

MINUTES
JAMES CITY COUNTY PLANNING COMMISSION
REGULAR MEETING
County Government Center Board Room
101 Mounts Bay Road, Williamsburg VA 23185
December 5, 2018
6:00 PM

A. CALL TO ORDER

Mr. Heath Richardson call the meeting to order at 6:00 p.m.

B. ROLL CALL

Planning Commissioners Present:

Heath Richardson
Rich Krapf
Tim O'Connor
Danny Schmidt
Jack Haldeman
Frank Polster
Julia Leverenz

Staff Present:

Paul Holt, Director of Community Development and Planning
Max Hlavin, Deputy County Attorney
Terry Costello, Deputy Zoning Administrator
Alex Baruch, Senior Planner
José Ribeiro, Senior Planner
Louis Pancotti, Senior Zoning Officer

At Mr. Richardson's request, the Commission and audience observed a moment of silence in acknowledgement of the National Day of Mourning for George Herbert Walker Bush.

C. PUBLIC COMMENT

Mr. Richardson opened Public Comment.

As no one wished to speak, Mr. Richardson closed Public Comment.

D. REPORTS OF THE COMMISSION

Mr. Rich Krapf stated that the Development Review Committee (DRC) did not meet in November.

Mr. Jack Haldeman stated that the Policy Committee met on November 8, 2018 to consider amendments to Section 24-650 of the Zoning Ordinance, which currently lists the criteria that the Board of Zoning Appeals (BZA) must find in order to grant a variance. Mr. Haldeman stated that the change would simply replace the itemized criteria with a reference to the ever-changing Section 15.2-2309 of the Code of Virginia. Mr. Haldeman stated that since the BZA is only empowered to act within criteria established by the state, embedding the State Code within the County Code will obviate the need for changing the latter at every whim of the state legislature.

Mr. Haldeman stated that the Policy Committee recommends that the Planning Commission recommend approval of this Ordinance amendment to the Board of Supervisors.

E. CONSENT AGENDA

1. Minutes of the November 7, 2018 Regular Meeting

Ms. Julia Leverenz made a motion to approve the Consent Agenda.

On a voice vote the Commission voted unanimously to approve the Consent Agenda.

F. PUBLIC HEARINGS

1. SUP-18-0026. 6096 Centerville Road Detached Accessory Apartment

Mr. Alex Baruch, Senior Planner, stated that Mr. Antwyne Anderson, Jr. has applied for a Special Use Permit (SUP) to allow a detached accessory apartment at 6096 Centerville Road along with a single-family home. Mr. Baruch noted that the property is zoned A-1, General Agricultural and designated Low-Density Residential on the 2035 Comprehensive Plan Land Use Map. Mr. Baruch stated that the property is currently vacant and Building Permit applications have been submitted for this application and are currently under review.

Mr. Baruch stated that the detached accessory structure will be 748 square feet with the proposed apartment taking up 374 square feet of the total structure. Mr. Baruch stated that the other half of the structure will be used as a garage.

Mr. Baruch stated that detached accessory apartments are a specially permitted use in the A-1, Zoning District and must further comply with the performance standards set forth in Section 24-32(b) of the Zoning Ordinance.

Mr. Baruch stated that the staff finds that the proposed accessory apartment conforms to all the requirements of Section 24-32(b). Mr. Baruch further stated that staff finds the application to be compatible with the 2035 Comprehensive and the surrounding zoning. Mr. Baruch stated that staff recommends that the Planning Commission recommend approval to the Board of Supervisors subject to the proposed conditions.

Mr. Richardson called for disclosures from the Commission.

There were no disclosures.

Mr. Richardson opened the Public Hearing.

As no one wished to speak, Mr. Richardson closed the Public Hearing.

Mr. Haldeman noted that he appreciated what the applicant is doing and wished the applicant Godspeed with the project.

Mr. Krapf made a motion to recommend approval of SUP-18-0026 subject to the proposed conditions.

On a roll call vote the Commission voted to recommend approval of SUP-18-0026, 6096 Centerville Road Detached Accessory Apartment (7-0).

2. SUP-18-0029. 7206 Merrimac Trail Rental of Rooms Renewal

Ms. Terry Costello, Deputy Zoning Administrator, stated that Shelby and Patrick Dillon have applied to renew their SUP to allow for the rental of up to three rooms in their home. Ms. Costello noted that the property is located inside the Primary Service Area (PSA) at 7206 Merrimac Trail, is zoned R-2, General Residential, and designated Low Density Residential on the 2035 Comprehensive Plan Land Use Map. Ms. Costello stated that the Rental of Rooms up to a maximum of three rooms is a specially permitted use in the R-2 zoning district.

Ms. Costello noted that while both “tourist home” and “rental of rooms” describe types of short-term vacation rentals, the uses are distinct in two ways: the rental of rooms limits the number of rooms to a maximum of three rooms rented, whereas tourist home operators may rent the entire home on a short-term basis. Ms. Costello further stated that the rental of rooms has traditionally required that the operator or owner remain present and continue residing at the property during the time of rental, while the tourist home use does not have any residency requirements. Ms. Costello stated that the proposed use prohibits renting the entire home.

Ms. Costello stated that an SUP was approved on March 14, 2017, with an expiration date of March 14, 2019. Ms. Costello further stated that the time limit has been removed for the renewal.

Ms. Costello stated that staff considered the home’s location, parking provisions, and screening all to be favorable factors in the evaluation of this application. Ms. Costello further stated that the property is a corner lot which fronts on two roadways, effectively isolating it from the James Terrace subdivision-proper, while providing direct access to the property from a main thoroughfare and all property lines are screened by existing mature vegetation. Ms. Costello stated that the home is located at the end of a long driveway and provides adequate parking capacity for the proposed use.

Ms. Costello stated that the proposed SUP conditions were designed to address and minimize potential impacts on adjacent properties by: limiting the total number of allowed guests and number of guest vehicles allowed on site; limiting any exterior changes to the home which may draw attention to this use; ensuring that the applicant has acquired all necessary licenses; and prohibiting any future driveway access to Adams Road.

Ms. Costello stated that staff has been made aware of the existence of a restrictive covenant that applies to the subject property which may affect the rental of rooms on this property. Ms. Costello further stated that the County Attorney has advised that because the County is not a party to this restrictive covenant, staff lacks the legal authority to interpret whether or not the covenant prohibits the proposed use.

Ms. Costello stated that staff finds the proposal to be compatible with the 2035 Comprehensive Plan, the Zoning Ordinance and surrounding development, and recommends that the Planning Commission Board recommend approval of this application to the Board of Supervisors, subject to the conditions listed in the staff report.

Mr. Richardson opened the Public Hearing.

Ms. Shelby Dillon, Applicant, 7206 Merrimac Trail, addressed the Commission in support of

the application and requested that the Commission approve the application.

Ms. Leverenz inquired if there has been any feedback from adjacent property owners.

Ms. Costello stated that the County has not received any feedback on this application.

Mr. Danny Schmidt inquired if there have been any complaints from adjacent property owners over the two years.

Ms. Costello stated that no complaints have been filed.

Mr. Richardson called for disclosures from the Commission.

There were no disclosures.

As no one else wished to speak, Mr. Richardson closed the Public Hearing.

Mr. Schmidt stated that he appreciated the applicant's willingness to abide by the County's regulations and processes.

Mr. Polster made a motion to recommend approval of SUP-18-0029.

On a roll call vote the Commission voted to recommend approval of SUP-18-0029, 7206 Merrimac Trail Rental of Rooms Renewal (7-0).

3. REZONING-18-0004/HEIGHT LIMITATION WAIVER-18-0002. Oakland Pointe

Nays: Haldeman, Richardson

Mr. José Ribeiro, Senior Planner, stated that Mr. Tim Trant, on behalf of Connelly Development, LLC, is requesting to rezone property at 7581 Richmond Road, from A-1, General Agricultural to R-5, Multi-family Residential to allow the development of 126 apartment units on $\pm$ 14.54 acres. Mr. Ribeiro further stated that the applicant is also requesting to rezone $\pm$ 0.42 acres of adjacent property at 7606 Richmond Road from A-1, General Agricultural to R-5, Multi-family Residential to allow for an access road to connect the apartment units to Oakland Drive. The total area subject to this rezoning application is $\pm$ 15 acres.

