

<u>Parks and Green Systems</u>

The portion of the Property designed for Parks and Green Systems is land that was previously acquired by the Virginia Department of Transportation (VDOT) for development of the Western Bypass. After VDOT eliminated plans for the Western Bypass, the Commonwealth of Virginia (through the Commissioner of Highways) transferred the property to the current owner.[6] Before VDOT's acquisition, all of the Property was designated Urban Residential Development. See the prior Comprehensive Plan, 1996-2016, Land Use Plan Map E updated in January 2002, below.

[6] Parcel 60-24C3 was returned to the prior owner's successor in interest by deed of November 17, 2016, and parcel 60-24C4 was "returned" to the prior owner's successor in interest by order invalidating the Certificate of Take in 2020.


Site
IVY RD
OLD GARTH RD
7
6
29
250
BYP
250


ALBEMARLE COUNTY – VIRGINIA
LAND USE PLAN
MAP E
URBAN NEIGHBORHOODS 6 & 7
ADOPTED: JUNE 1996
COMMUNITY SERVICE
INDUSTRIAL SERVICE
INSTITUTIONAL
NEIGHBORHOOD SERVICE
OFFICE/REGIONAL SERVICE
OFFICE SERVICE
NEIGHBORHOOD DENSITY (RECOMMENDED 3–6 DU/AC)
URBAN DENSITY (RECOMMENDED 6.01–34 DU/AC)
INCORPORATED TOWN OR CITY
COUNTY BOUNDARY
ROADS
RAILROADS
STREAMS
PARKS AND GREENWAYS
TOWN CENTER
TRANSITIONAL
REGIONAL SERVICE
SEE DEVELOPMENT AREA PROFILE TEXT
OPEN SPACE
NEIGHBORHOOD BOUNDARIES
PROPOSED ROADWAY/IMPROVEMENTS
3 NEIGHBORHOOD
64 INTERSTATE HIGHWAY
29 U.S. HIGHWAY
20 VA. PRIMARY HIGHWAY
795 VA. SECONDARY HIGHWAY
N
1 INCH = 950 FEET
0
1400
2800
4200 FEET
PREPARED BY: ALBEMARLE COUNTY
– OFFICE OF MAPPING, GRAPHICS AND INFORMATION RESOURCES (OOMGAIR) –
MAP REVISED: JANUARY 2002

In 2015, the Comprehensive Plan was updated to designate the portion of the Property then owned by VDOT for Parks and Green Systems. This designation acknowledged not just the desirability of buffers to mitigate visual and noise impacts from the Bypass, but also the existing steep slopes and water features. Now that the Western Bypass project has been terminated, there is no longer any need for such a large buffer area; since the concerns for visual and noise impacts from the Western Bypass were eliminated when that project was terminated. As such, since the Property has returned to its prior private owners, it is appropriate to evaluate it as Urban Density Residential designation, with the Parks and Green systems designation only in those areas with sensitive environmental features.

During the preapplication meeting with County staff, David Benish stated that they recognized the history of the Parks and Green Systems designation with the Western Bypass project and stated it would be taken into account during the review. He recommended that the focus should be on preserving those environmentally sensitive areas.

Focusing on the sensitive areas, and areas planned and programed for parks, trails, and public uses, rather than large swaths of land where a park, greenway, open space, or public use has not been identified, is consistent with the recent designations for conservation within the Board adopted Crozet Master Plan. In addition, it is consistent with direction on prior rezoning applications from the Planning Commission and the Board of Supervisors as it related to net density calculations, see River's Edge Compliance with the Comprehensive Plan (CCP 2018-004) discussion on October 16, 2018. The Concept Plan for the Project mirrors that approach in that it preserves those areas that are actually sensitive and utilizes other areas for development so as to use the scarce development area land more efficiently, as directed by the Comprehensive Plan.

Consistency with the Neighborhood Model Principles

The proposed project is consistent with the applicable Neighborhood Model Principles as follows:

Pedestrian Orientation. Interior sidewalks will be provided throughout the community in the building envelope areas, and as generally shown on the illustrative conceptual plan included in the Concept Plan set. Sidewalks are also proposed along the frontage along Old Ivy Road, along with a sidewalk connecting to the south side of Old Ivy Road. A multi-use path has been provided along the frontage of the property, and a proffer has been offered to extend the path along Old Ivy Road to the east if property can be donated and acquired. The existing Rivanna Trail will be retained, although a small segment of it will be relocated to accommodate the proposed units. The plans show a conceptual relocation of that segment, but the final location will be determined at the site plan stage following consultation with the Rivanna Trails Foundation. The updated Concept Plan has also added traffic calming measure along the main travelway, including numerous crosswalks, bump outs, and a reduction in on-street parking.

