
REZONING-0003-2017/HEIGHT LIMITATION WAIVER-0004-2017. Oakland Pointe

Staff Report for the February 7, 2018 Planning Commission Public Hearing**SUMMARY FACTS**

Applicant: Timothy O. Trant II, on behalf of Connelly Development, LLC

Land Owner: Lisa Joy P. Marston, Trustee

Proposal: To rezone ± 14.54 acres of land from A-1, General Agricultural to R-5, Multi-family Residential District for the purpose of constructing up to 126 apartment units. A Height Limitation Waiver application has also been submitted for the proposed apartment buildings to be constructed up to 40 feet from grade.

Location: 7581 Richmond Road

Tax Map/Parcel No.: 2310100002

Project Acreage: ± 14.54 acres

Current Zoning: A-1, General Agricultural

Proposed Zoning: R-5, Multi-family Residential District

Comprehensive Plan: Moderate Density Residential

Primary Service Area: Inside

Staff Contact: Jose Ribeiro, Senior Planner II

PUBLIC HEARING DATES

Planning Commission: January 3, 2018, 7:00 p.m. (deferred by applicant)
February 7, 2018, 7: 00 p.m.

Board of Supervisors: March 13, 2018, 5:00 p.m. (tentative)

FACTORS FAVORABLE

1. Staff finds the proposal will not negatively impact surrounding zoning and development.
2. The proposal's density is within the range recommended for lands designated Moderate Density Residential (MDR) by the adopted Comprehensive Plan.
3. The proposal meets the Adequate Public Schools Facilities Test, adopted by the Board of Supervisors on June 23, 1998.
4. Increases workforce and affordable housing opportunities via an Easement Agreement, although this requirement may not be binding unless agreed to by the Board of Supervisors.
5. While unable to provide proffers, the applicant is proposing to demonstrate commitment to various Board of Supervisors adopted policies and other public benefits (including affordable housing) to support the proposed density through notes on the Master Plan and via an Easement Agreement that the County would be a party to; please see the "Ability to Guarantee the Development as Proposed" section below for discussion regarding these items.

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FACTORS UNFAVORABLE

1. Proffers are not accepted for residential rezonings. As such, some of the typical impacts associated with residential development are not mitigated or addressed, including impacts to schools and impacts to public utilities (such as James City Service Authority). Please see the “Ability to Guarantee the Development as Proposed” section below for discussion regarding these items.
2. The project is fiscally negative per the submitted Fiscal Impact Analysis worksheet.
3. This proposal does not fully meet the recommendations of the Parks & Recreation Master Plan for new residential development within the Parks & Recreation Master Plan. The applicant is seeking an exception from the Board of Supervisors, as further discussed below.
4. Because of traffic from this proposed development, the Level of Service (LOS) for a turning movement at the Croaker Road intersection will worsen. The Traffic Study recommends both physical turn lane improvements and adjustments to the traffic signal timing. The applicant proposes to complete the physical turn lane improvements via a note and depiction on the Master Plan and via an Easement Agreement that the County would be a party to. However, the adjustments to the traffic signal timing needed to maintain LOS are at the sole discretion of VDOT. For the traffic on Oakland Drive leaving the subdivision and turning left onto westbound Route 60, the LOS will also worsen from an acceptable LOS (LOS C) to an unacceptable LOS (LOS D) in the P.M. peak hour.
5. Citizens have expressed concerns with this proposal.

SUMMARY STAFF RECOMMENDATION

The proposed development includes a number of favorable aspects. In addition, the proposed development’s density is within the range recommended for lands designated MDR by the adopted Comprehensive Plan. However, central to the MDR language is the following statement from the adopted Comprehensive Plan:

“Development at this density is not recommended unless it offers particular public benefits. Examples of such public benefits include mixed-cost housing, affordable and workforce housing and enhanced environmental protection.”

As discussed in this staff report, the applicant is proposing to offer public benefits and provide assurances to comply with the Board of Supervisors’ adopted policies through a combination of notes on the Master Plan, through stated intention in the Community Impact Statement and through a proposed Easement Agreement. The applicant is proposing the County be made a party to the Easement Agreement.

