

## **REZONING-0005-2014. Peninsula Pentecostals, Kirby Tract**

### **Staff Report for the April 28, 2015, Board of Supervisors Public Hearing**

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*This staff report is prepared by the James City County Planning Division to provide information to the Planning Commission and Board of Supervisors to assist them in making a recommendation on this application. It may be useful to members of the general public interested in this application.*

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#### **PUBLIC HEARINGS**

Planning Commission: Building F Board Room; County Government Complex  
March 4, 2015, 7:00 p.m.  
Board of Supervisors: April 28, 2015, 7:00 p.m.

#### **SUMMARY FACTS**

Applicant: Mr. Tim Trant of Kaufman and Canoles

Land Owner: Green Mount Associates, L.L.C.

Proposal: 130,000-square-foot place of public assembly, day-care center for up to 150 children and up to 30,000 square feet of commercial uses

Location: 9230, 9240, and 9250 Pocahontas Trail

Tax Map/Parcel Nos.: 6010100006, 6010100007, and 6010100008

Parcel Size: 40.3 acres

Existing Zoning: M-2, General Industrial

Proposed Zoning: MU, Mixed Use with proffers

Comprehensive Plan: Mixed Use (GreenMount Mixed Use Area)

Primary Service Area: Inside

#### **STAFF RECOMMENDATION**

This property is zoned, M-2, General Industrial, which is the only exclusively industrial zone in the County, provides a significant source of revenue to the County's tax base, and is limited in the amount remaining. This property is also included in the County's designated Enterprise Zone. While the Comprehensive Plan designation was changed to Mixed Use in 2003, the Mixed Use language still lists "industrial uses" as a primary recommended use for this area. Should this proposal be approved, it would result in the loss of M-2 zoned land through a rezoning proposal that does not include any of the recommended industrial component. Overall, staff does not find this development proposal consistent with the GreenMount Mixed Use description in terms of uses and the nature of the development. Staff also has remaining concerns about the degree to which the project is addressing the right-of-way for Skiffe's Creek Connector, and Newport News Waterworks continues to object to the storage and dispensing of fuel use on these parcels. Staff recommends the Board of Supervisors deny this rezoning application. Should the Board of Supervisors wish to approve the application and accept the voluntary proffers, a resolution has been provided as an attachment to this report.

Staff Contact: Ellen Cook, Senior Planner II Phone: 253-6693

## **Changes Made by the Applicant Since the Planning Commission Meeting**

The applicant submitted revised proffers on April 8, 2015, which include the following elements:

- For the proposed fueling facility, a commitment to submit a spill prevention, control, and countermeasure plan for County review and approval and a commitment to locate the facility no closer than 300 feet to the Skiffe's Creek Reservoir. (See relevant discussion under the Engineering and Resource Protection section of the staff report below.)
- For the place of public assembly, a commitment to on-going evaluation and submission of the traffic management plan to the County as the future phases of the building are completed. (See relevant discussion under the Transportation section of the staff report below.)
- For the commercial parcels (the middle and eastern properties), a commitment to submit design review standards for County review and approval prior to preliminary approval of any site plan in this area. (See relevant discussion under the Project Description and Comprehensive Plan sections of the staff report below.)

## **PLANNING COMMISSION RECOMMENDATION**

At the Planning Commission meeting on March 4, 2015, a motion to approve this application failed by a vote of 3-4.

**Proffers:** Proffers are signed and submitted in accordance with the James City County Proffer Policy.

## **PROJECT DESCRIPTION**

Mr. Tim Trant of Kaufman and Canoles, has applied for a rezoning from M-2, General Industrial to MU, Mixed Use for three parcels located on Pocahontas Trail in the GreenMount Industrial Park. On the western parcel, the proposed use is a place of public assembly to be constructed in three phases which would ultimately total 130,000 square feet and have a seating capacity of 2,400 seats. A child day-care center with a maximum proffered enrollment of 150 children is also proposed within the public assembly structure. Finally, this use also includes an accessory apartment, an accessory Family Life Center with activities space, a utility structure, and multi-purpose fields. The Master Plan depicts a future building between the place of public assembly and the Family Life Center, and the construction phasing schedule submitted by the applicant in accordance with Section 24-515(a)(2) of the Zoning Ordinance (Attachment No. 8), states that this area would be constructed as part of Phase 3 as additional administration and day care area. For the uses on this western parcel, the master plan depicts the proposed site layout, including the general building locations and parking areas. In addition, for the uses, provisions have been made in the proffers for consistency of the built structure with the architectural elevations that have been submitted; specific signage style, height, materials, and architectural character; and minimization of glare from exterior lighting on adjacent properties.

