

**REZONING-0001-2017, SPECIAL USE PERMIT-0001-2017, MASTER PLAN-0001-2017, HEIGHT WAIVER-0001-2017.
Williamsburg Landing, Marclay Road**

Staff Report for the November 1, 2017, Planning Commission Public Hearing

SUMMARY FACTS

Applicants: Paul W. Gerhardt and William L. Holt,
Kaufman and Canoles, P.C.

Land Owner: Short Neck LLC

Proposal: To rezone a portion of the property to R-5,
and for a Special Use Permit (SUP) to allow
up to 135 independent living facility units,
along with a Height Waiver for the proposed
apartment buildings to be constructed up to
60 feet from grade.

Location: 20 Marclay Road

Tax Map/Parcel No.: 4820100012

Project Acreage: +/- 15.5 acres total

Current Zoning: R-8, Limited Residential

Proposed Zoning: R-5, Multifamily Residential

Comprehensive Plan: Airport

Primary Service Area: Inside

Staff Contact: Alex Baruch, Planner

PUBLIC HEARING DATES

Planning Commission: April 5, 2017, 7:00 p.m. (Deferred)
Planning Commission: May 3, 2017, 7:00 p.m. (Deferred)
Planning Commission: November 1, 2017, 7:00 p.m.
Board of Supervisors: December 12, 2017, 5:00 p.m. (Tentative)

FACTORS FAVORABLE

1. The proposal is compatible with the adjacent Williamsburg Landing development.
2. Public access to the proposed development will only come through Williamsburg Landing Drive, thereby minimizing any potential impacts to Marclay Road.
3. The SUP conditions include adherence to a number of adopted policies including Archaeology and Streetscape.
4. Increases housing opportunities for the County's aging population identified in the 2035 Comprehensive Plan, although this is not binding.
5. The proposal meets the adequate Public Schools Facilities Test, adopted by the Board of Supervisors on June 23, 1998, due to a new middle school being in the adopted Capital Improvements Program (CIP).
6. Determination of no hazard by the Federal Aviation Administration (FAA), stating that the structures would not exceed obstruction standards and would not be a hazard to air navigation.

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FACTORS UNFAVORABLE

1. The proposal is inconsistent with the recommended uses for the airport designation in the James City County Comprehensive Plan adopted in 2015, *"Toward 2035: Leading the Way."*
2. While the development may be age targeted, without the ability to guarantee age restrictions, the project is fiscally negative per the submitted FY 17 Fiscal Impacts Analysis worksheet.
3. The Virginia Department of Aviation (DOAV) has noted several concerns about the proposed residential development adjacent to the airport, including safe ingress/egress of all air traffic and potential for generation of noise complaints. (Condition Nos. 2-4)
4. Proffers are not accepted for residential rezonings. As such, some of the typical impacts associated with residential development are not mitigated, including impacts to schools, traffic, the James City Service Authority (JCSA) and providing affordable and workforce housing opportunities.
5. The proposal does not fully meet the recommendations of the Parks & Recreation Development Guidelines. The applicant is seeking an exception from the Board of Supervisors, as further discussed below.
6. The proposal is inconsistent with the surrounding Low Density Residential (LDR) James City County Comprehensive Plan designation when considered as a standalone project (8.71 dwelling units per acre). If considered within the context of the existing Williamsburg Landing Master Plan and development, the density for both projects together would be 3.78 dwelling units per acre.

SUMMARY STAFF RECOMMENDATION

Staff recommends that the Planning Commission recommend denial of the proposed rezoning and SUP. Should the Commission wish to recommend approval of this application to the Board of Supervisors, staff recommends that the conditions listed in Attachment No. 1 be applied. The Board of Supervisors will consider the Height Limitation Waiver portion of this application. Proposed conditions have been included for this application as Attachment No. 2 for informational purposes as the Commission does not review Height Limitation Waiver requests.