Mixture of Uses. Given the Project's proximity to a variety of other non-residential uses, residential and recreational uses are proposed. However, there is a broad variety of housing units provided (apartments, duplexes, townhouses, and single family detached units) as well as a variety of open space and recreational uses. A broad number and variety of commercial and other non-residential uses are either adjacent to or nearby, including the following:

- University of Virginia Offices (copying and printing services, Ivy Stacks, Human Resources, Fontana Food Center)
- Old Ivy Medical Offices
- The Ivy Inn Restaurant
- McLean Faulconer Real Estate offices
- Care Hospice, Inc. (formerly Legacy Hospice)

- Retail and Service uses at Townside Shopping Center (deli, photography studio, coffee shop, insurance office, medical offices, Pour La Masion housewares, hair salon, dry cleaners, florist, Pilates studio, wine shop, among others)
- Vivace Restaurant
- Bel-Air Gas Station and The Market Deli
- Proposed restaurant, coffee shop, and other uses at former Virginia Tractor Property
- Pediatric Associates Pediatricians Group
- Center for the Arts Dance Studio
- Pure Barre Pilates Studio
- UVA Darden School of Business
- UVA Law School
- UVA North Grounds Recreation Center
- Faulconer Construction
- Weldon Cooper Center

Neighborhood Center. The variety of non-residential uses immediately adjacent to and nearby the Property constitute a neighborhood center when considered in the context with the Project, especially given the variety of housing types proposed for the Project. In addition, as noted previously, the nearby Ivy Road Shopping Center is the existing Center for the Western Urban Neighborhoods Priority Area.

Mixture of Housing Types and Affordability. The Project proposes a variety of housing types, including single family detached, single family attached (both townhouses and duplexes), and apartments. In addition, at least 15 percent of the units representing the difference between the number that could be developed on the Property under current zoning and the number that could be developed following the rezoning to R-15 of TMP 60-51 and that portion of TMP 60-24C1 zoned R-10, will be affordable to households making up to 80% of the Area Median Income for a period of ten years.

Interconnected Streets and Transportation Networks. The proposed project would increase the existing interconnected street network and system of non-street connections. Pedestrians, cyclists, and drivers will have more options when the Project is completed, and the Concept Plan identifies a location along the Old Ivy Road frontage for the location of a potential future bus stop. At the suggestion of the County staff, the updated Concept Plan now includes a potential future interparcel connection to the property to the east and a multi-use path along the entire frontage of the property.

Multi-Modal Transportation Opportunities. Residents of the community will have access to multi-model transportation opportunities by vehicle, on foot, or by bicycle. While the Property is not yet accessible via public transit, the Concept Plan identifies a location along the Old Ivy Road frontage for the conceptual location of a potential future bus stop. Applicant is willing to work with the County, the Thomas Jefferson Planning District Commission, public transit providers, and other stakeholders to evaluate the Project for a transit stop and identify the appropriate location for such a stop. The Applicant welcomes the opportunity for transit options to serve the Project when these opportunities are presented. In addition, the updated Concept Plan now includes a multi-use path along the entire frontage of the property and a proffer has been provided that would extend that multi-use path to the east if the property can be obtained by the adjacent property owners.

Parks, Recreational Amenities and Open Space. A large area of open space will be preserved within the Project, including around the existing pond, which will be enhanced, and all of which will provide a variety of opportunities for passive and active recreation, including a network of trails and interconnected sidewalks. The existing Rivanna Trail will be maintained (with a portion being relocated within the Project), which provides access to a footpath that encircles the entire City. The community is also envisioned to include two outdoor swimming pools, a tot lot, grilling areas, other gathering areas, and an indoor fitness center. While the precise

details will be determined at the site plan stage, the Project will satisfy the recreational amenity requirements of the zoning ordinance.

Buildings and Spaces of Human Scale. All buildings within the Project will be four stories or less to break up massing and support the principle of buildings of human scale. The single family residences will likely not exceed two stories. The vast majority of the units within the Project will be located a reasonable distance from adjacent property lines and roads. Particularly when compared to the scale of the six-story University Village building, the buildings on site will be an appropriate height and scale. The taller four story buildings are appropriately located along Old Ivy Road, away from the University Village buildings, to avoid creating any significant adverse impact on the views from University Village units. Site sections have been submitted to demonstrate scale and massing, and the visibility and relative height of the proposed buildings.