Through notes on the Master Plan, compliance with Board adopted policies include: a 150-foot-wide Community Character Corridor buffer (a 50-foot-wide buffer width is otherwise required for by-right development), the provision of bike and pedestrian improvements consistent with the Board’s adopted Bike and Ped Master Plans (bike and pedestrian connections are not required for by-right minor subdivisions), an alternative set of recreation facilities designed to comply with the intent of the Parks & Recreation Master Plan, proposed James City Service Authority (JCSA) Water Conservation Standards (also in the Easement Agreement), and based on the project’s location within the Yarmouth Creek Watershed, the implementation of Special Stormwater Criteria measures. Architectural renderings have also been included in the proposed

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Master Plan (also in the Easement Agreement). While not a note on the Master Plan, the applicant has also submitted a Phase I archaeological study which has been reviewed by the Virginia Department of Historic Resources.

Through the proposed Easement Agreement, the applicant is proposing that any proposed development that may occur on this property which results in a density higher than that allowed by-right under the current A-1 Zoning District (i.e., four minimum 3-acre lots) may only be developed in accordance with Virginia Housing and Development Authority's Low Income Tax Credit Program (or alternative as the County may approve). The applicant is also proposing the following commitments in the Easement Agreement:

- Use of the building elevations included in the Master Plan set;
- Achieving EarthCraft/Viridian gold certification (or other comparable certification);
- Development of Water Conservation Standards;
- Construction of the offsite traffic improvements;
- Construction and maintenance of a five-foot sidewalk across the adjacent property (7575 Richmond Road); and
- Provision of a Nutrient Management Plan.

In order to achieve a density bonus above nine dwelling units per acre, the applicant proposes to construct each of the buildings to the EarthCraft Gold standard.

Proffers are not accepted for residential rezonings. There are also no Special Use Permit conditions associated with this request. The County Attorney's office has determined that the Easement Agreement is legal and would be binding. With the exception of one turning movement at the Croaker Road intersection and a worsening LOS for traffic leaving Oakland Drive and heading westbound on Route 60 in the P.M. peak hour, staff finds the requirements of the Easement

Agreement, along with the binding Master Plan would mitigate impacts from this development. However, without knowing whether or not the Board of Supervisors will enter into an Easement with the developer, and without the applicant being able to mitigate impacts otherwise, staff cannot recommend approval of this application

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. 10 for informational purposes as the Commission does not review Height Limitation Waiver requests.

PROJECT DESCRIPTION

- The applicant is requesting a rezoning from A-1, General Agricultural to R-5, Multi-family Residential District to permit 126 apartment units on approximately 14.54 acres.
- The project proposes a gross density of 8.67 units per acre. However, per R-5 Zoning Ordinance requirements, the net density (which takes into account the non-developable portions of the site) is calculated as 9.75 units per acre. Per the R-5 District requirements, the project could propose up to a net density of nine units per acre without a need for any density bonuses. In order to achieve the proposed 9.75 units per acre net density, the project will need to achieve one bonus density point. From the options available in the Ordinance, the applicant is proposing to achieve the one bonus density point by committing to green building techniques, specifically through the EarthCraft Gold certification. A note to this effect is shown on the Master Plan and there is also a commitment in the Easement Agreement. Please see the "Ability to Guarantee the Development as Proposed" section above for discussion regarding this item.