Proposed Changes Made Since the May 3, 2017 Deferral

A balloon test was conducted on Friday, April 28, 2017, at 10 a.m. on 100 Marclay Road in the approximate location of the proposed 60-foot structure. Pictures from multiple vantage points are shown on Attachment No. 13. With the balloon at 60 feet, the balloon was able to be seen from the Williamsburg-Jamestown Airport, the service entrance to Williamsburg Landing on Marclay Road and the corner of Lake Powell Road and Marclay Road. Across College Creek at a resident's property south of Kingspoint Clubhouse, the top of the balloon was able to be seen just over the trees. The balloon was not able to be seen from the Kingspoint Clubhouse, Route 199 over College Creek, the Williamsburg Winery or the Rolling Woods subdivision entrance. The applicant also prepared a summary of the balloon test, which is included as Attachment No. 17.

The FAA's determination of no hazard was completed on June 8, 2017 (Attachment No. 14). The determination of no hazard states that the structures would not exceed obstruction standards and would not be a hazard to air navigation. DOAV states that they stand by their

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conditions, but would not hold up the application with the determination of no hazard (Attachment No. 15).

PROJECT DESCRIPTION

- The proposal is a standalone rezoning and SUP request as the application does not amend the existing Williamsburg Landing Master Plan.
- If adopted, the proposed Master Plan would permit:
 - Up to 135 independent living facility units:
 - Sixty-five duplex/townhome units proposed in Area I and II on the Master Plan (Type B).
 - Seventy apartments proposed in Area II on the Master Plan (Type D).
- Access to the development would be through Williamsburg Landing Drive with only service and emergency access coming from Marclay Road.
- The project proposes a buffer area between the residential units and the airport.
- On the eastern portion of the project closest to College Creek, the project proposes stormwater management and open space to preserve the Resource Protection Area (RPA) buffer.
- As specified in Note 1 on the Master Plan, R-5 open space requirements would be met within Areas I and II through the implementation of trails and a passive recreation area. There is

also a non-binding commitment to share and use recreation facilities at Williamsburg Landing.

- The applicant has indicated that construction of the project would likely not be on Williamsburg Landing's immediate horizon and, therefore, has asked for consideration of an extended time period for commencement of construction as written in the SUP condition. Should the Planning Commission and Board of Supervisors concur with the request, the extended timeline would mean a longer time period of SUP validity than what is typically recommended by staff.
- The Statement of Intent in the R-5, Multifamily Residential District states: "The Multifamily Residential District, R-5, is composed of moderate- to high-density residential areas and other such areas where similar development is likely to occur. It is the purpose of this district to provide for a harmonious and orderly relationship between multifamily residential uses and lower-density residential uses or nonresidential uses. A further purpose is to require that development within this district be adequately served by public facilities, that adequate open space and recreational areas be provided for the use of residents and for buffering of adjoining property and to implement the policies and designations of the Comprehensive Plan."
- The application demonstrates commitment to development of the independent living facility use through the use of notes on the binding Master Plan, through the proposal to access the site through Williamsburg Landing as shown on the Master Plan and through stated intention in the Community Impact Statement.

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ABILITY TO GUARANTEE THE DEVELOPMENT AS PROPOSED

- On June 28, 2016, the Board of Supervisors adopted Ordinance No. 31A-304, specifying that the County will only accept proffers associated with nonresidential rezonings.
- This application proposes independent living facility units. The Zoning Ordinance definition states that independent living facilities contain independent dwelling units and provide housing and supportive services such as meals, housekeeping, social activities and transportation for residents.
- The definition of independent living facilities does not limit the age of the individuals living in the units and does not specify that the support services must be through any specific agency (i.e., support services would not have to be provided through Williamsburg Landing). Further, the independent living facilities definition states “support services such as” and does not specify that all the support services listed would need to be provided or in what manner they would need to be provided.
- While the Master Plan for this proposal is binding, rezoning the property from R-8 to R-5 does increase the residential unit potential, and without proffers, there is no way to guarantee the unit type as shown.
- The County, therefore, is faced with assessing the development potential and associated land use impacts of this proposal. Because age restriction, in the absence of proffers, cannot be binding, the staff report describes impacts for a non-age-restricted proposal (traffic generation, fiscal impact, schools). Information

on the use as an age-restricted independent living facility has been provided by the applicant and included in the staff report as well.