Relegated Parking. The Project has been designed to located buildings adjacent to public roads, with the majority of parking relegated behind such buildings. Two small areas of parking are relegated to the side ofthose buildings or to open space or recreational areas. Parallel parking provided along the travelways promotesan efficient use of paved area and contributes to an urban, walkable environment, with numerous crosswalks included and bump outs in the primary travelway. Parking areas are expected to have limited visibility from the Entrance Corridor, especially given the distance involved, and the forested area along the Route 29/250 Bypass. In addition, the elevation of Old Ivy Road is lower than that of the parking lots that will serve the proposed apartment units, and with the required landscaping, will help to mitigate any views of the parking areas from that Road or from Ivy Road.

Redevelopment. This principal is only applicable to the Beyer Parcel since the other parcels are vacant. Regarding the Beyer parcel, which currently contains a single family residence, this application involves a redevelopment of the Property of a type that is expressly recommended by, and consistent with the Comprehensive Plan designation of Urban Density Residential.

Respecting Terrain and Careful Grading and Re-grading. Some grading will need to occur on the Property during construction. The Concept Plan accounts for managed and preserved slopes on the Property. The Applicant will obtain all required permits and approvals that may be needed to conduct grading on the Property. This application includes a separate rezoning application (ZMA 2021-00009) to re-designate all preserved steep slopes to managed steep slopes to allow for certain improvements that, from an environmentalperspective, will improve current conditions. As described in the Preserved Steep Slopes Zoning Map Amendment narrative and related materials, existing preserved slopes are demonstrated to be man-made, a result of construction and waste fill. Impacting those slopes will allow the Project to conserve as much forest aspossible. Further, reducing the grade of these slopes will reduce stormwater drainage across the area while capturing runoff in a stormwater conveyance system. Reducing overland flow and the total amount of runoff willreduce erosion to the remaining slopes.

Clear Boundaries with the Rural Area. Not applicable. The Property is not adjacent to the Rural Area.

Impacts on Public Facilities & Public Infrastructure

The Project does not create any material negative impact on public facilities and public infrastructure.

Included with this application is a Traffic Impact Analysis prepared by Timmons Group. The study recommends several improvements be included as part of the project to avoid creating any impacts on Old Ivy Road. The Concept Plan incorporates those recommended improvements, including the following:

- Installation of an eastbound left turn lane on Old Ivy Road at the proposed site entrance, with a minimum of 100 feet of storage and 100 foot taper.

- Installation of a westbound right turn lane on Old Ivy Road at the proposed site entrance, with a minimum of 100 feet of storage and 100 foot taper.

- Installation of a westbound right turn lane on Old Ivy Road at the US Route 29/250 on-ramp

The location of the Old Ivy Road entrance would be proffered as a major element of the Concept Plan. In addition, Greystar has proposed to proffer either the installation of a multi-use path from the property east down Old Ivy Road, or a cash contribution to the County Capital Improvement Program to help mitigate existing traffic impacts on Old Ivy Road near the Property.

The Project will also include a robust pedestrian network, including internal sidewalks, sidewalks along the entire Old Ivy Road frontage, a pedestrian crossing of Old Ivy Road at the entrance to the proposed community, a connection to the Rivanna Trail, the continuance of the Rivanna Trail on site, and a multi-use path that will connect to Leonard Sandridge if easements are obtained. The general locations of the trails and pedestrian network are proffered as major elements of the Concept Plan. Pursuant to the proposed Proffer Statement, the precise location of the Rivanna Trail will be field-located in coordination with the RivannaTrails Foundation and Albemarle County Parks and Recreation.

Please refer to the section of this narrative about the 1985 Road Proffer for additional information about the Traffic Study's conclusions about the future conditions of Old Ivy Road with the build out of the Project.

Impacts on Environmental Features

The proposed Project has no negative impacts on environmental features. As noted in detail in the materials prepared by Timmons Group regarding ZMA 2021-00009 and the proposed rezoning of the preserved steep slopes on site, the outcome of the proposed modifications to those slope areas will be an improvement from an environmental perspective, over existing conditions. The Project is designed to conserve the existing forested areas, particularly adjacent to the Rivanna Trail, as much as possible. Specifically, the development layout focuses on utilizing spaces already impacted by the existing farmland, construction, and waste fill activities, to minimize the disturbance to the surrounding forested area, as well as some of the managed steep slopes located in those areas. By impacting preserved steep slopes, the plan layout can better preserve existing natural forest, which provides a community amenity, reduces the risk of eroding, reduces the number of retaining walls needed, enhances stormwater quality, and maintains habitat. The Water Protection Ordinance stream buffer on site will be preserved and is shown as a major element on the Concept Plan. The buffers have been updated, based on a jurisdictional determination for waters of the U.S., through the U.S. Army Corps of Engineers, dated August 27, 2020 (copies enclosed). Pursuant to the Water Protection Ordinance, the 100-foot buffer is only applicable to streams that are perennial within the development areas, and thus the plans reflect the location consistent with the jurisdictional determination, which are different than as shown on the County's GIS mapping system.