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- The 126 apartment units are arranged on the site in five buildings. One of the buildings is designed to be handicapped accessible and has an elevator. The Master Plan also shows a clubhouse building.
- The applicant is proposing a private access road and parking area. Private roads are permitted by-right in the R-5 District.
- The project is located on a Community Character Corridor (CCC) per the adopted Comprehensive Plan, and thus, provides a 150-foot buffer along the Richmond Road frontage of the subject property. The Master Plan shows the buffer as retaining the existing wooded character.
- The project includes buffers along the perimeter of the site per the R-5 Zoning Ordinance requirements. However, at the rear of the site, the Master Plan shows a portion of the multi-use field within the buffer, which would require Planning Director approval of a buffer depth reduction at the development plan stage. As proposed, the perimeter buffers would largely retain existing trees and would be supplemented with additional landscaping.
- As shown on Sheet 3.0 of the Master Plan, R-5 recreation requirements would be met through provision of recreation areas at the rear of the development.
- Per the adopted Pedestrian Accommodations Master Plan, this project includes the construction of a sidewalk along the Richmond Road frontage of the subject property. The Master Plan also shows a sidewalk connection across the adjacent property (7575 Richmond Road) allowing pedestrian access to the Richmond Road intersection with Croaker Road/Pricket Road. In addition, per the adopted Regional Bikeways Plan, the project includes a shoulder bike lane along Richmond Road.
- If approved, the project will also be required to be constructed to the Design Requirements of the R-5 Zoning Ordinance. These Zoning Ordinance requirements include:
 - All units being served by public water and sewer (private systems are not permitted);
 - Open space to be maintained exclusively for conservation and recreation purposes;
 - The provision of playground equipment;
 - Parking lot light fixtures limited to a height of 15 feet;
 - Separation distances between the buildings a distance at least equal to the heights of the buildings; and
 - Per Section 24-35 of the Zoning Ordinance, sidewalks will also be required along both sides of all streets and driveways, including the entrance road, for this project.
- The applicant is proposing to develop this apartment complex in accordance with Virginia Housing and Development Authority's Low Income Housing Tax Credit Program (LIHTC). A brief description of the LIHTC program can be found in Attachment No. 11.

ABILITY TO GUARANTEE THE DEVELOPMENT AS PROPOSED

- On June 28, 2016, the Board of Supervisors adopted a Resolution specifying that the County will only accept proffers associated with non-residential rezonings. Further, certain policies were rescinded by the Board as they apply to residential developments including the Natural Resource Policy, the Cash Proffer Policy for Schools and the Housing Opportunities Policy. With regard to the Natural Resource Policy, the Virginia Department of Conservation and Recreation has found that this site may be a suitable Small Whorled Pogonia location. However, this property is not within

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one of the designated sensitive natural areas and as such the former policy would not have requested further work.

- The County, therefore, is faced with assessing the development potential and associated land use impacts of this proposal.
- The applicant proposes to commit to certain County policies or adopted documents that remain in effect via notes or depictions on the Master Plan document. These would include the proposed building elevations (also in the Easement Agreement); development of water conservation standards with the JCSA (also in the Easement Agreement); the road and bicycle/pedestrian improvements (including the off-site improvements at Richmond Road/Croaker and Richmond Road/Oakland Drive and the off-site sidewalk connection across the adjacent property) the CCC Buffer Guidelines; Parks & Recreation Master Plan Guidelines (with some requested exception elements); and Special Stormwater Criteria from the Yarmouth Creek Watershed Master Plan. A Master Plan is a binding document per Section 24-23 of the Zoning Ordinance. However, should an applicant propose to not include an element shown on the Master Plan on subsequent development plans, the Planning Director would be charged with making a Master Plan consistency determination based on the following criteria included in the existing Zoning Ordinance: “a (development plan) may deviate from the Master Plan if the Planning Director concludes that the development plan does not: 1) Significantly affect the general location or classification of housing units or buildings as shown on the Master Plan; 2) Significantly alter the distribution of recreation or open space areas on the Master Plan; 3) Significantly affect the road layout as shown on the Master Plan; 4) Significantly alter the character of land uses or other features or conflict with any building conditions place on the corresponding legislatively-approved case associated with the Master Plan.” Per the Zoning Ordinance appeals of a

Planning Director determination are made by the Development Review Committee.