- Proffers are not accepted for residential rezonings; however, many of the impacts can be mitigated through SUP conditions, which are attached to and discussed throughout this staff report (Attachment No. 1).
- Should the Independent Living Unit Use SUP expire, these conditions would no longer apply to the property unless and until a new SUP is sought and approved; however, the R-5 zoning would remain.

PLANNING AND ZONING HISTORY

Williamsburg-Jamestown Airport:

- A small portion of this project’s area along the southern edge had previously been included in the Airport Master Plan.
- The Williamsburg-Jamestown Airport officially opened in 1970 as a privately owned airport operated for use by the general public.
- In 1986, Case No. SUP-26-85 was approved by the Board of Supervisors, which made the airport use a legal conforming use in the R-8 Zoning District. In 1997, the Board of Supervisors approved SUP-23-97, which permitted phased development of the airport over a 20-year period. The tax maps used for that case are identified as Parcel Nos. (1-5A) and (1-6) on Tax Map No. (48-2).

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- In 2004, the Board of Supervisors approved SUP-16-04 to allow airport facilities, including T-Hangars as shown on the previously approved Master Plan to be built on Tax Map Parcel No. (48-2)(1-12).
- The Master Plan shows proposed expansions throughout the property as demand dictates. The Master Plan does not show any structures or proposed expansion on the land included as part of the current application.
- The rest of the project area property is shown as Waltrip's property (Attachment No. 9 Airport Master Plan and Attachment No. 1 Draft SUP Conditions).

Williamsburg Landing:

- The land included as part of the current application is not part of the Williamsburg Landing Master Plan. The application seeks to integrate the proposed project through complementary zoning use and access.
- 5550, 5660 and 5700 Williamsburg Landing Road comprise the Williamsburg Landing Continuing Care Retirement Community (CCRC). In 1982, a portion of the Williamsburg Landing site was rezoned from A-2, Limited Agriculture to R-5, Multifamily Residential. No proffers were part of this case, which approved nursing home facilities, facilities for residence and/or care of the aged and offices.
- In 1984, four acres were incorporated into the R-5 Zoning District.

- In 1991, a portion of the site was rezoned from R-8 to PUD-R to allow a 60-unit single-family development.
- Rezoning cases in 1993, 1995, 2001 and 2008 added property to the site, introduced proffers and approved single-family, nursing, facilities for residence and/or care of the aged, assisted living units and independent living units in the overall development with caps being established and amended.
- Case No. Z-02-08/SUP-18-08 allowed a total of 100 nursing units, 100 assisted living units and 87 independent living facility units on the property.
- The applicant received SUP extensions for the commencement of construction in 2011 under SUP-05-11 and again in 2014 under SUP-10-14.
- In 2015, Case No. SUP-06-15/Z-4-15 (Proffer and SUP Amendment) was requested to allow for an increase in assisted living units from 100 to 131 and a decrease in nursing units from 100 to 73. The request resulted in a net increase of four units over the total number of units currently permitted on-site. The application also allowed modification of the design of previously approved facilities by combining three previously approved facilities into two buildings.

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- If considered within the context of the existing Williamsburg Landing Master Plan and development, the density for both projects together would be 3.78 dwelling units per acre. However, as a standalone project, this development has a density of 8.71 dwelling units per acre.

