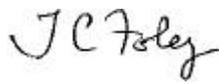


COUNTY OF ALBEMARLE

EXECUTIVE SUMMARY

AGENDA TITLE: Comprehensive Plan Amendment - Cash Proffer Policy for Public Facilities	AGENDA DATE: April 2, 2014
SUBJECT/PROPOSAL/REQUEST: Resolution of Intent and discussion of public process to update and revise the Cash Proffer Policy for Public Facilities	ACTION: X INFORMATION:
STAFF CONTACT(S): Foley, Walker, Davis, Kamptner, Graham, S. Allshouse, Ragsdale	CONSENT AGENDA: ACTION: INFORMATION:
PRESENTER (S): Mark Graham, Rebecca Ragsdale	ATTACHMENTS: Yes
LEGAL REVIEW: Yes	REVIEWED BY: 

BACKGROUND:

The current cash proffer policy (Attachment A) was adopted by the Board on October 10, 2007. The cash proffer policy is part of the County's Comprehensive Plan (CPA 2007-04). The policy was developed following the Fiscal Impact Advisory Committee's (FIAC) analysis of the fiscal impacts of development on the County's public facilities and infrastructure. The FIAC's methodology for determining maximum cash proffer amounts by dwelling unit type and the policy is limited to five capital improvement funding areas: 1) Schools, 2) Parks, 3) Libraries, 4) Public Safety, and 5) Transportation. Other costs associated with growth, such as stormwater, court facilities, and solid waste, were not included in the evaluation process. The policy does not fully capture all anticipated infrastructure costs and provides for a number of possible credits towards the maximum cash proffer amounts.

At its November 6, 2013 meeting, the Board received a staff report (Attachment B) regarding staff's evaluation of the cash proffer policy in terms of its effectiveness and potential barriers to development. The Board discussed the information presented and policy provisions regarding credits against maximum cash proffer amounts. Following this discussion, the Board expressed its interest in amending the cash proffer policy to provide a credit for the number of dwelling units allowed for by-right development under the existing zoning and requested that staff include this as part of a Comprehensive Plan Amendment. On February 5, 2014, the Board reviewed the Community Development Department's (CDD) work program and discussed how a review of the cash proffer policy could be accelerated in the context of the CDD's other work plan items. The Board requested that the cash proffer policy be prioritized and brought back for Board review. Today's work session starts with a review of the existing policy, consideration of public process options in developing revisions to the policy, and a request that the Board adopt a Resolution of Intent to amend the Comprehensive Plan.

STRATEGIC PLAN:

Goal 2. Provide community facilities that meet existing and future needs.

DISCUSSION:

The uses that may be allowed on land may be changed by amending the zoning map and changing the zoning district in which the land is situated (a zoning map amendment, more commonly referred to as a *rezoning*). When land is rezoned at the request of the landowner, one of the ways in which the impacts from the development that will result from that rezoning are addressed is through *proffers*. A rezoning accompanied by proffers is called *conditional zoning*.

Conditional zoning is enabled by State law to address the inadequacy of traditional zoning methods and procedures when competing and incompatible land uses conflict. At least in theory, conditional zoning allows land to be rezoned that might not otherwise be rezoned because the proffers protect the community in which the land is located by imposing additional regulations or conditions on the land being rezoned.

Proffers are reasonable conditions designed to address the impacts resulting from a rezoning. Typical proffers may address a wide variety of impacts including impacts to public facilities such as schools, parks and libraries (a commitment to contribute cash or to phase development to coincide with installation of needed infrastructure), impacts on transportation (a commitment to contribute cash or to construct necessary transportation improvements such as

travel lanes or signals); impacts on natural, historical or cultural resources (a commitment to preserve certain areas, structures or cultural resources on the site); or impacts on the environment (a commitment to install enhanced erosion and sediment control measures).

Proffers are not imposed by the Board when it acts on a rezoning application. Instead, proffers are submitted by the applicant and, by State law, they must be voluntary. The voluntary nature of proffers does not mean that the County is powerless to engage the applicant in a dialogue as to how the impacts resulting from a rezoning should be addressed. The County is obligated to identify all of the impacts resulting from a proposed rezoning and identify what needs to be done to address those impacts through proffers. *It is then up to the owner to decide whether it wants to provide proffers to address some or all of those impacts; the owner at its option may elect not to address all of the impacts,* and instead try to persuade the Planning Commission and the Board that the impacts need not be addressed or that the proposed project has other public benefits that would justify approving the rezoning, even if some or all of the impacts go unaddressed in proffers.