There are five small areas of wetlands on the property. Three are adjacent and associated with the existing, preserved pond. The Project does not anticipate impacting the wetlands, and to the maximum extent possible will preserve them. Any future impacts would need to be approved by the Army Corps of Engineers, Department of Environmental Quality and Albemarle County Engineer.

When evaluated in this broader context, the Project is carefully designed to not only minimize impacts on environmental features, but to actually improve conservation overall. Please refer to the application narrative for ZMA 2021-00009 for a more detailed explanation of this issue. The Project includes extensive open space areas that will provide space for additional vegetation. In addition, by providing a variety of housing types in walking distance to the University of Virginia Law and Business Schools, and to a variety of other retail shops, offices, and other destinations, the Project will enable residents to walk to these areas and minimize the use of vehicles, which will reduce carbon emissions.

Impacts of the Proposed Development

Parks: The Project will contain a variety of recreational and other amenities for the use and benefit of the residents of the Project, several of which are shown as major elements on the Concept Plan. While the specific details of the amenities have not yet been decided, amenities such as swimming pools, tot lots, grilling areas, other gathering areas, and an indoor fitness center are likely. The general locations and amount of amenities are proffered as major element of the Concept Plan. A large area of open space will be preserved within the Project, including around the existing pond, which will be enhanced and will include a trail network, and all of which will provide a variety of opportunities for passive and active recreation. The existing Rivanna Trail will bemaintained, which provides access to a footpath that encircles the entire City.

Residents will also have easy access to other nearby parks and recreational areas such as the UVA Track, Birdwood Resort (including its golf, tennis, squash, fitness and other recreational amenities), UVA's The Park by the law school, the UVA North Grounds Recreation Center. Notably, with the Rivanna Trail right on site, it provides immediate and direct pedestrian access and connections to other parks and recreational areas throughout the area. The existing Rivanna Trail will be slightly relocated internally to accommodate the Project but will remain as an important amenity of the Project and for the entire community.

Fire & Rescue: The Project will include a secondary emergency access for vehicles in a location still to be determined.

Schools: Old Ivy Residences will provide a variety of new housing options and inventory in the designated Development Area to families who already live in the County and whose children already attend the County public schools, in addition to those families who may relocate to the community in the coming years. So, while Old Ivy Residences will be new to Albemarle County, many of its students and their families will not be. The Project also increases the existing inventory of residences in close proximity to existing transportation networks, places of employment, educational facilities, and nearby services, all as consistent with the Comprehensive Plan. Most importantly, by providing residential units in the designated Development Area at a density that is well within the range recommended by the Comprehensive Plan for the Property, the Project helps to reduce pressure to subdivide Rural Area land for by-right lots, the latter of are directly and fundamentally inconsistent with the Comprehensive Plan. And as noted previously, it is critical to evaluate this issue in consideration of the fact that the majority of the Property is already zoned R-15 Residential, such that the actual increase in permitted residential units is relatively small. Only approximately seven (7) acres of the total 35.39 acres comprising the Property is being upzoned from R-1 and R-10 to R-15.

Students living in the Project would be within the current school districts for Greer Elementary School, Jack Jouett Middle School, and Albemarle High School. Based on the Albemarle County Schools Long Range Planning Advisory Committee Recommendations[7], both Greer and Jouett are under capacity, while Albemarle High School is over capacity. *The Albemarle County Schools Subdivision Yield Analysis,* dated August 23, 2021[8] (the "Yield Analysis"), estimates future student yields by school district boundary and housing type using 2019-2020 enrollment numbers. Based on existing residential developments in the applicable school districts, student yield is calculated in the table below.

Type of Dwelling Unit	**Elementary**	**Middle**	**High**	**Total**
Single-Family Detached (65)	0.12 (8)*	0.07 (5)	0.12 (8)	
Single-Family Attached (54)[9]	0.12 (6)	0.07 (4)	0.12 (6)	
Townhome (47)	0.11 (5)	0.06 (3)	0.03 (1)	
Multi-Family (324)	0.14 (45)	0.06 (19)	0.06 (19)	
	=64	**= 31**	**=34**	**129**

*number of students

[7] *Albemarle County Public Schools Long Range Planning Advisory Committee Recommendations,* dated September 9, 2021.
[8] Prepared by Cooperative Strategies.
[9] The Subdivision Yield Analysis includes single-family attached units within the "existing condominiums" category.