Unit Type for All Current and Proposed Williamsburg Landing Properties					
Unit Type	5550 Williamsburg Landing Dr.	5560 Williamsburg Landing Dr.	5700 Williamsburg Landing Dr.	20 Marclay Dr. (Proposed)	Total
Independent Living	28	87	213	135	463
Assisted Living	0	131	0	0	131
Nursing	0	73	0	0	73
Total	28	291	213	135	667
Acreage	15.79	50.01	72.7	15.5	154
Gross Density	1.77	1.74 *without assisted living or nursing units	2.93	8.71	3.78

SURROUNDING ZONING AND DEVELOPMENT

- North: Williamsburg Landing
- South: Williamsburg-Jamestown Airport, R-8, Airport Approach Overlay District
- West: Marclay Road, Williamsburg Landing and Williamsburg-Jamestown Airport
- East: College Creek and Kingspoint

PUBLIC IMPACTS

Anticipated Impact on Public Facilities and Services:

Streets

- A traffic impact study was not required for this development since the PM peak trip generation fell below the 100 trip trigger in the Ordinance. The tables below show the projected PM peak trip generation for 135 dwelling units. Per the Institute of Transportation Engineers (ITE), a Senior Adult Housing Attached Use would be projected to have a lower trip generation than non-age-restricted housing. The project would take access through Williamsburg Landing Drive. The main access road, Williamsburg Landing Drive, intersects with Lake Powell Road. This intersection currently includes a southbound left-turn lane. The Virginia Department of Transportation (VDOT) has requested a Right-Turn Lane Warrant Analysis for the northbound movement on Lake Powell Road at the Plan of Development stage (Condition No. 13).

- If the development proceeds as an age-restricted community:

Use (ITE Code)	Peak PM Trip Generation (trips)
Senior Adult Housing, Attached (252)	47.25

- If the development proceeds as a non-age-restricted community:

Use (ITE Code)	Peak PM Trip Generation (trips)
70 Apartments (220) + 65 Townhomes (230)	80.33

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- The James City County, Williamsburg, York County Comprehensive Transportation Study prepared in 2012 projected a Level of Service F for the Route 199 segment between the Williamsburg city line and Henry Street/Colonial Parkway.
- A VDOT project for a right-turn lane from Brookwood to Route 199 is underway and construction should commence in 2018.

Schools/Fire/Utilities:

Schools

- As discussed previously in this staff report, proffers are not accepted for residential rezoning applications. In previously approved CCRC/Independent Living Communities, proffers have been able to provide assurance that no permanent resident of the development would be under a certain age. With no way to guarantee the mitigation of that impact, an analysis of school-age children is provided.
- The table below lists two calculations from the FY 17 Fiscal Impact Analysis, one is the total residential fiscal impact with school children and one without. Both supporting materials are included as Attachment Nos. 6 and 7.

<i>Total Residential Expenses</i>	<i>Total Residential Revenues</i>	<i>Total Residential Fiscal Impact</i>
School Impacts Included		
\$731,607.27	\$380,813.75	(\$350,793.52)
School Impacts Not Included		
\$391,498.85	\$380,813.75	(\$10,685.10)

- Financial and Management Services staff has reviewed and concurs with the calculations.
- The fiscal impact information shows the project to be more fiscally negative for the County when school impacts are included.

Student Enrollment and School Capacity, WJCC Schools 2016

<i>School</i>	<i>Effective Capacity</i>	<i>Enrollment</i>	<i>Projected Students Generated</i>	<i>Enrollment + Projected Students</i>
Rawls Byrd Elementary	550	487	± 14	501
Berkeley Middle	829	860	± 8	868
Lafayette High	1,314	1,152	± 11	1,163

Source: WJCC Public School Official Student Enrollment Report, November 2016

- With 135 proposed residential units (65 duplexes and 70 apartments), the 33 students projected from the new development would not cause the enrollment levels for Laurel Lane (formerly Rawls Byrd) Elementary School or Lafayette High School to exceed effective capacity. However, Berkeley Middle School is already over capacity and this development, if it is occupied with school-age children, would contribute to higher enrollment levels.
- However, if improvements have been programmed through the County CIP, then the application will meet the adequate public facilities policy. Staff notes that a new middle school is in the CIP for the next five years.