- The applicant also proposes to achieve a density bonus to allow the project to increase from nine dwelling units per acre to 9.75 dwelling units per acre by achieving EarthCraft Gold certification. The applicant has also indicated that achieving certification would be part of the applicant’s planned funding approval from the Virginia Housing Development Authority and has included this commitment in the Easement Agreement.
- The applicant also proposes to commit to certain public benefits via provision of an “Easement Agreement” which is included as Attachment 8. The Easement Agreement commits to development of the property “in accordance with the Virginia Housing and Development Authority’s Low Income Housing Tax Credit Program or such other affordable housing regime as the County may approve.” The applicant is also proposing the following commitments in the Easement Agreement:
 - Use of the building elevations included in the Master Plan set;
 - Achieving EarthCraft/Viridian gold certification (or other comparable certification);
 - Development of Water Conservation Standards;
 - Construction of the offsite traffic improvements;
 - Construction and maintenance of a five-foot sidewalk across the adjacent property (7575 Richmond Road);
 - Provision of a Nutrient Management Plan.
- There is one policy that remains in effect that is not currently included as a note on the Master Plan or in the easement document: the Archaeology Policy. The applicant has submitted a Phase I Archaeology Study (please see discussion on page 9).

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PLANNING AND ZONING HISTORY

- This parcel is currently zoned A-1, General Agriculture and is currently used as a single residential lot.

SURROUNDING ZONING AND DEVELOPMENT

- North, South and West: A-1, General Agricultural, currently a single-family residence and undeveloped land with a portion in agricultural use.
- East: One parcel zoned MU, Mixed Use, developed as the CrossWalk Church. The second area is zoned PUD, Planning Unit Development - Residential, under development as the Village at Candle Station neighborhood consisting of single-family detached and multi-family (townhouse) units.

PUBLIC IMPACTS

Anticipated Impact on Public Facilities and Services:

Streets

- A Traffic Impact Study (TIS) was prepared for this development. Based on the Institute of Transportation Engineers manual, the study projects that the development would generate 87 P.M. peak hour trips and approximately 887 daily trips.
- The project is adjacent to Richmond Road which is a four-lane road with a median in this area. There is no access to Oakland Drive from this property. The entrance road and the parking area for the project will be privately maintained.
- The segment of Richmond Road immediately in front of the

project is currently operating at a LOS A-C and is anticipated to remain operating at this LOS through 2034. The segment of Richmond Road to the east of Croaker Road is listed in the Transportation Chapter of the Comprehensive Plan as “Forecasted 2035 volumes indicate improvement needed. WATCH” (Table T-1).

- The development proposes to use a right-in, right-out entrance; the median divide would remain in place as it exists currently. As a result, vehicles leaving the development that want to travel westbound on Richmond Road would need to complete a U-turn at the Richmond Road intersection with Croaker Road/Pricket Road. Similarly, vehicles entering the development from westbound Richmond Road would need to use the median break at Oakland Drive to first turn left onto eastbound Richmond Road.
- The TIS analyzed the project entrance as well as the two intersections mentioned above. The study included the following improvements:
 - On Richmond Road, construct a 100-foot right-turn taper at the development’s entrance.
 - At the intersection of Richmond Road with Croaker Road/Pricket Road, extend the 200-foot left-turn lane on eastbound Richmond Road to 400 feet.
 - At the intersection of Richmond Road with Oakland Drive (median break), construct a 100-foot left-turn lane with a 100-foot taper on westbound Richmond Road.
 - Adjustments to the current signal timing to optimize its function.

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- The TIS includes projected buildout in year 2025 LOS information for the three intersections, with the improvements listed above:

Richmond Road at the Oakland Pointe Development Entrance

	A.M. Peak Hour	P.M. Peak Hour
Northbound Right	B	B

There is no overall intersection LOS provided since this intersection is unsignalized.

Richmond Road at the Croaker Road/Prickett Road Intersection

A table showing the projected buildout in year 2025 is included as Attachment 7. The table also shows how these LOS compare to the projected 2025 LOS without the project being built. The table shows that with the project buildout the overall intersection LOS stays the same in the A.M. and P.M. peak hours (“C” and “D,” respectively). For the movement most influenced by this project, the eastbound left (which would handle the U-turns for westbound travelers), the study shows the LOS worsening in the A.M. peak hour (from a “D” to an “E”) and staying the same in the P.M. peak hour (LOS “E”). The study also examined adjustments to the signal timing to optimize its function: if these adjustments were done, it could result in maintaining the eastbound left at a LOS “D” in the A.M. peak hour. Staff notes that adjustments to the traffic signal timing are at the sole discretion of VDOT.