Mr. Ribeiro stated that the master plan shows how these apartments will be arranged in five buildings with a sixth building proposed as a clubhouse. Mr. Ribeiro stated that the recreation facilities are located at the southern and eastern part of the site with hard and soft trails providing connectivity throughout the project. Mr. Ribeiro further stated that a sidewalk along the frontage of 7581 Richmond Road and across adjacent property is proposed to allow pedestrian access to the Richmond Road intersection with Croaker Road and Pricket Road. Mr. Ribeiro stated that in addition, per the adopted Regional Bikeways Plan, the project includes a shoulder bike lane along the frontage of 7581 Richmond Road. Mr. Ribeiro stated that the master plan also shows the location of a private access road and parking area. Mr. Ribeiro stated that the proposed private access road is located on a portion of adjacent property at 7606 Richmond Road and subject to this rezoning application.

Mr. Ribeiro stated that the project is located on a Community Character Corridor per the adopted Comprehensive Plan, and thus, provides a 150-foot buffer along the Richmond Road frontage of property at 7581 Richmond Road. Mr. Ribeiro stated that the Master Plan shows

the buffer as retaining the existing wooded character.

Mr. Ribeiro stated that this project proposes a net density of 9.4 units per acre. Mr. Ribeiro further stated that in order to achieve this density, the project will need to achieve one bonus density point. The project proposes to achieve this by committing to green building techniques, specifically through the Earth Craft Gold certification.

Mr. Ribeiro stated that a Traffic Impact Study was prepared for this development which analyzed physical improvements to mitigate the increase in traffic on local roads. Mr. Ribeiro stated that the study shows that at project buildout in 2025 there is a decline in the Level of Service (LOS) from a "D" to an "E" in the A.M. peak hour for the eastbound left turn at the intersection of Richmond Road and Croaker Road. Mr. Ribeiro stated that the study also examined adjustments to the signal timing to optimize its function. Mr. Ribeiro noted that if these adjustments were done, it could result in maintaining the eastbound left at a LOS "D" in the A.M. peak hour. Mr. Ribeiro stated that staff notes that adjustments to the traffic signal timing are at the sole discretion of the Virginia Department of Transportation (VDOT). Mr. Ribeiro further stated that VDOT has indicated that they would modify the traffic signal timing if it was determined to improve the performance of the intersection.

Mr. Ribeiro stated that the applicant is proposing to fully meet most Parks and Recreation Development Guidelines; however, the applicant is requesting an exception to the guidelines for the multi-use field and the courts/pools requirements. Mr. Ribeiro stated that Planning and Parks and Recreation staff are receptive to this request; however, the waiver must be approved by the Board of Supervisors.

Mr. Ribeiro stated that in order to address stormwater issues the applicant is proposing to upgrade the existing pond on the property and include the provision of three forebays, to address on-site and off-site drainage. Mr. Ribeiro stated that staff from the Stormwater Resource Protection has reviewed this application and supports the proposed improvements.

Mr. Ribeiro stated that in order to mitigate the impacts of this development and provide public benefits assurances, the applicant is proposing a combination of notes on the Master Plan, through stated intention in the Community Impact Statement and through a proposed Easement. Mr. Ribeiro further stated that the County Attorney's office has determined that the Easement is legal and would be binding.

Mr. Ribeiro stated that the proposed development includes a number of favorable aspects. Mr. Ribeiro stated that in addition, the proposed development's density is within the range recommended for lands designated moderate-density residential (MDR) by the adopted Comprehensive Plan. Mr. Ribeiro stated that 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." Mr. Ribeiro stated that the applicant is proposing to offer public benefits such as commitment to affordable housing and enhanced environmental protection. Mr. Ribeiro further stated that the apartment complex is proposed to be developed in accordance with the Virginia Housing and Development Authority's Low Income Housing Tax Credit (LIHTC) program. Mr. Ribeiro stated that this application will also comply with the requirements of the Special Stormwater Criteria.

Mr. Ribeiro stated that with the exception of modifying the existing traffic signal timing at the Croaker Road intersection, staff finds the requirements of the Easement along with the binding Master Plan, would mitigate impacts from this development. Mr. Ribeiro stated that without knowing whether or not the Board of Supervisors will accept an Easement, staff cannot recommend approval of this application at this time.

Mr. Ribeiro stated that staff notes that a height limitation waiver application has also been submitted with the rezoning application for the proposed apartment buildings to be constructed up to 40 feet from grade. Mr. Ribeiro stated that proposed conditions have been included for this application for informational purposes as the Commission does not review Height Limitation Waiver requests.

Mr. Richardson opened the floor for questions from the Commission.

Mr. Haldeman inquired if it is the intent that the rent restrictions will be in force for 30 years.

Mr. Ribeiro stated that he understood this to be correct, but would defer to the applicant.

Mr. Richardson inquired who would make the determination about the signal timing and when this would happen.

Mr. Paul Holt, Director of Community Development and Planning, stated that once the project was built, VDOT would conduct the necessary studies and make the timing adjustments.

Mr. Haldeman inquired why the Traffic Study showed more left turns from eastbound Richmond Road onto Croaker Road in the A.M. hours than in the evening.

Mr. Ribeiro stated that he would defer to the traffic consultant.

Mr. Tim O'Connor inquired if the location of the access road as shown on the master plan is binding. Mr. O'Connor further inquired what approvals would be needed if the location of the road were to change.

Mr. Ribeiro stated that the location on the master plan is binding. Mr. Ribeiro further stated that if a development plan were submitted that showed a different location for the access road, it would require a Planning Director determination about consistency with the master plan.

Mr. Holt noted that it would need to come back for a public hearing

Mr. Haldeman inquired about the decrease in the negative fiscal impact. Mr. Ribeiro stated that the fiscal impact analysis worksheet is updated every year to reflect the Board of Supervisors' adopted budget.

Mr. Ribeiro further stated that the worksheet for FY 18, which was used by the applicant for the first application, had school operating costs which included the City of Williamsburg. Mr. Ribeiro further stated that for Capital Improvements Program (CIP) costs the worksheet used one year of the CIP rather than an average of the five years. Mr. Ribeiro stated that the worksheet had been revised prior to the current application to correct the deficiencies.

Mr. Richardson opened the Public Hearing.

Mr. Tim Trant, Kaufman & Canoles, 4801 Courthouse Street, stated that he represents Connelly Development. Mr. Trant noted that James Norman, Connelly Development, Dexter Williams DRW Consultants, Howard Price, AES Consulting Engineers, and Howard Skinner were in the audience.

Mr. Trant stated that the main change in the application is the access to the development. Mr. Trant stated that the earlier application proposed to take access directly from Richmond Road. Mr. Trant further stated that the current application proposes to take access from Oakland Drive, with only a pedestrian connection to Richmond Road. Mr. Trant noted that the new

access was developed based on public comment at the earlier public hearing and community outreach discussion.

Mr. Trant stated that another significant change is the reduction in negative fiscal impact. Mr. Trant noted that the County's fiscal model is conservative and understandably favorable to the County's interests. Mr. Trant stated that from the applicant's viewpoint it does not take in account all aspect of the project and all revenue generated. Mr. Trant stated that if these revenues were accounted for, they would substantially mitigate the negative fiscal impacts.

Mr. Trant further stated that the project would also be mitigated by its contribution to the County's work force. Mr. Trant noted that there is substantial employment demand in that area of the County. Mr. Trant stated that many of the larger employers have noted that their employees cannot afford to live in the County and are forced to commute long distances. Mr. Trant stated that the cost of commuting, lack of reliable transportation and difficulty finding affordable childcare contributes to chronic absenteeism and high turnover rates. Mr. Trant stated that this, in turn, inhibits productivity and limits growth potential.