On the middle and eastern properties, the proposed use is a grouping of commercial uses, to potentially include up to 30,000 square feet of retail, to include a restaurant and a convenience store with sale of fuel. The Master Plan does not depict a proposed site layout for the grouping of commercial uses. The submitted proffers provide for administrative review in the form of submission of a concept plan to the County prior to development, but no specifics are provided as to the content or development intent. The version of the proffers submitted on April 8, 2015 includes a commitment to submit design review standards for County review and approval prior to preliminary approval of any site plan in this area, and a commitment to thereafter submit architectural elevations for the commercial uses for approval consistent with the standards.

The project is located on parcels that are partially wooded and partially cleared cropland, and are encumbered by a high voltage electricity transmission line easement. The project is across Pocahontas Trail from other parcels in the Green Mount Industrial Park, which are zoned M-2, General Industrial and designated General Industry. To the north of the project is a vacant 103-acre parcel which is zoned M-2, General Industrial and designated General Industry. To the east of the project is the Skiffe's Creek Reservoir and associated buffer

land owned by the City of Newport News, which is zoned M-2, General Industrial and designed General Industry. To the west of the project are the Skiffe's Creek and Carter's Village townhouse communities which are zoned R-5, Multi-family Residential and designated Moderate Density Residential. To the southwest is the Morning Star Baptist Church which is zoned M-2, General Industrial and designated General Industry. Pocahontas Trail is designated by the Comprehensive Plan as a CCC.

## **PUBLIC IMPACTS**

### **Archaeology**

Over the years, several archaeological investigations have taken place on this property. The primary study, conducted in 1999 was a Phase I investigation of the entire property. Other studies have been associated with investigations of specific road alignments and have covered portions of the property. In connection with this application, Circa Cultural Resources Management provided a summary of the studies, noting that there was one site, JCC1024, which had been recommended to potentially be eligible for nomination to the National Register of Historic Places, one site, JCC1028, for which no further work was recommended and a number of other sites that had positive shovel tests, some of which were grouped in one location but which had not been assigned a site number through the Virginia Department of Historic Preservation (VDHR). The Circa summary was submitted to VDHR, which concurred with Circa that either avoidance or further work on JCC1024 was warranted, and further recommended that the grouping of positive shovel tests be investigated and delineated. The submitted proffers include a commitment to addressing the two areas recommended for further action by VDHR.

### **Engineering and Resource Protection**

#### **Watershed: Skiffe's Creek**

The applicant has submitted information in accordance with the Environmental Constraints Analysis policy, and much of this information is reflected on the Master Plan. The western boundary is a tributary stream to Skiffe's Creek and the northern and eastern boundaries are Skiffe's Creek just to the west of the Skiffe's Creek Reservoir. The project has wetlands and Resource Protection Area (RPA) along most of the property lines. Note that the RPA location depicted on the Master Plan is approximate as it has not been field verified to-date (verification of the RPA at the legislative stage is typical for most major development proposals). The project's environmental narrative specifies that erosion and sediment control measures will need to be designed to protect Skiffe's Creek and the Skiffe's Creek Reservoir, and that stormwater runoff during and after construction will need to conform to water quality and quantity design criteria. More specific information about stormwater management practices for development on the western parcel has been provided. The project narrative indicates that stormwater runoff from this development will be conveyed to the Best Management Practice (BMPs) for quality improvement and quantity control prior to discharge to a stilling basin upstream of the wetlands, then discharge to Skiffe's Creek. The narrative indicates that one of two options for the BMPs on-site will be used, either an option that uses several bio-retention basins and an extended detention pond or an option that uses one or more wet ponds. The Master Plan and submission documents do not show a specific stormwater management approach for the middle and eastern properties, but the submitted proffers provide for administrative review of a stormwater master plan for the middle and eastern parcels prior to development in that area, as well as a commitment to preparation of a stormwater management plan for any establishment selling or dispensing fuels. The version of the proffers submitted on April 8, 2015 includes a commitment in relation to the proposed fueling facility to submit a spill prevention, control, and countermeasure plan for County review and approval, and a commitment to locate the facility no closer than 300 feet to the Skiffe's Creek Reservoir.

