

# Taxing the upzone:

Cash proffers and residential construction

---

Colin Williams

July 20, 2023

University of Virginia

# Zoning and The Coase Theorem

For locals, many negative externalities from residential land use:

- High marginal infrastructure costs (schools, roads, etc.)
- Noise, shade, parking, traffic congestion
- “Business-stealing” – new supply lowers price of existing housing stock

Local government has zoning authority  $\implies$  property rights are well defined

Why don't we see more welfare-enhancing trades?

## Board approves rezoning for 335 multi-family units in Woodbridge

By NOLAN STOUT Jul 14, 2022  5

The company plans to contribute \$431,815 to the county to mitigate the development's impact on schools, public safety, the environment and parks and recreation.

## Board of Supervisors Approves Old Dominion Village Development

compensate for the development's impact on schools and local roads, the proposal includes proffers of \$3,000 for every single-family detached unit and \$2,500 for each attached unit,

 1332

## Culpeper planners OK rezoning for 274-home 55+ development

Allison Brophy Champion Mar 13, 2022  0

He added, "This is a creature unlike any Culpeper has seen before...To be perfectly blunt, active adult communities are cash cows."

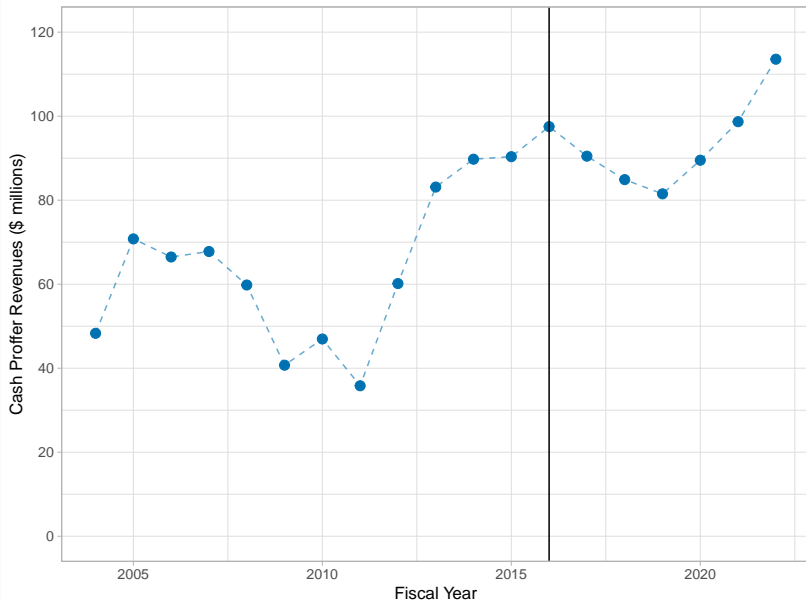
# VA Proffer Reform Act of 2016

“Impact fees” broadly illegal in VA  $\implies$  localities rely on “voluntary” proffers tied to a rezoning application

In 2016, builders were unhappy with large cash proffers, lobbied state legislature for reform:

- Proffers must address an impact that is *specifically attributable* to the proposed development
- Applies to all residential rezoning applications filed after July 1, 2016 (small parts of NOVA are excepted)

# Reform has chilling effect on proffer revenues



# What happens to housing construction?

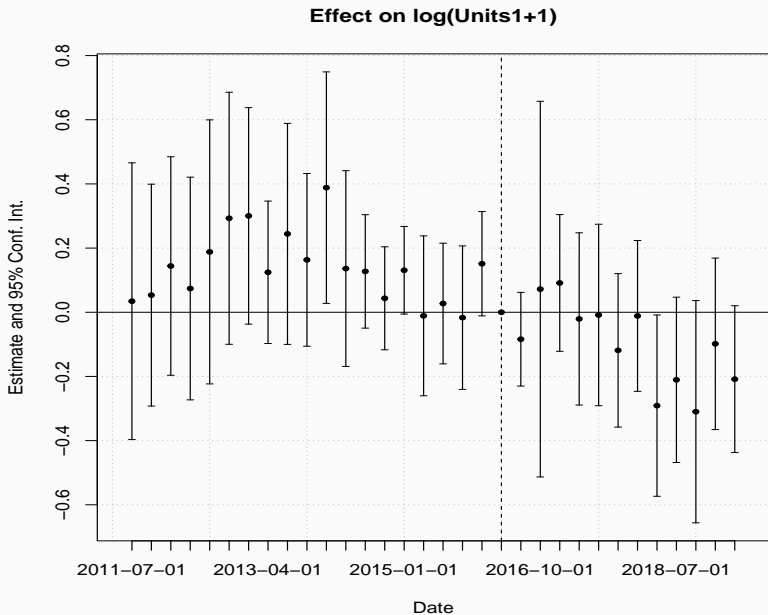
Estimate an event study specification:

$$\log(\text{Permits}_{jt} + 1) = \sum_{t=2011q3}^{2019q2} \beta_t(\text{Proffers16}_j \times I_t) + \gamma_j + \delta_t + \epsilon_{jt}$$

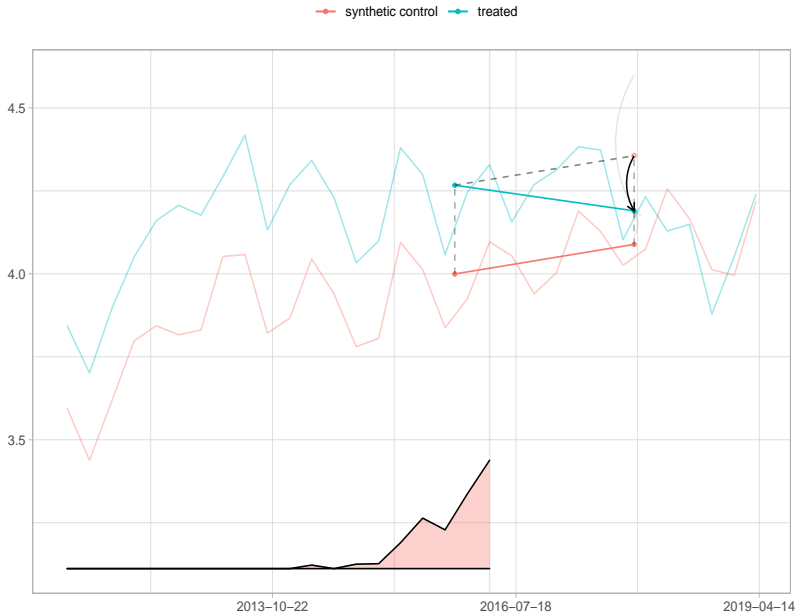
where for county  $j$  in year-quarter  $t$ :

- $\text{Permits}_{jt}$  is the number of approved single-family building permits
- $\text{Proffers16}_j$  indicates VA counties in which pre-reform proffer revenue exceeded 1% of assessed value of all approved housing units
- $I_t$  is a set of year-quarter indicators
- $\gamma_j, \delta_t$  are county and time fixed-effects

# Single family permits fall with a lag



# Synthetic DiD (Arkhangelsky et al 2021)





Effect is imprecise:

- Census Building Permit Survey data are noisy
- Developers anticipated reform, rushed to file applications before law takes effect
- Rezoning negotiations are protracted  $\implies$  small immediate impact

Solution: collect data on rezoning applications and ordinances to clarify mechanism

# Data on Rezoning Activity

## ORDINANCE NO. 16-A(9)

### **ZMA 2015-00007 BROOKHILL**

**AN ORDINANCE TO REZONE 277.5 ACRES  
FROM R1-RESIDENTIAL DISTRICT TO NEIGHBORHOOD MODEL DISTRICT (NMD)  
FOR TAX MAP PARCEL NUMBERS 04600-00-00-01800, 04600-00-00-018A0, AND 04600-00-00-01900**

**WHEREAS**, the application to rezone 277.5 acres from R1-Residential District to Neighborhood Model District (NMD) for Tax Map Parcel Numbers 04600-00-00-01800, 04600-00-00-018A0, and 04600-00-00-01900 (the "Property") is identified as ZMA 2015-00007, Brookhill ("ZMA 2015-07"); and

**WHEREAS**, staff recommended approval of ZMA 2015-07 provided that minor revisions were made to the proffers, the application plan, and the code of development; and

**WHEREAS**, the Planning Commission held a duly noticed public hearing on ZMA 2015-07 on August 16, 2016, and recommended approval conditioned on the applicant making the staff-recommended revisions, as well as an additional revision, and such revisions have since been made.

