# Cash Proffer Amendment Procedure Alternatives

**Hanover County Board of Supervisors**
**December 12, 2012**

# Introduction

- Through the Customer Service Initiative (CSI), the Planning Department has developed two timelines for processing rezoning requests
  - The shorter of the two timelines (Routine Process 3-4 months) is used when there are relatively few issues and potential impacts arising from the proposed rezoning and there is no significant community interest in the proposal
  - The longer process (Complex Process 5-6 months) is used when there are significant potential impacts arising from the proposal which need detailed examination and evaluation (i.e. traffic and environmental impacts) and when the community expresses significant interest in the proposal

- Staff has identified several alternative processes for Board consideration recognizing the Board is interested in considering alternatives to the standard processes established through the CSI review

# Factors to be Considered for All Amendment Processes

- Although there may be relatively little detailed professional analysis, significant staff resources will be devoted to processing applications in an expedited timeframe
  - Applications must be reviewed for accuracy
    - Ownership
    - Proffer status (paid vs. unpaid)
  - Notification letters need to be prepared and mailed to adjacent property owners
    - Process dependent
  - Legal notices ***may*** need to be prepared
    - Involves lead time to meet legal deadlines

# Alternative Processes

**Routine Process (3 months) - Alternative 1**

- Application submitted the first Monday of the month
- Advertise the case for the following month's PC meeting (third Thursday of the month)
- Advertise for the 2nd Board meeting (fourth Wednesday of the month) for the month following the PC meeting

**Combined Public Hearing Process (approx. 5 weeks) – Alternative 2**

- Application submitted the first Monday of the month
- Advertise for a Joint Planning Commission and Board of Supervisors Meeting the first week of the following month
    - Includes normal advertising requirements per 15.2-2204
        - Legal notice published in newspaper
        - Adjacent property owners sent notice via certified mail

- The Planning Commission and Board of Supervisors hear the case simultaneously
    - Commission must make recommendation after which the Board may take an action on the request

# Alternative Processes (continued)

**Non-Public Hearing Process per (approx. 4 weeks) – Alternative 3**

- Application submitted the first Monday of the month
- Present application to Planning Commission the third Thursday of the month
  - Assumes Board determines Planning Commission involvement is necessary
- Present case to Board for action 4th Wednesday of the month

**Non-Public Hearing Application Procedural Recommendations**

- Because 15.2-2302 only requires that property owners subject to the proffer being amended be notified, staff recommends that the applicant notify those property owners as part of the application requirements
  - Typically County undertakes notification
  - Due to compressed schedule and limited staff resources, applicant would undertake this effort and provide appropriate evidence as part of application process

# Board Expectations

- Staff is seeking direction from the Board as to its expectation regarding application of the cash proffer amendment policy and procedures

- Not all residential development has the same immediate and long-term impact upon community facilities and roads
  - 31 approved projects/recorded subdivisions with 50 or more residential lots totaling approximately 3600 approved lots
  - Approximately 3350 of the lots do not have building permits issued
  - Larger projects (50 or more lots available for development) *may* have impacts to the road network
    - Each single family detached dwelling produces approximately 9.5 weekday vehicle trips
    - AM Peak weekday trips = .75 per dwelling
    - PM Peak weekday trips = 1.01 per dwelling
  - 50 home single family detached residential subdivision would generate the following:
    - 475 weekday trips
    - 38 AM Peak trips
    - 51 PM Peak trips

# Proffer Amendment Considerations

- Board may wish to consider differentiating between projects which are expected to have immediate impacts to roads and public facilities from those that are not expected to have such impacts
  - For instance, projects with fewer than 50 lots available for construction will have relatively little immediate impact
    - Board may wish to consider a process whereby such applications would go through a relatively short and streamlined amendment process
      - The  Routine Process
      - The Joint Public Hearing Process
      - The Non-Public Hearing process

- Projects with 50 or more residential lots available for construction would be subject to an amendment process whereby impacts to public facilities and roads would be specifically evaluated to determine impacts arising from the project
  - Many of these cases would likely fall within the complex case timing of 5-6 months due to more intensive analysis

## Summary

- Staff has presented three alternative processes for Board consideration
  - The Routine Process – Alternative 1
  - The Joint Public Hearing Process – Alternative 2
  - The Non-Public Hearing process – Alternative 3

- The Board has also been provided options for considering an alternative process for residential developments that may have more immediate impacts to public facilities and roads
  - i.e. projects with 50 or more residential lots available for construction

- Staff is seeking direction as to which process the Board desires to follow

- Staff is also seeking direction regarding an alternative process for projects with greater immediate impacts to roads and community facilities

## Next Steps

- There is a  question as to the Board's expectations for those dwellings that are subject to a cash proffer and are currently under construction
  - The cash proffer for those units is due prior to issuance of the Certificate of Occupancy
  - The proffers need to be amended before the cash proffer obligation can be reduced or eliminated
  - Barring any additional direction from the Board of Supervisors, the builder currently has two options
    - Pay the cash proffer at the time the CO is issued; or,
    - Delay CO issuance until the proffer is amended

- If it is the Board's desire to eliminate the cash proffer for any dwelling being issued a CO after November 28, 2012, the staff would recommend the following process which is responsive to both the cash proffer obligation currently in place and the Board's desire to provide the desired cash proffer relief

# Cash Proffer Performance Bond

- At the time a CO is requested the builder/owner would enter into a performance agreement with the County and post a bond equal to the amount of the cash proffer obligation

- Following the execution of the performance agreement and posting of the bond, the owner/builder could file a zoning amendment for the cash proffer elimination or reduction

- If approved by the Board, the owner/builder would have fulfilled their obligation under the performance agreement and the cash bond would be released accordingly

- If the request is denied, the owner/builder would be required to pay the cash proffer, and upon payment the performance agreement would be fulfilled and the bond released