**Staff Comments:** Engineering and Resource Protection staff have reviewed the materials submitted by the applicant and found them sufficient for ERP to reach the conclusion that the bio-retention approach is best suited for this site, pending additional review of engineering and design details at the development plan level. ERP staff noted that the RPA boundary shown requires verification to ensure there is no encroachment by the proposed structures. If the verified RPA is different than what is shown on the

Master Plan, the structures may need to be reconfigured, or any encroachments would need to be approved by the Chesapeake Bay Board.

In recognition that Skiffe's Creek Reservoir is an important drinking water supply resource, staff recommends thoroughly addressing water quality issues for all parcels. In addition to the erosion and sediment control and stormwater control items mentioned above, stormwater quality treatments could take the form of turf management commitments or measures to address specific site uses. In relation to one possible use listed on the Master Plan, the convenience store with sale of fuel, Newport News Waterworks (NNWW) staff indicated that they would have strong concerns about any fuel storage and/or dispensing facilities located on these parcels. NNWW staff noted that in Newport News, the reservoir protection ordinance prohibits fuel storage with limited exceptions and believe that the intent of these water quality protections should be applied to this location. NNWW staff further noted that these are protections for the drinking water system used by residents in all of the jurisdictions where NNWW provides water service, including James City County. As another point of information, in York County the reservoir protection ordinance requires a 700-foot separation distance between the reservoir or tributary stream and any fuel bulk storage or distribution of petroleum.

### **Public Utilities**

The property is proposed to be served by public water (NNWW) and public sewer. For water, the project proposes to tie into an existing 30-foot NNWW waterline that runs along Pocahontas Trail. For sewer, the project proposes to tie into an existing 8 foot James City Service Authority (JCSA) sanitary sewer line that runs along the western property line.

**Staff Comments:** JCSA staff have reviewed the submitted materials and concurs with the information submitted, while noting that additional information will need to be considered at the development plan design stage and that further coordination will be required with Newport News Waterworks (please see also information on reservoir protection listed under Engineering and Resource Protection Staff Comments above).

### **Transportation**

The Master Plan depicts two points of ingress/egress onto Pocahontas Trail: a main entrance to be shared by all uses on the site, and a secondary right-out egress at the far western edge of the property. A traffic impact analysis (TIA) prepared for this application examined the main and secondary project entrance and three other area intersections, including James River Elementary School/Colony Drive, Endeavor Drive (the entrance to James River Commerce Center), and GreenMount Parkway (the entrance to GreenMount Industrial Park). The TIA examined trip generation for the house of worship/day care on weekday peak hours, as well as conditions associated with several times during Sunday services. Finally, the TIA examined existing conditions, future conditions without construction of the house of worship/day care, future conditions with Phase I of the house of worship/day care, and future conditions with Phase III of the house of worship/day care.

For future conditions with Phase I, the study projects acceptable levels of service for all intersections and individual turn movements other than northbound through/left turn movement during the PM peak hour at the intersection of Endeavor Drive. For future conditions with Phase III, the study projects acceptable levels of service for all intersections and individual turn movements other than the northbound through/left-turn movement during the PM peak hour and two periods of Sunday at the intersection of Endeavor Drive and other than the main project ingress/egress. With regard to the intersection of Endeavor Drive, the TIA states that the increase in delay at this intersection is minor as compared with the "no build" conditions and that the LOS at this intersection is projected to already be on the threshold of Level of Service (LOS) D. The TIA states that there are two potential mitigation measures to address the northbound through/left turn movement at Endeavor Drive – a traffic signal and widening of Route 60, but that neither of these mitigation measures are warranted nor are they reasonable for improvements to mitigate delay for between 11 and 22 vehicles per hour for three hours a week. With regard to the

intersection at the main project ingress/egress, for the southbound left-turn egress, the TIA projects a LOS D during one time period on Sunday at Phase I of build-out, and a LOS F during two time periods on Sunday at Phase III of build-out. The TIA recommends turn lane improvements at Phase I and Phase III of build-out which would consist of a 200-foot right-turn lane and 200-foot taper on the westbound Pocahontas Trail approach, and a 200-foot left-turn lane and 200-foot (250 feet at Phase III build-out) left-turn lane and 200-foot taper at the eastbound Pocahontas Trail approach. Further, the TIA describes various mitigation measures that the house of worship could use to address egress delays and monitor ingress queues to make sure they do not back onto Pocahontas Trail, such as police officer traffic control, on-site signage, closing components of the parking to minimize conflicting movements on-site.