Fewer students would be predicted using county-wide averages for elementary, middle, and high school districts, primarily owing to the higher Greer district multiplier for multi-family housing, which comprises the majority of units in the Project.

The Yield Analysis also measures the anticipated impact of the student yield from developments that have received zoning approval but have not yet been constructed. Such measurement is expressed as a percentage that the new development's student yield will be of the existing student number from the district. That number for Greer is characterized as "low" impact with an anticipated number equal to only 5% of the existing units; for Jouett, the number is also "low" at 12%, and for Albemarle High School, as for the other two comprehensive high schools, the number is characterized as "moderate" as 40% of the existing students.

School Capacity
Based on the Capacity vs. Enrollment Projections through 2030, Greer and Jouett are projected to have capacity, while AHS will remain over capacity. School projections are as follows:

School	K - 1 2 Capacity	2022-23	2023-24	2024-25	2025-26	2026-27	2027-28	2028-29	2029-30
G r e e r	566	482	474	484	481	471	459	459	459
J o u e t t	717	706	702	715	739	733	756	736	713
Albemarle	1,785	1,892	2,009	2,064	2,061	2,098	2,073	2,138	2,189

The Albemarle County Public Schools *Long Range Planning Advisory Committee Recommendations*, dated September 9, 2021 (the "Report") includes an analysis of school capacity data and expected growth (see table, p. 14) that identifies Greer as having low capacity vs. enrollment conflicts, low student yield from developments, and an expected medium population growth. The Report states that, owing to recent school additions, the Urban Ring elementary schools, which include Greer, are expected to remain under capacity, though future development in certain areas provides the potential for student population growth (p. 15). While making no specific recommendation regarding these elementary schools, the Report notes that a future new elementary school in the northern feeder pattern could lead to redistricting that would affect these schools.

The five middle schools in the county have combined adequate capacity currently. Jouett is expected to have moderate capacity conflicts, low student population yield, and low population growth. The Report recommendsa middle school capacity study to look into potential future capacity issues and solutions.

Albemarle High School is expected to have high-capacity conflicts with moderate student yield and medium population growth. The school division "has embarked upon a 'center' based strategy to address capacity issues at its three comprehensive high schools, in particular Albemarle High School." The two "centers" that have been approved and funded by the County will serve 650 students. Center I, which opened in 2018 and is located approximately three and a half miles from the Project, will serve up to 250 students. Center II will serve up to 400 students. While "funding for the construction of Center 2 is paused during the COVID-19 pandemic due to the economic and enrollment uncertainties(,)" the Long Range Planning Advisory Committee "continues to prioritize Center 2 as a capacity solution" (p. 17).

Affordable Housing: The Project will provide that 15% of the units will be affordable to households making up to 80% of the Area Median Income for a period of ten years. As stated previously, it should be noted that the majority of the Property is already zoned R-15 Residential, such that the actual increase in permitted residential units is relatively small. Only approximately seven (7) acres of the total 35.39 acres comprising the Property is being upzoned from R-1 and R-10 to R-15. This affordable housing commitment would be proffered as a legally-binding major element of the Concept Plan.

Open Space: The Project will include large areas of open space. The general locations and general sizes of open space would be proffered as a legally-binding major element of the Concept Plan. The building envelope areas are roughly clustered together to maximize the amount of open space within the Project while also accommodating the necessary infrastructure (roads, parking, utilities) and appropriate amenity areas.

Historic Resources: In response to recent comments from the County's Historic Preservation Planner regarding a ca. 1930 residence and outbuildings that are located on TMP 60-51, the Applicant has provided a note on the Concept Plan that this residence and any outbuildings will be documented in photographs and drawings prior to its demolition in coordination with the County's Historic Preservation Committee.

In addition to the residence and outbuildings, the County commented that archeological testing in the vicinity from a 1985 study revealed some scatted artifacts. The area identified has been disturbed over a number of years as shown in historic aerial photography. Nevertheless, the Applicant will perform additional studies prior to the grading permit to determine if any additional artifacts or resources are present on the site and if found, will work with the County and Department of Historic Resources on findings.

Zoning Ordinance Requirements

The Project is designed to comply with the requirements of the Zoning Ordinance that apply to the R-15 Residential district. Section 18.1 of the Zoning Ordinance explains that the intent of the R-15 district is to provide for "compact, high-density residential development," a "variety of housing types," and "clustering of development and provision of locational, environmental and developmental amenities." Further, R-15 zoning is appropriate in the Western Urban Neighborhoods designated as Urban Density Residential: "R-15 districts may be permitted within the community and urban area locations designated on the comprehensive plan."