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Fire

- The closest fire station in James City County to the property is Fire Station 3, located at 5077 John Tyler Highway, just over 2.2 miles northwest of this project site. According to James City County Fire Department, response time to the site is well within the six minute response time average.

Utilities

- Project receives public water and sewer.
- SUP conditions include development of water conservation standards.
- JCSA has reviewed the Master Plan and SUP Conditions and concurs with the proposal with the condition that the pumping capacity available is limited and upgrades may need to be performed to the system to meet JCSA approval when triggered.

Environmental/Cultural/Historic:

Environmental

- Watershed: College Creek.
- The application identifies and avoids RPAs.
- The applicant submitted studies analyzing the natural resources in the project area and possible impacts to bald eagles, long-eared bats, small whorled pogonia, etc. No impacts were found for this portion of the property.

- The Stormwater and Resource Protection Division (S+RP) has reviewed the proposal and concurs with the conditions as proposed. These conditions include provision for a Nutrient Management Plan to be developed and submitted for approval by the Director of S+RP.

Cultural/Historic

- A Phase I Archaeological Study has been included as an SUP Condition and will be reviewed before preliminary approval of a site plan is granted.

Nearby and Surrounding Properties:

Noise

- With a new development proposed to be constructed so close to an airport, there are potential issues of noise complaints by the residents. Currently, the closest buildings in Williamsburg Landing are approximately 1,500 feet from the runway. Buildings in this proposal could be approximately 950 feet from the runway. The closer buildings are to the airport, the greater the potential for noise.
- Williamsburg Landing has stated that there are options for residents to move within the community if they have issues with noise.
- Building Safety and Permits made a comment in its review that the construction may need to comply with Airport Noise Attenuation Requirements (R327.2).

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- DOAV recommended an SUP Condition regarding the notification of new residents of the potential for noise due to the proximity to the airport.

Height

- Please see Height Limitation Waiver application discussion in Attachment No. 12.

Visual Impact

- The portion of the property closest to College Creek contains RPAs and steep slopes that make the area generally undevelopable.
- The impacts on the viewshed from Kingspoint to Williamsburg Landing are detailed in the balloon test map and pictures in Attachment Nos. 13 and 17. The Kingspoint recreation property is approximately 700 feet from the Williamsburg Landing property line and about 1,000 feet to the closest project area outside the RPA (approximate location of Best Management Practice).
- The closest Williamsburg Landing building to the project area is the Landing Building, which is approximately 190 feet to the property line and approximately 240 feet to the closest project area outside the 50-foot perimeter buffer.

Parks & Recreation

- As noted above in the Project Description section, this project must meet the R-5 Zoning Ordinance requirements. However, the R-5 requirements do not encompass all aspects of the Parks & Recreation Development Guidelines expected of all new

residential requests, which include trails, courts/pools and fields. The applicant is requesting an exception to the Parks & Recreation Development Guidelines (Attachment No. 16). Planning and Parks & Recreation staff are receptive to this request; however, the waiver must be approved by the Board of Supervisors.

COMPREHENSIVE PLAN

Surrounding Comprehensive Plan designations include:

- LDR to the north and east.
- Airport to the south and west.

Airport (20 Marclay Road):

- The portion of 20 Marclay Road is designated as airport on the 2035 Comprehensive Plan Land Use Map and is currently located inside the Primary Service Area (PSA). The principal suggested uses for developable land associated with the airport include aviation with airport-related commercial and office development as clearly secondary uses.
- The airport was supported during the most recent Comprehensive Plan update process with recognition of its role as a supporting transportation element for tourism and local businesses and potential to have some associated commercial secondary uses.
- DOAV provided comments to staff and they have concerns and proposed SUP Conditions, which are attached. The SUP Conditions/Height Waiver conditions can be found in Attachment Nos. 1 and 2.

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- Staff finds that the residential component of this proposal does not meet the above language from the Comprehensive Plan, as residential uses are not an acceptable use in Airport Designated Land. Staff, therefore, finds that the proposed use is not consistent with the Comprehensive Plan designation of airport.