Richmond Road at Oakland Drive

	A.M. Peak Hour	P.M. Peak Hour
Northbound Left	C	D
Northbound Through	B	B
Westbound Left	B	B

There is no overall intersection LOS provided since this intersection

is unsignalized. Compared with the projected 2025 LOS without this project being built, the LOS declines for two movements: the Westbound Left would now be a “B” rather than “A” in both the A.M. and P.M. peak hour (these remain an acceptable LOS) and the Northbound Left would now be a “D” rather than a “C” in the P.M. peak hour.

- Since January, the applicant prepared a revised version of the TIS to address VDOT comments and made several changes to the analysis methods and improvements as noted in the Foreword to the revised version. At the time of the writing of this staff report VDOT had not finalized the review of the revised traffic study.

Parks & Recreation

- As noted above in the Project Description section, this project must meet the R-5 Zoning Ordinance requirements for recreation area. However, the R-5 requirements do not encompass all aspects of the Development Guidelines contained within the Parks & Recreation Master Plan. The applicant is proposing to fully meet most Parks & Recreation Development Guidelines through provision of facilities on-site, including parkland, playgrounds and trails. The applicant is requesting an exception to the Guidelines for the multi-use field due to its smaller dimensions (200’ by 100’, instead of 360’ by 225’ per the Guidelines). They are also requesting an exception to the courts/pools item. In lieu of the full dimension multi-use field and the court/pool, the applicant has included a dog park area, a second playground (one for toddlers and one for elementary age children) and a pavilion with grills. The applicant’s exception request is included as Attachment No. 5. Planning and Parks & Recreation staff are receptive to this request; however, the waiver must be approved by the Board of Supervisors.

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- *Requirement:* Park Land - 0.3 acres minimum
- *Proposed:* 1.30+/- acres

- *Requirement:* Biking/Jogging Trails - 404.5 linear feet minimum
- *Proposed:* 1,026 linear feet of soft surface trail and 2,390 linear feet of hard surface trail

- *Requirement:* Playgrounds - one playground (or other age-appropriate activity) minimum
- *Proposed:* Two playgrounds

- *Requirement:* Sport Courts or Pools - one court or pool minimum
- *Proposed:* No courts or pools

- *Requirement:* Multiuse/Rectangular/Soccer Fields - one multi-use field minimum
- *Proposed:* One multi-use field; however, the proposed field does not fully meet the recommended dimensions in the Guidelines as described above

Schools

- The proposed apartment units are anticipated to generate an additional 39 students. As illustrated in the table below, the 39 students projected from the development would not cause the enrollment levels for Norge Elementary or Warhill High Schools to exceed effective capacity. However, it would contribute to higher enrollment level exceeding the effective capacity at Toano Middle School. If physical improvements have been programmed through the County Capital Improvements Project (CIP), then the applicant will meet the adequate public school policy. Staff notes

that a new middle school is in the CIP and is currently under construction. As a result, the proposal meets the Adequate Public Schools Facilities Test.

Student Enrollment and School Capacity, WJCC Schools 2017

<i>School</i>	<i>Effective Capacity</i>	<i>Enrollment</i>	<i>Projected Students Generated</i>	<i>Enrollment + Projected Students</i>
Norge Elementary	695	583	± 17	600
Toano Middle	790	816	± 9	825
Warhill High	1,441	1,372	± 13	1,385

Source: Student Enrollment Report, October 2017

Fiscal Impact

- The Fiscal Impact Analysis worksheet was submitted per the Fiscal Year 2018 calculations provided by the Department of Financial and Management Services.
- Per that analysis, the development would result in a \$635,589 annual negative fiscal impact to the County.