The residential uses the Project proposes are all permitted by right in the R-15 district, which includes the following residential uses, among other by-right uses:

By Right Uses

1. Detached single-family dwellings
2. Semi-detached and attached single-family dwellings
3. Multiple-family dwellings
4. Cluster development of permitted residential uses
5. Rental of permitted residential uses

Climate Action Plan

In October 2020, the County adopted the Climate Action Plan that recommends a number of strategies and actions for renewable energy and other initiatives. The Project will specifically contribute to the following strategies and actions:

Strategy: Increase opportunities for bicycling, walking, and other alternative forms of personal transportation for daily travel.

Actions:

- *Increase the extent of sidewalks, bike lanes, and shared-use paths in the County's Development Areas, focusing on strategic, high-impact connections and filling gaps in existing networks.*
- *Improve the quality of bicycle and pedestrian infrastructure in the Development Areas to make it safer and more comfortable for users.*

Strategy: Through land use planning, provide an urban land-use pattern more conductive to sustainable local and regional travel, and to protecting carbon sequestration in the Rural Area.

Actions:

- *Incentivize denser and more mixed-use development patterns within the Development Areas, including infill development within existing low-density areas and redevelopment of existing underutilized commercial sites.*
- *Increase affordable housing options in areas served by a variety of transportation options.*

APPENDIX TO NARRATIVE

Access to Old Ivy Road; Property Zoning History

I. Access to Old Ivy Road

Each of the parcels has road frontage on Old Ivy Road and/or deeded rights of access to Old Ivy Road through the existing access road(s) on the adjacent University Village, Ivy Gardens and University of Virginia parcels.

A. Parcels with Road Frontage

Parcels 24C3, 24C and 51 have road frontage with driveways that access Old Ivy Road. The driveway for Parcel 51 is shown in the County GIS maps as located on the adjacent Huntington Village parcel to the east. However, a plat of record shows that Parcel 51 includes the existing driveway.[10]

The County GIS maps show Parcel 24C3 as fronting on Old Ivy Road for the entire distance from the Route 250 Bypass to Parcel 51 and Parcel 24C as having no frontage on Old Ivy Road. However, as shown on the Existing Site Conditions Plan, both Parcels 24C3 and 24C have road frontage on Old Ivy Road and share an existing driveway providing access to Old Ivy Road. This shared driveway is located primarily on Parcel 24C. To the extent that Parcels 24C3 and 24C do not benefit from a recorded right of access over each other, an access easement could be recorded once the parcels are under common ownership.

B. Parcels with Access Through University Village and Ivy Gardens

Parcels 24C, 24C1, 24C3, and 24C4 all benefit from deeded rights of ingress and egress over the access road (referred to as "Tufnell Road" in several deeds of record) that runs from Old Ivy Road through the Ivy Gardens and University of Virginia parcels to the east and north of the Site, as well as a contiguous easement lying over adjacent portions of the University Village Parcels.

A brief history of these parcels is necessary to show how each parcel obtained the right to use Tufnell Road.

1. History

Parcels 24C, 24C3, and 24C4 derive from a predecessor parcel of 28.29 acres referred to in this narrative as "Old Parcel 24C".[11] Before it was subdivided, Old Parcel 24C was comprised of what is now Parcels 24C, 24C3, and a 3.439 acres portion of Parcels 24C4 and 24C1 consisting of most of Parcel 24C4 and an approximately 0.969 acre portion of what is now Parcel 24C1.[12]

Parcels 24C1 and 24C4 previously comprised a single 5.0 acre parcel referred to as "Parcel X" in the deeds and plats of record. Parcel X was created from a 3.439 acre portion of Old Parcel 24C and a 1.561 acre portion of the parcel to the east of the Site that was eventually developed for University Village (referred to as "Old Parcel 53").[13]

After Parcel X was created, the Virginia Department of Transportation ("VDOT") condemned 15.76 acres on the western portion of the Site for construction of the Route 29 Western Bypass. VDOT condemned 13.29 acres of Old Parcel 24C and 2.47 acres of Parcel X, corresponding to what is now Parcels 24C3 and 24C4 respectively.

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[10] Survey dated May 12, 1994, Deed Book 1407, Page 380.
[11] Survey dated July 28, 1982, Deed Book 862, Page 411.
[12] This area corresponds to the portion of the Site with R15 zoning. In 1985, Old Parcel 24C was rezoned to R15. All the land that was once part of Old Parcel 24C is still zoned R15 today. The referenced 3.439 acres portion of Parcels 24C4 and 24C1 is shown on Survey dated May 5, 1989, revised June 23, 1989, Deed Book 1054, Page 573.
[13] Survey dated May 5, 1989, revised June 23, 1989, Deed Book 1054, Page 573. At the time Parcel X was created, Old Parcels 24C and 53 did not have identical zoning. The portion of Parcel X that was part of Old Parcel 24 was zoned R15, while the portion that was part of Old Parcel 53 was zoned R10. Parcel X was not ever rezoned. As a result, Parcel X had split zoning, which is still evident in Parcel 24C1 today. The 1.561 acre portion of Parel 24C1 that was formerly part of Old Parcel 53 is zoned R10. The remainder of Parcel 24C1 is zoned R15, as is the rest of the land that was formerly part of Old Parcel 24C.