Mr. Trant stated that he appreciates the thought and consideration that the Commission gives to each case. Mr. Trant further stated that he believes the decisions in this case are clear cut and that the project complies with planning policies and meets the goals of the Comprehensive Plan. Mr. Trant requested that, while weighing public comment, the Commission also consider the voices of those who are not fully represented at this meeting who would benefit from the housing product that this project will provide.

Ms. Leverenz inquired if service costs had been considered when calculating the additional revenue. Ms. Leverenz noted that most of the fees were merely offsetting the cost of providing services.

Mr. Trant stated that for many of the services such as water and sewer, the cost to expand the service is nominal. Mr. Trant said that the figures he provided are net revenues.

Mr. Krapf inquired whether the recommended rental rate was only the rent or included utilities.

Mr. Trant stated that the rental fee includes some utility considerations.

Mr. Krapf inquired how the affordability of the apartments was calculated.

Mr. Trant stated that the LIHTC program establishes the parameters for the rent restrictions. Mr. Trant further stated that the restriction is a range between 40% and 60% of the Area Median Income (AMI). Mr. Trant stated that the AMI is used to determine what a tenant in that income range can afford. Mr. Trant noted that it is a sliding scale depending on the size of the household. Mr. Trant further stated that through the LIHTC and corresponding financing program, those restrictions are in place from a regulatory perspective.

Mr. Schmidt inquired about the depth of the proposed stormwater retention basins and noted concern over the proximity of the proposed playground.

Mr. Howard Price, AES Consulting Engineers, stated that the pond would be roughly nine-feet deep. Mr. Price further stated that there will be forebays that treat the water before it reaches the pond. Mr. Price further stated that the County has requirements for safety benches. Mr. Price stated that the distance from the pond to the playground will be more than adequate where the safety benches will be applied. Mr. Price noted that the safety benches are graded to be a more gradual flatter slope. Mr. Price further noted that there was at least 100 feet from the pond to the playground.

Mr. Schmidt inquired if the pond was likely to freeze over.

Mr. Price stated that the design of the pond and the aeration devices will prevent the water from freezing.

Ms. Leverenz inquired about the timing of the median improvements on Route 60.

Mr. Trant stated that the median improvements will be part of the site plan process when construction plans are submitted. Mr. Trant stated that the off-site improvements would be constructed in phases; however, in order to get the Certificate of Occupancy (CO) all the required improvements must be complete.

Ms. Leverenz inquired if it was likely that the median improvements would not be constructed prior the start of construction.

Mr. Trant stated that he doubts that the off-site improvements would be made first. Mr. Trant stated that it was more likely that the land clearing would be done first with the intersection improvements being done sometime during the construction process. Mr. Trant noted that the construction entrance would be located where the proposed entrance road will be.

Mr. Richardson inquired about how the proposed timing of the signal at Croaker Road and Richmond Road would mitigate the traffic concerns at that intersection.

Mr. Dexter Williams, DRW Consultants, LLC, stated that adding two or three seconds to the left-turn signal would help the traffic flow. Mr. Williams further stated that once the construction plans were submitted, VDOT would do its own study to determine the necessary changes. Mr. Williams further stated that the Croaker Road widening project with an added lane at that intersection will also be cause for VDOT to look at the signal timing.

Mr. Richardson inquired if the Croaker Road widening would add two turn lanes.

Mr. Williams stated that currently there is one lane northbound and one lane southbound. Mr. Williams further stated that when widened, it will have a single approach lane with a shared left and through lane and a dedicated right-turn lane. Mr. Williams noted that this configuration will allow flexibility for the timing of other turning movements.

Mr. Richardson inquired when the Croaker Road widening would begin.

Mr. Williams stated that he did not have a timeframe for start of construction. Mr. Williams noted that when the Land Use Permit application is submitted for the off-site improvements, there will be discussion with VDOT about any necessary coordination or accommodation for the Croaker Road widening.

Mr. Richardson inquired if the project would be well underway before having discussion with VDOT.

Mr. Williams stated that they would apply for the permit once the site plan is approved.

Mr. Polster inquired if it was true that the A.M. and P.M. LOS projected for 2025 would be the same as 2017.

Mr. Williams confirmed that the overall LOS did not change much.

Mr. Polster inquired if the LOS would improve with the Croaker Road widening.

Mr. Williams confirmed.

Mr. Polster inquired if the LOS would be better than “C” or “D”.

Mr. Williams stated that most likely it would not. Mr. Williams further stated that some of the turning movements would improve.

Mr. Polster inquired if the median improvements would make any improvement in the LOS for westbound traffic exiting Oakland Drive.

Mr. Williams stated that at an unsignalized intersection the LOS is only for yield movements which is the traffic on Oakland Drive which will be “C” or better with the proposed improvements.

Mr. Polster inquired if the median improvements would improve sightlines.

Mr. Williams confirmed.

Mr. Haldeman inquired why the three scenarios for the eastbound left-hand turn onto Croaker Road show a significantly higher traffic count in the morning peak hour than the evening peak hour.

Mr. Williams stated that the morning traffic count is attributed to commuters accessing the interstate.

Mr. Schmidt inquired what the median improvements would look like for the left turn from Oakland Drive.

Mr. Williams stated that AES has done some of those projections but no graphics had been provided for this meeting. Mr. Williams further stated that when the westbound left-turn lane is constructed, the slope will be cut back substantially.

Mr. Schmidt inquired if the trees would be cut back.

Mr. Williams confirmed.

Mr. Trant clarified that the VDOT improvements were not modeled in the applicant’s Traffic Impact Analysis (TIA). Mr. Trant noted that the improvement in LOS provided by the Croaker Road widening will be in addition to the improvements proposed by the applicant.

Mr. Holt noted that the Croaker Road widening project is currently in the engineering phase and will then move to the utility relocation phase. Mr. Holt stated that the project should begin the construction phase in FY2023 which begins July 1, 2022.

Mr. Polster inquired about the purpose of the addition of the third forebay.

Mr. Price stated that it is part of the master plan in the Yarmouth Creek Watershed Study. Mr. Price further stated that the Stormwater and Resource Protection Division required the forebay to be added as a pre-treatment facility to meet the Level Two standard for this Best Management Practice.

Mr. Polster inquired if Marston’s Pond is being used by another development to handle stormwater.

Mr. Price stated that the pond is also used by The Village at Candle Station.

Mr. Polster inquired if there was any certainty that the pond would be maintained.

Mr. Price stated that there is a maintenance agreement.

Mr. Trant clarified that this is an agreement with the adjoining landowner that is required by the County.

Mr. Haldeman noted that there are 1,100 parcels in the County that are zoned R-5 and that 29 are not yet developed. Mr. Haldeman further noted that there are 2,588 parcels zoned Mixed Use of which 404 are undeveloped. Mr. Haldeman stated that both of these zoning districts allowed apartments as a by-right use. Mr. Haldeman inquired if the applicant considered any of the vacant parcels in these zoning districts.

Mr. Trant stated that the applicant searched extensively in this market before deciding on this parcel. Mr. Trant further stated that this parcel was selected based on its location and proximity to employment centers. Mr. Trant noted that the parcel is in an area where those seeking work force housing are underserved.

Mr. Krapf noted that there are already two housing developments that take Section 8 vouchers or participate in the LIHTC program. Mr. Krapf inquired if those developments draw from a different demographic. Mr. Krapf further inquired if those developments are at capacity.

Mr. Trant stated that it was not possible to obtain data on the other developments' financing and restrictions. Mr. Trant stated that the LIHTC program is very competitive and the main criteria is to prove need. Mr. Trant stated that the market study is carefully reviewed to ensure that the need exists. Mr. Trant stated that the applicant is confident that the need exists in this area. Mr. Trant noted that both of the other properties are full and have a waiting list.

Mr. O'Connor requested that Mr. Trant provide an overview of how tenants are selected. Mr. O'Connor further requested that Mr. Trant discuss the applicant's long-term plan for the property. Mr. O'Connor also requested an explanation of the need for the height waiver. Mr. O'Connor further inquired whether Williamsburg Area Transit Authority (WATA) would be accessing the property. Mr. O'Connor also requested an explanation of the Gold Standard Certification.