Pocahontas Trail is addressed in both the Regional Bikeways Map and the Pedestrian Accommodations Master Plan. These plans identify a multi-use path along Pocahontas Trail (from the western property line to the intersection of Pocahontas Trail and GreenMount Parkway). Per Section 24-35(a)(1) of the Zoning Ordinance, the multi-use path will be required at the site plan stage. In addition, Section 24-35(a)(4) will require a connection from the multi-use trail into the development and has some standards for connectivity internal to the parcel. The submitted Master Plan or proffers do not include more specific commitments for internal connectivity, such as can typically be found in design guidelines.

The Master Plan also depicts an alignment for the proposed Skiffe's Creek Connector, a roadway which is designed to connect Pocahontas Trail and Route 143 to help relieve traffic congestion issues. Based on information provided by VDOT, design work for the Skiffe's Creek Connector proposal is currently on hold due to funding and environmental issues. Staff understands that prior to being put on hold the proposal was in the Location Study phase with various options being examined. One of the two options was an alignment through the area that is now the proposed location of the house of worship, and the second option was an alignment that lines up with GreenMount Parkway, as currently generally depicted on the Master Plan. The alignment through the area now proposed for development was projected to be the less expensive of the two options (\$53.8 million versus \$72.8 million).

**Traffic Counts:** The James City County/Williamsburg/York County Comprehensive Transportation Study (Regional Study) that was completed in March 2012 indicated that the most recent weekday volume for Pocahontas Trail from BASF Road to the Newport News city line was 11,499 trips. This represents a current weekday PM peak hour LOS of A-C for the corridor.

**Projected Traffic Volume:** On Pocahontas Trail from the Newport News city line to the Grove Interchange, the 2009 Comprehensive Plan projects 21,186 AADT for 2035 – this is in the Watch category and is anticipated to need improvement. The Regional Study notes that the PM peak hour LOS for the corridor is projected to be at a LOS of F in 2034.

**VDOT Comments:** As of the time of packet preparation, VDOT comments had not yet been received. Staff will distribute the comments as soon as they are received.

**Staff Comments:** For the intersection at Endeavor Drive, staff concurs with the recommendation in the TIA that improvements are not warranted by this development to address the LOS D through/left turning movement. For the main project ingress/egress, staff concurs with the TIA on the recommended right- and left-turn lanes and tapers, and the submitted proffers include a commitment to construct these improvements. As described in the traffic study, staff has concerns about the potential for ingress queues to block Pocahontas Trail, should conflicting traffic movements on-site slow vehicle entry. The submitted proffers do include a commitment to submit a traffic management plan to address circulation and queuing of vehicles so as to limit the impact on traffic flows along Pocahontas Trail. In addition, the version of the proffers submitted on April 8, 2015 include a commitment to on-going evaluation and submission of the traffic management plan to the County as the future phases of the building are completed. As a point of reference and for a sense of scale, St. Bede's Church on Ironbound Road is 38,000 square feet in size.

It is important to note that the TIA submitted for this application only includes projected traffic for development on the western parcel and does not include any projected traffic from the proposed

commercial uses on the middle and eastern parcels. The submitted proffers provide for administrative review of a TIA to be submitted prior to the commercial development, and a commitment to construction of the traffic improvements recommended by the TIA. Submission of a TIA that covers all development components and commitment to specific transportation improvements at the legislative stage is more typical for most major development proposals.

In recognition that Pocahontas Trail and the Skiffe's Creek Connector that will connect it to Route 143 are important transportation resources, both for surrounding residential and current and future economic development traffic and in recognition that this proposal would affect the options available for its alignment, staff recommended that the right-of-way for Skiffe's Creek Connector be fully addressed by this project. The submitted proffers do not include a provision to dedicate any right-of-way for the Skiffe's Creek Connector.