The Western Bypass project was rescinded in 2014 before the planned road construction began. VDOT then conveyed what is now Parcels 24C3 and 24C4 to the successors in interest of the prior owners of that land, by deed and by invalidation of certificate of take, respectively. As a result of these separate conveyances by VDOT, Parcels 24C3 and 24C4 are now separate parcels of land on the County Tax Map.

2. Parcels 24C and 24C1

The Tufnell Road extends from Old Ivy Road to the Route 250 Bypass, over Ivy Gardens and University of Virginia parcels, and adjoins the eastern sides of Old Parcel 53 and Parcel X. Easements over the Tufnell Road benefiting the land including Old Parcel 24C, Parcel X, Parcel 51, and Old Parcel 53 were granted and reserved by deed.[14]

Parcel X was created in 1989 with an appurtenant right of access over Tufnell Road.[15] The declaration of condominium of University Village (Phase 1) was recorded in 1991.[16] As of 1995, Old Parcel 24C and Parcel X were in common ownership and the residue of Old Parcel 53 was owned by the declarant of University Village.On March 7, 1995, the owner of the residue of Old Parcel 53 and declarant of University Village granted an access easement for the benefit of Old Parcel 24C.[17] The easement area is fifty feet wide (which includes the Tufnell Road area) and provides access along the eastern boundary of Old Parcel 53.

Immediately after this easement was granted, Parcel X was conveyed by a deed that granted a corresponding fifty foot access easement (including Tufnell Road and adjoining easement areas over Old Parcel 53) for the benefit of Parcel X and reserved an access easement across Parcel X for the benefit of Old Parcel 24C.[18] This additional easement over Parcel X was reserved for the purpose of reaching the Tufnell Road and the adjoining easement area on Old Parcel 53. Therefore, Parcel 24C currently has a deeded right of access to Old Ivy Road via Tufnell Road, and through Parcels 24C1 and the University Village parcels[19], and Parcel 24C1 currently has a deeded right of access to Old Ivy Road via Tufnell Road and through the University Village parcels.[20] It is noted that a portion of the additional easements over the University Village parcels granted for the benefit of Old Parcel 24C and Parcel X in 1995 (additionally granted for the benefit of Parcel X by deed in 1996) is located on land that had previously been submitted to the University Village condominium (Phase 1) in 1991, and that the University Village Owners Association did not join in the grant of those easements. The portion of the additional

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[14] Deed Book 86-175; Deed Book 87-488.

[15] Deed Book 1054, page 571. This instrument also gives Parcel X the right to access Tufnell Road over Crestwood Drive.

[16] Deed Book 1136, page 137.

[17] Deed Book 1458, Page 154.

[18] A corresponding fifty-foot access easement for the benefit of Parcel X was also subsequently granted by the successor declarant of University Village condominium on December 5, 1996. Deed Book 1583, page 324.

[19] Deed Book 1458, page 157. The original access reserved across Parcel X was described as follows at on page 158:

> The easement shall run along the existing roadway [i.e., Tufnell Road] as shown on the survey, with the addition of such land from Parcel X as is necessary to equal fifty feet (50') in width until it reaches the point shown on such survey as "L4", thence shall curve in a southwesterly direction in such manner as the northwesterly edge of the fifty foot (50') easement will adjoin point "L3", thence in a reasonable curve across Parcel X to the remainder parcel.

This description likely places part of the access easement on a portion of Parcel X that was later taken by VDOT. However, the parties planned for this contingency, and provided that the easement would be moved in such case as follows:

> It is further agreed that in the event a portion of Parcel X and/or the adjoining right-of-way are acquired by the Virginia Department of Transportation or the County of Albemarle, Virginia for development of additional public roads, the easements hereby granted and reserved shall be relocated so as to immediately adjoin the land so acquired by the Department of Transportation or County of Albemarle, if such relocation does not interfere with improvements then existing on Parcel X. In such latter event, the easements will be relocated in an area mutually agreed to by the parties hereto, their successors or assigns.

Note that this condition applies to both the easements "granted and reserved."