Mr. Trant stated that Connelly Development is a small family run business located in South Carolina. Mr. Trant further stated that the company does almost exclusively affordable housing projects. Mr. Trant noted that the company currently owns and operates over 2,000 apartment units.

Mr. Norman Connelly, Connelly Development, stated that the company still owns the first affordable housing complex that they built. Mr. Connelly further stated that the federal oversight for these programs is very stringent. Mr. Connelly stated that, in addition, there is on-site management to ensure that the development is maintained and that tenants do not create nuisances.

Mr. Trant stated that because of the competitive nature of the tax credit program, the second most important criteria is the quality of design. Mr. Trant stated that the project calls for the use of very high quality material that will ensure durability. Mr. Trant further stated that the height waiver is needed to allow the architecture shown in the proposed elevations. Mr. Trant further stated that this design was developed to be compatible with the surrounding development and the character of the area. Mr. Trant stated that for tenants there is a financial eligibility requirement. Mr. Trant further stated that a background check is done, in particular

to check for criminal records. Mr. Trant stated that the majority of applicants are honest and hardworking individuals looking for a decent and safe place to live.

Mr. Trant stated that the Gold Standard certification would be a combination of fixed improvements installed during construction and some ongoing maintenance items.

Mr. Trant stated that there have not been any discussions with WATA. Mr. Trant further stated that the applicant studied the WATA route maps to ensure the viability of the project with available public transportation and routes that would provide access to employment centers.

Ms. Lisa Marston, 7581 Richmond Road, addressed the Commission in support of the application. Ms. Marston noted the benefits to individuals as well as the community and businesses.

Mr. Lee Alexander, 209 Crescent Drive, addressed the Commission in opposition to the application. Mr. Alexander expressed concerns about traffic congestion and safety and the impact on the Yarmouth Creek watershed.

Ms. Bonnie Brown, 105 Crescent Drive, addressed the Commission in opposition to the application. Ms. Brown expressed concerns about traffic safety.

Ms. Allison Otey, 100 Woodmont Place, addressed the Commission in opposition to the application. Ms. Otey expressed concerns about increased residential development and traffic safety.

Ms. Heather Hart, 7661 Turlington Road, addressed the Commission in opposition to the application. Ms. Hart expressed concerns about traffic safety.

Mr. Patrick McCaffery, 124 Crescent Drive, representing a group of Oakland Farms residents addressed the Commission in opposition to the application. Mr. McCaffery noted concerns about traffic volume and safety, loss of rural character, impacts on the Yarmouth Creek watershed, the negative fiscal impact and lack of consistency with the goals, strategies and actions of the Comprehensive Plan.

Mr. Earl Bittner, 7404 Wicks Road, addressed the Commission in opposition to the application. Mr. Bittner expressed concerns about loss of farmland, traffic congestion and the fiscal impact.

Ms. Susan Grainer, 111 Crescent Drive, addressed the Commission in opposition to the application. Ms. Grainer expressed concerns about traffic congestion, loss of community character and the fiscal impact.

Ms. Kim Orthner, 120 Crail, addressed the Commission in support of the application. Ms. Orthner noted that this project would be a step forward in addressing the needs of the County's work force.

Ms. Karen Grainer-Lubore, 208 Crescent Drive, addressed the Commission in opposition to the application. Ms. Grainer expressed concerns about traffic safety, impact on the Yarmouth Creek watershed and the unsuitability of the location.

Mr. Jack Lubore, 208 Crescent Drive, addressed the Commission in opposition to the application. Mr. Lubore expressed concerns about environmental impacts, traffic safety and loss of rural character.

Mr. Gary Driscoll, 114 Crescent Drive, addressed the Commission in opposition to the

application. Mr. Driscoll expressed concerns about the location, density, loss of natural habitats and traffic congestion and safety.

Ms. Adrienne Frank, 114 Crescent Drive, addressed the Commission in opposition to the application. Ms. Frank expressed concerns about traffic safety and congestion and stormwater runoff.

Ms. Mary Baldwin 101 Crescent Drive, addressed the Commission in opposition to the application. Ms. Baldwin expressed concerns over loss of rural character, environmental impacts, traffic congestion and safety and additional strain on the school system and public services.

Mr. Richard Baldwin, 101 Crescent Drive, addressed the Commission in opposition to the application. Mr. Baldwin expressed concerns about loss of the rural character of the area.

Mr. Joe Ripchick, 115 Crescent Drive, addressed the Commission in opposition to the application. Mr. Ripchick expressed concerns about loss of the rural character of upper James City County, impacts from additional stormwater runoff, impacts on the school system and traffic safety.

Mr. Edward A. Decker, 107 Woodmont, addressed the Commission in opposition to the application. Mr. Decker expressed concerns about traffic safety.

Mr. Mel Watson, 107 Crescent Drive, addressed the Commission in opposition to the application. Mr. Watson expressed concerns about traffic impacts, environmental impacts and economic impacts.

Mr. Thumper Newman, 3526 Governor's Landing Road, addressed the Commission in support of the application. Mr. Newman highlighted the need for affordable housing.

Mr. Nathan Groeger, 214 Crescent Drive, addressed the Commission in opposition to the application. Mr. Groeger expressed concerns about the impact on the school system.

Ms. Jane Marioneaux, 119 Crescent Drive, addressed the Commission in opposition to the application. Ms. Marioneaux expressed concerns about traffic safety and the impact of development in the upper part of the County.

Mr. Stan Treleven, 118 Woodland Road, addressed the Commission in opposition to the application. Mr. Treleven expressed concerns about development and growth in the County.

Mr. David Nice, 4571 Ware Creek Road, addressed the Commission in support of the application. Mr. Nice noted the difficulty of finding and retaining employees and the effect of that difficulty on business owner. Mr. Nice further noted the contributions that affordable housing residents bring to the Community.

Mr. Gary Thompson, 101 Woodmont Place, addressed the Commission in opposition to the application. Mr. Thompson expressed concerns about the additional vehicle trips generated by the development and the impact on traffic safety.

Mr. Harold McDonald, 3147 Cider House Road, addressed the Commission in support of the application. Mr. McDonald noted the quality of the proposed buildings, the thoroughness of the resident application process and the regulations to prevent nuisances.

Mr. Leif Romberg, 6 Michelle's Circle, addressed the Commission in opposition the application. Mr. Romberg expressed concerns about the project's incompatibility with the rural

nature of the area, the negative fiscal impact and the impact on the Yarmouth Creek watershed.

Mr. Jerry Burchette, 105 Timberwood Drive, addressed the Commission in opposition to the application. Mr. Burchette expressed concerns that the project is in conflict with the recommendations in the Comprehensive Plan.

Mr. Richard W. Kline, 6592 Rexford Lane, addressed the Commission in support of the application. Mr. Klein noted the need for affordable housing in the County. Mr. Klein further noted the need for affordable housing to be built in small developments that are scattered throughout the locality. Mr. Kline noted the negative impact on the local economy and social structure if all affordable housing is clustered in one area.

Mr. Tom Hardin, 207 Crescent Drive, addressed the Commission in opposition to the application. Mr. Hardin expressed concerns about traffic safety and the environmental impacts.

Ms. Karen Pribush, 7448 Wickes Road, addressed the Commission in opposition to the application. Ms. Pribush expressed concerns over the impact to the rural character of the County. Ms. Pribush also expressed concern over maintenance of the pond.

Ms. Michelle Eardly, 2996 Forge Road, addressed the Commission, in opposition to the application. Ms. Eardly expressed concerns about the loss of community character.

Ms. Ethel Eaton, 138 The Maine, addressed the Commission in support of the application. Ms. Eaton noted the need for affordable housing. Ms. Eaton also noted the benefit of the development to the goal of making Toano vibrant again.

Mr. Arch Marston, 185 Heritage Pointe, addressed the Commission in support of the application. Mr. Marston noted the documented need for affordable housing in that location and compatibility with the Comprehensive Plan.

Mr. Russ Meermans, 7323 Little Creek Road, addressed the Commission in support of the application. Mr. Meermans noted the great need for affordable housing.