Existing Policy

The County's Cash Proffer Policy for Public Facilities is an appendix to the Growth Management section of the County's Comprehensive Plan. The cash proffer policy establishes general guidelines, a methodology for computing the impact on public facilities associated with each type of new dwelling unit, and the maximum cash proffer that will be accepted for each type of dwelling unit. The proffer policy was developed for a number of reasons:

- **To provide an additional means of funding an increasing demand for infrastructure improvements associated with growth in the Development Areas.** The Growth Management Plan recognizes the need to fund capital improvements and infrastructure with a higher level of service to Development Areas and emphasizes the shared responsibility between the County and new development to pay for infrastructure to address the impacts of new development. The cash proffer policy provides a balance between the developer increasing its property's value resulting from rezoning the property to allow more intensive residential development and assuring funding for improvements needed to reduce the impacts resulting from that development. This policy only applies to property where the owner is requesting it be rezoned for higher density and does not apply to "by-right" development.
- **To respond to recommendations of the Development Process Review Task Force (DPRTF).** Recommendations of the DPRTF included a list of priority actions for the County, including the development of a proffer policy: *"Develop a Proffer Policy to include elements beyond a cash amount."*
- **To simplify the evaluation of rezoning applications.** The DPRTF determined one of the major delays in the consideration of rezoning applications was reaching an agreement on the case-by-case impacts associated with each proposal.
- **To create certainty for developers.** Because a cash proffer policy assumes an average impact for all development, each property is evaluated against this average impact. This greatly reduced the uncertainty for developers in determining the cost of a rezoning application.

Process Options

Staff has outlined two approaches to this proposed policy amendment with an attempt to correlate the amount of public engagement to the breadth of the considered changes. An outline with a timeline and roles for both options is provided as Attachment C and each option is summarized below.

Option 1 - This option is a simplified process with limited considerations: 1) Update the proffer amounts using the methodology in Part B of the current policy to calculate maximum proffer amounts; and 2) Update possible credits in Part C of the policy. Staff believes the maximum cash proffer amount should be recalculated by the FIAC using the approved methodology and the FY 15 budget (The capital improvement plan for FY 15-19 and the capital needs assessment for FY 20-24). Based on input from the Board and the development community, staff believes that Part B of the policy regarding credits should be updated to address, at a minimum, credits for by-right development credits for land and infrastructure. Given the limited changes with this option, staff believes the opportunity for public input provided in the typical Planning Commission process for a Comprehensive Plan Amendment would be sufficient.

Option 2 - This option is a more comprehensive consideration of the policy in which the public would first be requested to identify desirable changes to any element of the policy. This could include significant changes to sections regarding both the infrastructure and the credits provided in the policy. This would be a major effort and limit staff's capacity to address other Board priorities that may be identified for the next year.

AGENDA TITLE: Comprehensive Plan Amendment - Cash Proffer Policy for Public Facilities

April 2, 2014

Page 3

For the reasons outlined in the November 6, 2013 Executive Summary, staff believes it is premature to consider a complete reevaluation of the policy. The policy was adopted just prior to the 2008 recession, and a significant inventory of zoned property existed at that time. The economy is returning to normal, but a large inventory of previously zoned property still remains undeveloped. As such, staff believes Option 1 is the more appropriate consideration at this time and believes this option is consistent with the Board's direction at the November 6, 2013 meeting.

Resolution of Intent - As part of the process, staff recommends that the Resolution of Intent (Attachment D) be adopted. This would clarify the Board's intent to consider changes to the policy and legally initiate the Comprehensive Plan Amendment process.

BUDGET IMPACT:

Should the Board wish to consider changes to the policy, staff would include consideration of budget impacts with those changes. Cash proffers are a valuable source of revenue to address impacts from development and they support the funding of important County projects which would otherwise be funded through general tax revenue. Using cash proffer funding for current or planned FY14–FY18 CIP projects builds capacity in the CIP by freeing up funding for other projects. In addition, non-cash proffers provide improvements that might otherwise need to be funded by general tax revenue.

RECOMMENDATIONS:

Staff recommends that the Board adopt the attached Resolution of Intent (Attachment D) and that the Board direct staff to proceed following the process outlined as Option 1 in Attachment B. Should the Board wish to modify this process, staff requests the Board identify the specific changes. Staff will then implement the approved process.

ATTACHMENTS:

A - [Cash Proffer Policy for Public Facilities](#)

B - [November 6, 2013 Executive Summary](#)

C - [Process Options for Amendment of the Policy](#)

D - [Resolution of Intent for Comprehensive Plan Amendment \(CPA\) to consider revisions to Cash Proffer Policy for Public Facilities](#)

[Return to agenda](#)