Fire

- The location of the project allows for coverage by both Fire Station 1, located in Toano and Station 4, located on Olde Towne Road. The Community Impact Statement indicates that both stations are within a ten-minute drive of the project site.

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Utilities

- The project would be served by public water and sewer.
- The JCSA has recommended that a Water Conservation Agreement be prepared for this development: please see the “Ability to Guarantee the Development as Proposed” section above for discussion regarding this item.
- The JCSA has reviewed the Master Plan and concurs with the proposed utility layout generally.

Environmental/Cultural/Historic:

Environmental

- Watershed: Yarmouth Creek.
- The existing wet pond (Marston Pond) along the project’s southeast border will be used for meeting both water quality and quantity regulations. The Community Impact Statement and Master Plan commit to upgrades to the existing pond, including provision of a forebay near the entrance to the site which is recommended per the Yarmouth Creek Watershed Management Plan. This forebay shall be designed for off-site drainage in its current condition while the other two forebays will be designed for on-site drainage. The project will also need to implement three Special Stormwater Criteria measures to meet the Yarmouth Creek Watershed Management Plan: please see the “Ability to Guarantee the Development as Proposed” section above for discussion of this item. Additional details regarding stormwater management are shown on Sheet C5.0 of the Master Plan. In addition, for this location, staff finds that a Nutrient Management Plan would be preferred and is recommended. The applicant has included

provisions for a Nutrient Management Plan in the Easement Agreement.

- The Stormwater and Resource Protection Division has reviewed the proposal and generally concurs with the Master Plan as proposed.

Cultural/Historic

- A Phase I Archaeological Study has been conducted which concluded that no further archaeological historic preservation efforts were necessary on site. The Virginia Department of Historic Resources has reviewed the study, has concurred with the study findings and has asked for minor non-substantive revisions to the final report.

Nearby and Surrounding Properties

Visual Impact

- Staff finds that the proposed perimeter buffers mitigate visual impacts to other adjacent properties. Additionally, much of the eastern portion of the parcel includes Resource Protection Area which provides an even larger buffer.
- The project is located on a Community Character Corridor (CCC) per the adopted Comprehensive Plan, and thus, provides a 150-foot wooded buffer along the Richmond Road frontage of the subject property.

Height

- Please see Height Limitation Waiver application discussion in Attachment No. 9.

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COMPREHENSIVE PLAN

- This parcel is designated MDR by the adopted Comprehensive Plan. Recommended uses in MDR include multi-family units, apartments, recreation areas, manufactured home parks and subdivisions.
- This application proposes a gross density of 8.67 dwelling units per acre. For MDR the Comprehensive Plan recommends “a minimum gross density of four units per acre up to 12 units per acre, depending on the character and density of surrounding development, physical attributes of the property, buffers, the number of dwelling units proposed and the degree to which the development is consistent with the Comprehensive Plan. Development at this density is not recommended unless it offers particular public benefits. Examples of such public benefits include mixed-cost housing, affordable and workforce housing and enhanced environmental protection.” Please see the “Ability to Guarantee the Development as Proposed” section above for discussion regarding the provision of public benefits and requested density bonuses.
- Richmond Road is a Community Character Corridor. The project is within the Norge Community Character Area.
- Surrounding Comprehensive Plan Designations include Low Density Residential to the southeast, south and southwest (Villages at Candle Station, undeveloped land), Mixed Use (the CrossWalk Church parcel) and MDR (undeveloped land to the west and north across Richmond Road).

STAFF RECOMMENDATION

Please see the recommendation on pages 2 and 3.

JR/nb

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Attachments:

1. Location Map
2. Master Plan
3. Community Impact Statement
4. Fiscal Impact Study
5. Parks & Recreation Exception Request
6. Traffic Impact Study
7. LOS Information for the intersection of Richmond Road and Croaker Road/Pricket Road
8. Proposed Easement Agreement
9. Height Waiver Application Discussion
10. Draft Height Waiver Conditions
11. Low Income Tax Credit Program Information
12. Citizen Correspondence

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