Ms. Charvalla West, 206 Louise Lane, addressed the Commission in support of the application. Ms. West noted the need for affordable housing for people already in the community.

Ms. Alexandria Gruendl, 113 Crescent Drive, addressed the Commission in opposition to the application. Ms. Gruendl expressed concerns about traffic safety.

Mr. Adam Davis, 107 Willow Drive, addressed the Commission in support of the application. Mr. Davis noted the need for affordable housing in the community.

As no one else wished to speak, Mr. Richardson closed the Public Hearing.

Mr. Richardson inquired if the Commission would like a recess.

The Commission agreed to recess for ten minutes.

Mr. Holt cautioned the Commission not to discuss the present case among themselves or with anyone else. T

he Commission recessed for ten minutes at approximately 9:36 p.m.

The Commission reconvened at approximately 9:46 p.m.

Mr. Richardson opened the floor for questions and discussion by the Commission.

Mr. Krapf inquired about the timing of the median improvements in relation to the project.

Mr. Trant responded that the roadwork is intended to be completed when the project is developed.

Ms. Leverenz inquired whether the Commission could require that the median improvements be completed prior to the beginning of construction.

Mr. Holt stated that since this is not an SUP, the County cannot attach conditions.

Mr. Trant stated that the applicant has proposed an easement agreement which, while new to land use cases, is a time tested way of providing assurances. Mr. Trant further stated that the applicant would need to consider the impacts on the project budget and schedule; however, the Commission could make this part of its recommendation.

Mr. O'Connor recommended calling for disclosures before proceeding further.

Mr. Richardson called for disclosures.

Mr. Krapf stated that the applicant called him in case he had any questions about the application.

Mr. Polster stated that he received a call from Mrs. Marston who inquired if he needed any additional information or documentation.

Mr. O'Connor stated that he spoke with Mr. Marston for clarification on traffic issues.

Mr. Schmidt stated that he traded voice messages with Mr. Trant.

Mr. Haldeman stated that he spoke with the applicant following a Work Force Housing Task Force (WHTF) meeting regarding the need for affordable housing.

Mr. O'Connor inquired why the entrance road was shifted from Richmond Road to Oakland Drive. Mr. O'Connor noted that during consideration of the previous iteration of the plan, the Commission recommended that the entrance be constructed with a right-in and a right-out. Mr. O'Connor stated that the Richmond Road access with the restricted turning movements would alleviate some of the concerns about the Croaker Road and the Oakland Drive intersections.

Mr. Trant stated that the change was made to address strong community sentiment against having any access point on Richmond Road. Mr. Trant further stated that any direct access on Richmond Road was seen as problematic.

Mr. Haldeman stated that his comments were generally brief; however, for this application he had a number of thoughts for consideration.

Mr. Haldeman stated that he has represented the Commission on the WHTF for the past 12 months. Mr. Haldeman stated that this has taken him from a position of total ignorance to one of confusion and frustration. Mr. Haldeman noted that fifteen very smart, motivated people have anguished over this problem for a year and still don't have an answer. Mr. Haldeman stated that part of the problem is that we must deal with a sharp contradiction in two important

County goals: increasing workforce housing, on the one hand, and protecting open space and the County's rural, historic, small town ambiance on the other. Mr. Haldeman further stated that this is made even more difficult by land use decisions made by County officials in the 1970s through the 1990s. Mr. Haldeman stated that the rush to pave over James City County left little room for the aftereffects. Mr. Haldeman stated that nobody considered who would staff all these hotels and retail outlets and where they would live.

Mr. Haldeman stated that a related problem is the weak economic model that ensued. Mr. Haldeman further stated that the Comprehensive Plan, in stating the obvious, notes that James City County has relatively expensive housing and poor-paying jobs, which creates an unhealthy, circular pattern of long commutes as County residents leave each morning to work in high-paying jobs elsewhere and people living elsewhere commute into the County to take low-paying jobs. Mr. Haldeman noted that many of the latter simply cannot afford to live here.

Mr. Haldeman stated that, to again state the obvious, any solution to the housing part of this problem will cost money. Mr. Haldeman stated that this will tend to raise taxes which, in turn, will make houses less affordable – another contradiction.

Mr. Haldeman stated that now, the WHTF belatedly is asked to recommend a plan. Mr. Haldeman further stated that the Housing Conditions Study of 2016 recommends, in part, that the County implement sets of both land use policies and corresponding design guidelines that together set and clearly communicate public sector expectations about the location and quality of future development. Mr. Haldeman stated that any plan must involve land use designations, zoning ordinances, regulations, and economic development. Mr. Haldeman stated that it is clear to him that the County has an income problem as much as a housing problem. Mr. Haldeman further stated that the County has no plan at this point, leaving us simply to consider applications as they arise, meaning that the Commission is reduced to evaluating Oakland Pointe as a one-off, which is not an ideal process.

Mr. Haldeman stated that the project has many favorable factors and he begins by assuming that all easements, master plan notes and waivers will be legally enforceable, as the County Attorneys assert. Mr. Haldeman further stated that he also accepts that potential impacts to Yarmouth Creek will be effectively addressed. Mr. Haldeman stated that he also accepts that the impact to traffic at the Richmond Road/ Croaker Road intersection will be manageable at present.

Mr. Haldeman stated that this project is consistent with an important County goal, which is to increase the supply of housing for low-paid workers. Mr. Haldeman stated that these are workers earning between 40% and 60% of AMI who will be able to rent these apartments without spending more than 30% of their gross income. Mr. Haldeman further stated that this is a goal of the Comprehensive Plan, the Strategic Plan, the Business Climate Task Force Report and the Housing Conditions Study. Mr. Haldeman stated that it is a humanitarian imperative and an economic imperative. Mr. Haldeman stated that numerous sources relate housing cost burdens to health problems, educational deficiencies, traffic congestion and difficulties in attracting and keeping businesses. Mr. Haldeman noted that a large number of County residents are cost burdened, although getting an exact number has not been easy.

Mr. Haldeman stated that staff lists four favorable factors: 1) The proposal will not negatively impact surrounding zoning and development; 2) The proposal's density is within the range recommended for lands designated MDR by the adopted Comprehensive Plan; 3) The proposal meets the Adequate Public Schools Facilities Test; and 4) While unable to provide proffers, the applicant is proposing to demonstrate commitment to various Board of Supervisors adopted policies and other public benefits to support the proposed density through notes on the Master Plan and via an Easement Agreement.

Mr. Haldeman further stated that within the context of affordable housing, this project has five other qualities that recommend approval: 1) The use of the Virginia tax credit program is one relatively painless way to finance below-market housing, and is consistent with one of the County housing imperatives, according to the Housing Conditions Study which is to implement an incentive-based framework of housing development-oriented public policies that help encourage the private sector to jump in as a genuine partner and robustly participate in the co-creation of a full housing ladder, affordable housing options for all income levels; 2) Commitment to EarthCraft Gold certification which is consistent with the Comprehensive Plan; 3) Access to public transportation which is also consistent with the Comprehensive Plan and with the R-5 requirement for access to public facilities; 4) The project is within the PSA; and 5) Mr. Connelly is listed as an experienced developer by the Virginia Housing Development Authority in its November 2018 update.

Mr. Haldeman stated that unfavorable factors include further reducing open space. Mr. Haldeman stated that although the task force has not completed its work, it has established as one of its four principles that James City County's solutions for workforce housing should be designed to respect the County's unique natural, historic and cultural resources. Mr. Haldeman noted that we cannot solve our workforce housing problem by continuing to bulldoze our open space. Mr. Haldeman stated that maintaining our unique community character, another imperative highlighted in the Comprehensive Plan, the Strategic Plan, the Business Climate Task Force Report and the Housing Conditions Study, will be difficult if we continue to approve expansive residential development, affordable or otherwise. Mr. Haldeman further stated that while uncluttered viewsheds and uncrowded roads are an important part of residents' quality of life, it is also an economic and fiscal issue. Mr. Haldeman stated that the primary principle of the County's Business Climate Task Force Report is that, while attracting, retaining and expanding businesses are essential elements of our continued quality of life, they are subordinate to preserving the uniqueness of James City County, its historic legacy, its rural and small town semi-rural life. Mr. Haldeman further stated that the Land Use Section of the Comprehensive Plan states that economic development is strongly linked to a unique community character, which is a competitive advantage in attracting asset-based businesses and potential employees. Mr. Haldeman further stated that the Comprehensive Plan projects that County population may rise from about 75,000 today to as high as 136,000 by the year 2040, driven by land use policies that were, in the words of the Housing Conditions Study, "shaped not with the knowledge we now have of the negative impacts of sprawl." Mr. Haldeman further stated that if more affordable housing – or more housing of any type, for that matter, ruins James City County's only point of market differentiation, we will doom the economic prospects of the very people we are trying to help.