### **COMPREHENSIVE PLAN**

During the 2003 Comprehensive Plan update, this property was the subject of a property owner-initiated Land Use Designation Change Application to change the designation from General Industrial to Mixed Use. As part of the change to Mixed Use, the following Mixed Use description was included:

"For the GreenMount tracts north of Pocahontas Trail (Route 60), a balanced and integrated mixture of industrial, commercial, and residential uses is suggested. The combination of uses should complement the General Industry property surrounding it by concentrating on support uses and by leaving sufficient road and water capacity for the general industry uses to develop. Commercial uses should have a limited market area, primarily focused on direct services to nearby neighborhoods and employment centers, and should not include high traffic generators. In order to protect and enhance the character of the area and to maintain an access level that keeps the area attractive to large-scale economic development, the area should be designed and developed under a unified master plan that provides shared access and parking, compatible landscaping and architectural treatment, adequate buffering and screening, true mixed use concepts, and other measures that ensure it does not develop in a typical strip commercial fashion. Careful coordination between development and transportation issues will be important to avoid worsening the level of service along Pocahontas Road (Route 60), to retain a high degree of mobility through the area, and to preserve the options for improvements and/or alternatives to Pocahontas Road (Route 60). Shared access with the parcel to the north should be preserved as an option."

Staff notes the following in relation to this description language:

- This property is zoned, M-2, General Industrial, which is the only exclusively industrial zone in the County, provides a significant source of revenue to the County's tax base, and is limited in the amount remaining. This property is also included in the County's designated Enterprise Zone. While the Comprehensive Plan designation was changed to Mixed Use in 2003, the Mixed Use language still lists "industrial uses" as the first of the uses recommended for this area. Should this proposal be approved, it would result in the loss of M-2 zoned land through a rezoning proposal that does not include any of the recommended industrial component.
- The proposed day care and commercial uses may be consistent with type and nature specified in the language ("limited market area," "focused on direct services to nearby neighborhoods"), but the commercial uses are a less certain component of the development proposal.
- With regard to the nature of the development as described in the fourth sentence, the applicant had previously committed to submission of a conceptual plan for the commercial parcels to be reviewed administratively, and the April 8, 2015 version of the proffers includes a commitment to submission of design guidelines that would be reflected in the building elevations. The general wording of the proffer language means that the specific details on items such as the building massing, internal circulation/connections, Community Character Corridor buffer and other landscaping, signage, open

spaces, or a more specific description of the intended architecture would be determined later at an administrative level.

- With regard to transportation issues listed in the final sentence, please see the Staff Comments under the Transportation section above.

Overall, staff does not find this development proposal consistent with the GreenMount Mixed Use description in terms of uses and the nature of the development.

### **RECOMMENDATION**

This property is zoned, M-2, General Industrial, which is the only exclusively industrial zone in the County, provides a significant source of revenue to the County's tax base and is limited in the amount remaining. This property is also included in the County's designated Enterprise Zone. While the Comprehensive Plan designation was changed to Mixed Use in 2003, the Mixed Use language still lists "industrial uses" as a primary recommended use for this area. Should this proposal be approved, it would result in the loss of M-2 zoned land through a rezoning proposal that does not include any of the recommended industrial component. Overall, staff does not find this development proposal consistent with the GreenMount Mixed Use description in terms of uses and the nature of the development. Staff also has remaining concerns about the degree to which the project is addressing the right-of-way for Skiffe's Creek Connector, and Newport News Waterworks continues to object to the storage and dispensing of fuel use on these parcels. Staff recommends the Board of Supervisors deny this rezoning application. Should the Board of Supervisors wish to approve the application and accept the voluntary proffers, a resolution has been provided as an attachment to this report.

EC/nb

Z-0005-14KirbyTract

### **Attachments:**

1. Rezoning Resolution
2. Location Map
3. Minutes from the March 4, 2015, Planning Commission Meeting
4. Master Plan
5. Traffic Study
6. Proffers
7. Archaeological Summary
8. Building Elevation
9. Environmental Narrative, Exhibits and Worksheets
10. Construction Phasing Schedule
11. Letter from Adjacent Property Owner