**BE IT ORDAINED** by the Board of Supervisors of the County of Albemarle, Virginia, that upon consideration of the staff report prepared for ZMA 2015-00007 and its attachments, including the proffers dated October 13, 2016 and signed on October 21, 2016, the information presented at the public hearing, the material and relevant factors in Virginia Code § 15.2-2284, and for the purposes of public necessity, convenience, general welfare and good zoning practices, the Board hereby approves ZMA 2015-00007 with the proffers dated October 13, 2016 and signed on October 21, 2016, the Application Plan dated June 15, 2015 and last revised September 16, 2016, and the Code of Development dated June 15, 2016 and last revised October 13, 2016.

\*\*\*

I, Claudette K. Borgersen, do hereby certify that the foregoing writing is a true, correct copy of an Ordinance duly adopted by the Board of Supervisors of Albemarle County, Virginia, by a vote of five to zero, as recorded below, at a regular meeting held on November 9, 2016.

*Claudette K. Borgersen*  
Clerk, Board of County Supervisors

Aye      Nay

X

Mr. Dill

# Data on Rezoning Activity

## 3. Cash Proffer for Capital Improvements Projects.

A. The Owner shall contribute cash on a per “market-rate” dwelling unit basis in excess of the number of units that are allowed by right under the zoning in existence prior to the approval of this ZMA 2015-007 for the purposes of addressing the fiscal impacts of development on the County’s public facilities and infrastructure, i.e., schools, public safety, libraries, parks and transportation. For the purposes of this Proffer 3, the number of units allowed by right under the R-1 Residential zoning is two hundred sixty-nine (269) single-family detached units. A “market rate” unit is any dwelling unit in the Project that is not either a For-Sale Affordable Housing Unit or For -Rent Affordable Unit as described in Proffer 4 (“Market Rate Unit”). The cash contributions shall be Seven Thousand Three Hundred Thirty-three and 18/100 Dollars (\$7,333.18) for each single family detached Market Rate Unit, other than a constructed For-Sale Affordable Dwelling Unit within the Project qualifying as such under Proffer 4. In other words, the cash contribution for market rate single family units shall begin after the issuance of a CO for the 269th single family dwelling unit and prior to the issuance of a CO for the 270th single family dwelling unit. The cash contributions for each single family attached Market Rate Unit shall be Five Thousand Four Hundred and Forty-seven and 57/100 Dollars (\$5,447.57), other than a constructed For-Sale Affordable Housing Unit or a For Rent Affordable Housing Unit within the Project qualifying as such under Proffer 4. The cash contributions for each multifamily Market Rate Unit shall be Seven Thousand Four Hundred Nineteen and 91/100 Dollars (\$7,419.91), other than a constructed For Sale Affordable Housing Unit or For Rent Affordable Housing Unit within the Project qualifying as such under Proffer 4.

## 4. Affordable Housing.

The Owner shall provide affordable housing equal to fifteen percent (15%) of the total number of residential units constructed on the Property. For example, if one thousand (1000) total units are constructed in the Project, one hundred fifty (150) units, or their equivalent, are required to be provided to satisfy this Proffer 4, subject to paragraph 4C. The Owner or its successors in interest reserve the right to meet the affordable housing objective through a variety of housing types, including but not limited to for sale units, rental units, accessory units and Carriage Units, (“Affordable Units”) or through cash contributions, as more particularly described in sections 4A, 4B and 4C below.

## External Validity – Why Bother?

VA proffer regime is unusual, but impact fees widespread across US

Empirical connection between proffers, rezonings offers unique opportunity to learn about welfare impacts of statewide zoning reforms.

Data could help answer questions like:

- How much would locality pay to avoid state-mandated upzoning of single-family residential land? To avoid mandatory ADUs?
- How much do localities value affordable housing units?