Mr. Haldeman stated that staff has recommended denial for several reasons: 1) A change in state law prevents the County from accepting proffers for residential rezonings, therefore, some of the typical impacts associated with residential development are not mitigated or addressed, including impacts to schools, impacts to public facilities and utilities; 2) The annual fiscal impact from this project is projected at negative 463,425, revised downward from \$635,000; 3) This proposal does not fully meet the recommendations of the Parks & Recreation Master Plan for new residential development, although Parks and Recreation staff has not expressed an objection; 4) The proposed access from Oakland Drive still adds to the cumulative impact on Richmond Road traffic.

Mr. Haldeman stated that traffic impacts are a major concern. Mr. Haldeman stated that the traffic study focused on the Croaker Road intersection, but Richmond Road traffic is a problem all the way into Williamsburg and is destined to worsen even without this project. Mr. Haldeman stated that he believes the traffic impact is much greater than what is shown in the TIA. Mr. Haldeman stated that the TIA uses a 1.08 annual growth rate factor for projecting future traffic on Richmond Road east of this project; however, there are two proposed residential projects in the Lightfoot section of upper York County that, if built, will yield 769

new homes on parcels formerly zoned Economic Development. Mr. Haldeman noted that the trip generation for the 769 new homes will be far greater than the 887 generated by Oakland Pointe. Mr. Haldeman further noted that it is not clear if the traffic impact of the other proposed developments was included in the TIA. Mr. Haldeman stated that the Comprehensive Plan states that future volumes indicate the potential need for widening Richmond Road between the City of Williamsburg and Olde Towne Road and between Humelsine Parkway and Lightfoot Road; however, it is recommended that Richmond Road remain four lanes and widening these sections should be avoided or limited due to physical limitations and the negative impacts on existing lanes. Mr. Haldeman further stated that the Comprehensive Plan recommends that new developments should be permitted only if it is determined that the project can be served by the existing road while maintaining an acceptable LOS, or if the impacts can be addressed through road and signalization improvements. Mr. Haldeman noted that the Comprehensive Plan makes clear that if we underestimate future traffic on Richmond Road, we will have no chance to fix it.

Mr. Haldeman stated that there are other inconsistencies with the Comprehensive Plan not mentioned by staff.

Mr. Haldeman stated that affordable housing is supposed to be closer to jobs, and not in rural areas. Mr. Haldeman stated that the increased demand for housing is influenced by those wanting to be residents of James City County, but who commute to work elsewhere. Mr. Haldeman stated that generally, the wages of jobs in surrounding localities are higher than the wages available in James City County. Mr. Haldeman noted that the County's HUD Affordability Index reflects generally affordable housing costs but high transportation expenses which indicates that housing that is affordable to workers is not located near jobs. Mr. Haldeman stated that the Comprehensive Plan supports the provision of mixed cost and affordable/workforce housing near employment centers and transportation hubs. Mr. Haldeman noted that the transportation section of the Comprehensive Plan recommends increasing affordable housing in proximity to job opportunities to reduce in and out commuting and congestion on major regional roadways.

Mr. Haldeman further stated that affordable housing should be in mixed-income neighborhoods. Mr. Haldeman stated that according to the Housing Conditions Study, new developments need to be mixed-income with never more than 40% allocated for households with AMI less than 50% and never with an allocation of less than 10%. Mr. Haldeman further stated that the Comprehensive Plan promotes full integration of affordable and workforce housing units with market rate units within residential developments and throughout the Primary Service Area (PSA).

Mr. Haldeman further stated that residential development should be compatible with adjacent and surrounding land uses. Mr. Haldeman noted that Oakland Pointe would be in the Norge Community Character Area (CCA) and should maintain the unique heritage and identity of the designated CCAs. Mr. Haldeman further stated that the R-5 zoning district calls for a harmonious and orderly relationship between multi-family residential uses and lower-density residential and nonresidential uses; however, this project appears to be at odds with the surrounding uses.

Mr. Haldeman stated that a number of multi-family projects have been approved recently, including Forest Glen and Powhatan Terrace. Mr. Haldeman noted that there is also a Forest Heights application coming forward in the near future. Mr. Haldeman further stated that there are literally hundreds of low-and moderate-priced housing units built or being built in Governor's Green, Settler's Market, Quarterpath, New Town, the Promenade and the Candle Station. Mr. Haldeman stated that 647 new apartment units in Upper York County are either approved or proposed. Mr. Haldeman stated that much of the multi-family housing, including is built near entrances to Routes 199 and/or I-64, prompting the question of whether

new residents work in James City County, which is consistent with the County's housing goals, or are they using the newly-widened highways to enjoy County amenities and schools while commuting to jobs in other jurisdictions. Mr. Haldeman noted that wages of jobs in surrounding localities are higher than the wages available in the County and until we equalize wages, we risk promoting the very commuting traffic congestion that affordable housing is meant to prevent.

Mr. Haldeman stated that over the past three Comprehensive Plan cycles, residents have implored the County to slow residential growth and to protect open space. Mr. Haldeman further stated that citizens are generally concerned about the pace of population growth and the effects that growth can have on traffic, water availability, open space, housing, the environment, community character, public facilities and services, demands on County tax dollars, and overall quality of life within the County. Mr. Haldeman noted that throughout public input meetings participants also identified the importance of retaining and enhancing those qualities that make James City County unique, such as its natural beauty, history and access to parks and amenities. Mr. Haldeman further noted that citizen commentary identified the most critical land use issues as growth, the environment and community character. Mr. Haldeman further stated that the overwhelming approval of the 2005 bond referendum to finance the purchase of development rights shows that residents put a monetary value on open space.

Mr. Haldeman further stated that in evaluating the application, it is necessary to consider the effects of the project.

Mr. Haldeman stated that he questions the models used for the Adequate Public Schools Facilities Test. Mr. Haldeman stated that if the 104 units right around the corner at the Station at Norge generate 73 school children how can 126 units at Oakland Pointe generate only 39. Mr. Haldeman further stated that the Adequate Facilities Test shows that Warhill High School (WHS) has the capacity for the extra 13 students; however, the School District's last CIP application requested \$5.1 million to expand the school in 2022, stating that WHS is currently over capacity and enrollment is projected to increase. Mr. Haldeman stated that the CIP also has a placeholder of \$53 million to build a new elementary school in 2028. Mr. Haldeman stated that even if the three affected schools have capacity today, cumulative impact will need to be considered.

Mr. Haldeman stated that another concern is water supply. Mr. Haldeman stated that the Eastern Virginia Groundwater Management Advisory Committee reported to the Virginia General Assembly and the Department of Environmental Quality (DEQ) in 2017 that available groundwater supplies are insufficient to meet the long-term demands of current and future groundwater users, and these groundwater resources are critical to the health, welfare, and economic prosperity of Eastern Virginia. Mr. Haldeman stated that, while the DEQ recently approved the County's water withdrawal permit, they did not allow any additional water withdrawal.

Mr. Haldeman noted that the Williamsburg Regional Library (WRL) is also impacted by the proposal. Mr. Haldeman stated that when it was established, the building had the capacity to serve the surrounding James City County population; however, after decades of growth, this is no longer the case. Mr. Haldeman stated that by 2025, the WRL will require an additional 45,876 square feet to meet public demand.