[20] Though Tax Map Parcel numbers 60-24C4 and 6024C1 are referred to herein as separate parcels because they are currently shown as such on the County's GIS maps, the boundary between these two parcels was eliminated upon invalidation of the Certificate of Take that created TMP 60-24C4, as discussed below, and all easements granted for the benefit of Parcel X pertain to both Tax Map parcel 60-24C1 and Tax Map parcel 60-24C4.

easements located on the University Village condominium is not required for the access to Old Ivy Road via Tufnell Road.

3. Parcels 24C3 and 24C4 (Former VDOT Parcels)

The appurtenant access easements "run with the land" and when VDOT condemned the portion of Parcel X that is now Parcel 24C4, VDOT acquired the access easements over the adjoining Tufnell Road and the University Village parcels appurtenant to that land.[21] When VDOT subsequently condemned the adjoining portion of Old Parcel 24C that is now Parcel 24C3, VDOT acquired the easements over Tufnell Road and the University Village parcels appurtenant to that land and had access to the easements over both the adjoining Route 250 Bypass right of way and Parcel 24C4.[22] Likewise, the easements remained with Parcels 24C3 and 24C4 upon the subsequent reconveyance by deed and invalidation of certificate of take. Accordingly, Parcels 24C3 and 24C4 retain their rights to the easements providing access via the Tufnell Road and through the University Village parcels, which benefit Old Parcel 24C and Parcel X, respectively. In fact, when the Certificate of Take that created TMP 60-24C4 (Deed Book 1761, page 614) was invalidated by Order (Deed Book 5330, page 110), andownership reverted to The Filthy Beast, LLC, the invalidation of the Certificate of Take also had the legal effect of eliminating the boundary between parcels 24C4 and 24C1, such that now they are now once again combinedinto a single five-acre parcel, though County GIS currently shows two separate Tax Map parcels.

II. Property Zoning History

Other than Parcel 51 (which is zoned R-1 Residential and is not subject to proffers), the entire Site is governed by the zoning and proffers of either Old Parcel 24C or Old Parcel 53. Many of the proffers made when those legacy parcels were rezoned still apply to the applicable portions the Site.[23] When land from both of these legacy parcels was combined to create Parcel X, the resulting parcel had split zoning. That split zoning is still evident in Parcel 24C1 today.

The 28.309 acres of the Site zoned R15 are also subject to a proffer that limits the development of the property to the R-15 density level subject to improved conditions along Old Ivy Road. While the proffer allows developing this portion of the Site with the density, setbacks, dwelling-unit type, and other characteristics permitted by the R15 zoning district regulations, the proffer limits the number of units to the amount that would be allowed if the land were zoned R1 until Old Ivy Road is improved to the satisfaction of the County Board of Supervisors. The proffer provides that when the Board of Supervisors is satisfied that Old Ivy Road has been improved, then this portion of the Site may be developed consistent with R15 zoning without restriction on the number of units.[24]

The 1.561 acres of the Site zoned R10 are subject to a series of proffers related to the University Village development, including ZMA 82-11, ZMA 87-08, and ZMA 96-20, and a legally binding master plan (collectively, the "University Village Proffers"). The master plan, which was last amended in connection with ZMA 96-20, and shows a "health care facility" in this 1.561-acre portion of the Site.[25] The master plan would need to be amended to allow a different use in this location. Furthermore, the University Village Proffers provide that the uses on the property will be limited to "a maximum of 204 residential units; an assisted living facility; a nursing home/health care facility; and, service facilities, such as dining and recreational facilities, administrative offices, and banking within the limits of accessory uses, as provided in the zoning ordinance." If a use other than the foregoing, or if residential units exceeding the proffered limit, were proposed for the portion of the Site subject to the University Village Proffers, then both the master plan and the University Village Proffers would need to be amended. We note that, in 1997, after approval of the ZMA 96-20 amendments, a 3.624 acre portion of the University Village

[21] Deed Book 1761, page 614.
[22] Deed Book 1767, page 94.
[23] The County issued an official zoning determination letter regarding Parcel 24C1 on June 15, 2000. The analysis below is based on the June 15, 2000 official determination letter, and our research has not found any subsequent rezonings or proffers related to the Site since that date.
[24] ZMA 85-21 Action Letter (October 11, 1985).
[25] ZMA 96-20 Action Letter (December 26, 1996).

property (identified as a portion of TMP 60B2-1, now designated TMP 60B2-A) roughly in the location identified as site development area “7 Assisted Living Facility” on the University Village Proffer Schematic plan was transferred to Charlottesville Assisted Living Retirement Community, L.L.C., which subsequently conveyed it in 2002 to Morningside of Charlottesville, LLC. This parcel has been developed and is in operation as a facility providing assisted living and other care.

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