Low Density Residential (Williamsburg Landing):

- This project is adjacent to Williamsburg Landing, which is designated as LDR on the 2035 Comprehensive Plan Land Use Map and is located inside the PSA. Single-family homes, multifamily units and retirement and care facilities/communities are all recommended uses in LDR areas, provided that development:
 - Complements the residential character of the surrounding area;
 - Has traffic, noise and lighting impacts similar to surrounding uses;
 - Is generally located on collector or arterial roads at intersections; and
 - Provides adequate screening and buffering to protect the character of nearby residential areas.
- Additionally, the Comprehensive Plan recommends a gross density of one to four units per acre in LDR areas. This application proposes a density of 8.71 dwelling units per acre. When considering the entire development of Williamsburg Landing, the density overall would be 3.78 dwelling units per acre. To achieve a higher gross density, certain public benefits must be provided. Some examples of those public benefits include:

- Mixed-cost housing, affordable and workforce housing, enhanced environmental protection or development that adheres to the principles of open space design.
- As noted, the proposed SUP Conditions provide for property owner notifications, the review of architectural elevations, conformance with the Board of Supervisors Archaeological Policy and Streetscape Policy, water conservation standards and a Nutrient Management Plan. However, proffers are not accepted for residential rezonings; therefore, additional public benefits are not provided.

Population Needs/Housing Section:

- The 2035 Comprehensive Plan discusses the need for adequate housing opportunities for the growing senior population, particularly affordable opportunities and the different ways those needs can be met.
- Strategy H4 states, “Provide adequate housing opportunities for special needs populations, including persons with all forms of disabilities and senior citizens.”
- Action PN 3.4 in the Population Needs section of the Comprehensive Plan states, “Promote affordable senior housing options, from independent living to Continuing Care Retirement Communities (CCRCs) and skilled care for all.”
- Affordable senior housing options are of particular need in the County and, as noted previously, because proffers are not accepted for residential rezonings, this important component of the Comprehensive Plan cannot be assured.

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Economic Development/Transportation:

Economic Development

- In the Economic Development section of the Plan, ED 7.5 states “Support continued local access to general aviation facilities.”

Transportation

- The Transportation section of the Comprehensive Plan states that having a viable multimodal transportation network is fundamental to maintaining a strong economy and a high quality of life for the community.
- The Williamsburg-Jamestown Airport is a small general aviation facility, which is a base for a flight school and small private planes. There is no scheduled commercial passenger service at the airport and the population served is confined to tourists and business clientele who travel by private plane.
- Through a Board of Supervisors Resolution of Approval in 2011, County staff, in coordination with the property owner, submitted a grant application to the Commonwealth Transportation Board to upgrade Marclay Road to VDOT standards. The improvements have been completed and VDOT has finalized acceptance into the state system.

STAFF RECOMMENDATION

Staff recommends that the Planning Commission recommend denial of the proposed rezoning and SUP. Should the Commission wish to recommend approval of this application to the Board of Supervisors, staff recommends that the conditions listed in Attachment No. 1 be

applied. The Board of Supervisors will consider the Height Limitation Waiver portion of this application. Proposed conditions have been included for this application as Attachment No. 2 for informational purposes as the Commission does not review Height Limitation Waiver requests.

AB/gt
RZ-1-17MarclayRd

Attachments:

1. Draft SUP Conditions
2. Draft Height Waiver Conditions
3. Location Map
4. Master Plan
5. Community Impact Statement
6. FY 17 Fiscal Impact Study including School Impacts
7. FY 17 Fiscal Impact Study Not Including School Impacts
8. Airport Master Plan
9. Williamsburg Landing Master Plan
10. Proposed Design Guidelines
11. Height Waiver Application Discussion
12. DOAV Comment Letter
13. Balloon Test Map and Pictures
14. FAA Determination
15. DOAV Response to FAA Determination
16. Parks & Recreation Facilities Exception Request
17. Applicant Balloon Test Pictures and Narrative
18. Citizen Comment

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