Mr. Haldeman stated that, in summary, this project meets an important County need and, if anything, it is too small. Mr. Haldeman stated that the applicant has gained his confidence that the buildings will be attractive and well built; that they will be well buffered from Richmond Road and neighboring homes; and that they will provide adequate protection for Yarmouth Creek. Mr. Haldeman further stated that the project will also: create a large fiscal drain; create

a cumulative impact on traffic along Richmond Road, particularly to the east that will be severe and unmitigatable; potentially encourage more people with jobs elsewhere to enjoy life in James City County but serve employers elsewhere; and remove yet another slice of precious open space in contradiction to numerous goals of the Comprehensive Plan.

Mr. Haldeman stated that there are 29 undeveloped R-5 parcels and 404 undeveloped Mixed Use parcels. Mr. Haldeman stated that this project could be built on one of these without a rezoning and, in the case of Mixed Use, without a height waiver.

Mr. Haldeman stated that if the Commission recommends approval to the Board of Supervisors, he hopes that it will condition the approval on the Board's approval of all easements, master plan notes and waivers.

Mr. Krapf stated that everyone agrees that there is a need for affordable housing. Mr. Krapf noted that a Virginia Employment Commission study showed that 19,000 employees are commuting to James City County because they cannot afford to live here. Mr. Krapf also noted that in addition, there are those who fall in the Asset Limited Income Constrained and Employed (ALICE) category. Mr. Krapf stated that for the Stonehouse District alone, 23% of households fall in the ALICE category. Mr. Krapf noted that the Commission's role is to make a land use decision. Mr. Krapf stated that the elements that must be considered are: consistency with the Comprehensive Plan and whether an applicant has adequately mitigated any adverse impacts of the proposal. Mr. Krapf stated that the proposal absolutely does fit with the Comprehensive Plan. Mr. Krapf further stated that the dichotomy is the A-1 zoning designation and the Comprehensive Plan vision that this property would ultimately be developed as MDR. Mr. Krapf further stated that the property is within the PSA and that the PSA is the major guideline for where development should occur in the County. Mr. Krapf stated that those are significant elements in favor of the project. Mr. Krapf further stated that the difficult question is whether the applicant has sufficiently mitigated the impacts of the project. Mr. Krapf noted that the application does not meet the Adequate Public Facilities Test for schools but it misses only for one school and only by two students. Mr. Krapf further stated that his greatest concern is the \$460,000 negative fiscal impact. Mr. Krapf noted, however, that the majority of residential developments have a negative fiscal impact because they require public services. Mr. Krapf further noted that the County has an aging population which will require more continuing care facilities and more people to staff those facilities. Mr. Krapf further noted that it will be important to have sufficient housing for those employees. Mr. Krapf stated that he does also have concerns about the traffic issues.

Mr. Polster stated he views the Comprehensive Plan as a guideline for what the County should be over the next 20 years. Mr. Polster further stated that when evaluating the effect of land use issues on quality of life and community character, the Comprehensive Plan tells us where we would like to have development and under what conditions we want that development. Mr. Polster stated that we have defined rural lands by indicating that development should take place in the PSA. Mr. Polster further stated that the property is within the PSA and the Comprehensive Plan has also designated the property as MDR. Mr. Polster noted that all the adjacent properties are designated MDR as well. Mr. Polster further noted that the Station at Norge, approved in 2004, which provides affordable housing also required a rezoning and height waiver which is exactly the same as what this application requests. Mr. Polster stated that the application is clearly in accord with the Comprehensive Plan. Mr. Polster further stated that the issue is mitigation of impacts to traffic, the environment and the schools. Mr. Polster stated that the Comprehensive Plan has provided a path forward to find alternatives to Richmond Road which would mitigate traffic impacts. Mr. Polster stated that the County has made a substantial investment in ensuring the viability of the watershed and mitigating drainage concerns for this project as well as for future development. Mr. Polster further stated that the impact to the schools is not new and that the classrooms have been over capacity for a number of years due to the expansion of the Bright Beginnings program. Mr. Polster further

stated that the School Board has brought forward a CIP application for the Elementary School which will mitigate that impact. Mr. Polster stated that he is inclined to support the application.

Mr. O'Connor inquired where the County is with the Housing Opportunities Policy.

Mr. Holt stated that as pertaining to new development the policy was rescinded by the Board of Supervisors. Mr. Holt further stated that, for guidance, there are the Goals, Strategies and Actions of the Comprehensive Plan and the adopted Strategic Plan.

Mr. O'Connor asked Mr. Hlavin to comment on the enforceability of the proposed easement.

Mr. Max Hlavin, Deputy County Attorney, stated that enforcement through a proffer or through the easement is not greatly different. Mr. Hlavin stated that the easement would allow for checks and balances throughout the project cycle similar to proffers.

Mr. O'Connor inquired what the process would be if the County wanted to vacate the easement.

Mr. Hlavin stated that the easement would constitute a property interest at the time it is accepted and would require a public hearing process to dispose of it, just as any other property interest.

Mr. Schmidt stated that he spent time observing the Croaker Road/Richmond Road intersection during the noon hour on a weekday. Mr. Schmidt stated that the intersection is a concern. Mr. Schmidt further stated that it will not improve with the build-out of other approved developments. Mr. Schmidt stated that he is concerned about the traffic impacts if any of the other similar properties are developed in the future. Mr. Schmidt noted that he is not certain that the parcels currently zoned for this type of development are of adequate size to accommodate this type of project. Mr. Schmidt noted that the decision made tonight will have impacts into the future.

Ms. Leverenz stated that the Comprehensive Plan is in fact the guiding document for the County's future and is up for review and revision every five years. Ms. Leverenz stated that there is a review cycle starting in 2019. Ms. Leverenz further stated that the Comprehensive Plan is predicated on citizen input. Ms. Leverenz stated that citizens who are interested in the future of the County should take advantage of the opportunities to participate in this process. Ms. Leverenz noted that the property has been designated as MDR in the Comprehensive Plan for more than 25 years. Ms. Leverenz stated that the application certainly meets the criteria of compatibility with the Comprehensive Plan; however, the mitigation and traffic safety issues are of great concern. Ms. Leverenz stated that if the intersection at Oakland Drive/Richmond Road could be improved prior to start of construction, it would mitigate many of the safety concerns. Ms. Leverenz noted that congestion on Richmond Road is currently a concern and the congestion will only increase unless alternate routes are developed. Ms. Leverenz stated that she has less concern about the fiscal impact. Ms. Leverenz noted the fiscal impact will be the same wherever affordable housing is built. Ms. Leverenz stated that she believes this investment will be worthwhile.

Mr. O'Connor stated that he had requested clarification on the Housing Opportunities Policy (HOP) because it is referenced numerous times in the Comprehensive Plan. Mr. O'Connor stated that while the Comprehensive Plan is a guiding document, the HOP is not. Mr. O'Connor stated that there are multiple areas in the Comprehensive Plan suggesting ways to provide affordable housing in the County. Mr. O'Connor noted that if the County wants affordable housing, the County must be prepared to assume the cost. Mr. O'Connor noted that the high- and moderate density parcels are generally located near interchanges in order to keep traffic off longer stretches of roadway. Mr. O'Connor stated that he believes this is an

appropriate location for the project. Mr. O'Connor further stated that, if this project is not approved, other projects with similar impacts could be brought forward that would not provide the same benefit to the County. Mr. O'Connor stated that he is not comfortable with the easement document and the enforcement of the terms and conditions. Mr. O'Connor stated that he is an advocate of affordable housing; however, he is not certain that the way the County has addressed to date has been a benefit to the community. Mr. O'Connor stated that from a land use perspective the application meets all criteria; however, there are still factors that are a concern.

Mr. Richardson stated that in reviewing applications, the Commission considers projects from numerous perspectives and incorporates citizen and applicant input in its decision. Mr. Richardson stated that the Comprehensive Plan provides guidance for how the County should develop. Mr. Richardson stated that one resounding theme is the preservation of community character. Mr. Richardson stated that everyone recognizes the need for affordable housing. Mr. Richardson further stated that people also need to be able to work here, live here, grow their families here and make the County their home. Mr. Richardson further stated that we also need the necessary infrastructure. Mr. Richardson noted that in some instances what is needed for the safety or benefit of the public is not supported by the numbers. Mr. Richardson stated that the Commission considers every application from a land use perspective and whether it is in compliance with the Comprehensive Plan. Mr. Richardson stated that the final piece is mitigation of impacts. Mr. Richardson stated that the County is at a crucial crossroads to define growth, to assess the utility of the PSA and to look at alternatives to widening Richmond Road. Mr. Richardson further stated that it is time for the Williamsburg-James City County Schools to solicit some real public input for what schools we need and where they need to be. Mr. Richardson stated that it is time to formulate a Public Facilities Master Plan. Mr. Richardson stated that the County needs to catalogue what can be improved now and draw a line on development with impacts that cannot be mitigated. Mr. Richardson further stated that the County needs to achieve a solution to the affordable housing issue in a way that avoids a piecemeal solution. Mr. Richardson noted that in addition, we do not know if the Board of Supervisors will accept the easement document. Mr. Richardson stated that with due respect to both sides, he will oppose the application.

Mr. O'Connor inquired if the concern was whether the Board of Supervisors can or will accept the Easement document.

Mr. Hlavin stated that the Board of Supervisors has the authority to accept the Easement document. Mr. Hlavin stated that the staff analysis was based on the unknown of whether the Board of Supervisors would accept the Easement. Mr. Hlavin stated that the Easement document would address some ordinance requirements for the density as well as mitigate some of the development impacts.

Mr. Holt noted that staff did find that within that document the impacts had been mitigated.

Mr. Haldeman complimented Mr. Ribeiro on his thorough presentation and willingness to respond to inquiries.

Ms. Leverenz inquired if there is a procedure for recommending that mitigation of the Oakland Drive/Richmond Road intersection prior to start of construction.

Mr. Holt stated that the motion should be for what is before the Commission. Mr. Holt further stated that if there is strong sentiment from the Commission that the intersection improvements be constructed first, that will be noted in the minutes and staff will reflect it in the staff report that goes to the Board of Supervisors.

Mr. Richardson inquired if that would be a recommendation separate and apart from the

motion on what is before the Commission.

Mr. Hlavin stated that the language could be included in the motion that the applicant consider mitigation of those impacts as a matter of timing in relation to land disturbance.

Mr. Holt stated that the Commission could forward a recommendation to the Board of Supervisors that the mitigation be done sooner rather than later.

Mr. Polster stated that the Commission is requesting that the applicant consider the suggestion prior to taking this forward to the Board.

Ms. Leverenz inquired if there is consensus to build in that request.

Mr. Krapf suggested asking the applicant to report to the Board of Supervisors on the feasibility of modifying the construction schedule.

The Commission agreed to ask the applicant to provide a report to the Board of Supervisors on the feasibility of modifying the construction schedule.

Mr. Polster made a motion to recommend approval of Rezoning-18-0004/Height Limitation Waiver-18-0002, Oakland Pointe.

Mr. Holt noted that the Commission did not need to vote on the Height Limitation Waiver as by Ordinance it is only required that the Board of Supervisors review these.

On a roll call vote the Commission voted to recommend approval of Rezoning-18-0004/Height Limitation Waiver-18-0002. Oakland Pointe (5-2).

4. Case No. ORD18-0007. Consideration of a Zoning Ordinance Amendment to Authorize the Board of Zoning Appeals to Grant a Reasonable Modification in Accordance with the Americans with Disabilities Act or State and Federal Fair Housing Laws, as Applicable

Mr. Louis Pancotti, Senior Zoning Officer, stated that during the 2018 session of the General Assembly, amendments were made to Section 15.2-2309 of the Code of Virginia. Mr. Pancotti stated that the amendment provides authority to the Board of Zoning Appeals (BZA) to alleviate a hardship by granting a reasonable modification to a property or improvement thereon requested by, or on behalf of, a person with a disability in accordance with the Americans with Disabilities Act or state and federal fair housing laws, as applicable.

Mr. Pancotti stated that unlike legislative cases, variances are reviewed by the BZA which is composed of five County residents who are appointed by the Circuit Court after endorsement by the Board of Supervisors. The Code of Virginia empowers the BZA to hear appeals of Zoning Administrator determinations and grant a variance.

Mr. Pancotti stated that Section 24-650 of the Zoning Ordinance currently establishes the criteria that the BZA must find in order to grant a variance. Mr. Pancotti further stated that since the General Assembly often modifies BZA powers and duties, staff recommends that Section 24-650 be modified to simply adopt the powers granted by the Code of Virginia by referencing Section 15.2-2309 of the Code of Virginia. Mr. Pancotti stated that this change would alleviate future amendments as the BZA is only empowered to act in accordance with the criteria prescribed by statute.

Mr. Pancotti stated that at its November 2018 meeting, the Policy Committee reviewed the draft Ordinance language and voted 4-0 to approve the amendments. Mr. Pancotti further stated that staff recommends that the Planning Commission recommend approval of the Ordinance amendment to the Board of Supervisors.

Mr. Richardson opened the Public Hearing.

As no one wished to speak, Mr. Richardson closed the Public Hearing.

Mr. Schmidt made a motion to recommend approval of the ordinance amendments.

On a roll call vote the Commission voted to recommend approval of ORD-18-0007. Consideration of a Zoning Ordinance Amendment to Authorize the Board of Zoning Appeals to Grant a Reasonable Modification in Accordance with the Americans with Disabilities Act or State and Federal Fair Housing Laws, as Applicable (7-0).

5. Case Nos. ORD-18-0010 and ORD-18-0011. Amendments to Address a Code of Virginia Change Prohibiting Mandatory Conceptual Plans

Mr. Ribeiro stated that during the 2018 session of the General Assembly, amendments were made to Section 15.2-2259 of the Code of Virginia. Mr. Ribeiro further stated that the amended language states: “the local planning commission or other agent shall not delay the official submission of any proposed plat, site plan, or plan of development by requiring presubmission conferences, meetings, or reviews.”

Mr. Ribeiro stated that after consultation with the County Attorney’s office, it is staff’s understanding that this language prohibiting the requirement of “presubmission reviews” would also prohibit the requirement for conceptual plan submissions.

Mr. Ribeiro stated that a process for submission and review of conceptual plan has been part of the County’s site plan and subdivision process for many years. Mr. Ribeiro further stated that for most of that time, the sections covering conceptual plans were worded to encourage their submission, but not require it. Mr. Ribeiro stated that in 2016 the site plan section of the Zoning Ordinance was amended to require “enhanced conceptual plans” prior to the submission of a site plan when the proposal was for certain types of development that triggered review by the DRC and Planning Commission. Mr. Ribeiro stated that this change in 2016 was made to make the plan review process more efficient and predictable, without compromising review integrity. Mr. Ribeiro further stated that this language is now out of compliance with State Code.

Mr. Ribeiro stated that in order to comply with State Code, staff recommends reverting to the language of Sections 24-147 and 24-148 as they existed prior to the amendments made in 2016.

Mr. Ribeiro stated that in order to fully comply with the State Code, staff recommends a change to Section 24-144 of the Zoning Ordinance and Section 19-19 of the Subdivision Ordinance, which contain the provisions for conceptual plans, to delete a sentence that states “Unless required by the planning director, a resubmittal of conceptual plans shall not be necessary.”

Mr. Ribeiro stated that the Policy Committee reviewed the draft Ordinance language at its October 2018 meeting and voted 3-0 to approve the amendments.

Mr. Ribeiro stated that staff recommends that the Planning Commission recommend approval of the ordinance amendments to the Board of Supervisors.

Ms. Leverenz inquired if an applicant could still voluntarily submit a conceptual plan.

Mr. Ribeiro confirmed. Mr. Ribeiro further stated that conceptual plans have never been mandatory. Mr. Ribeiro noted that the changes made in 2016 the enhanced were only for certain types of development.

Mr. Richardson opened the Public Hearing.

As no one wished to speak, Mr. Richardson closed the Public Hearing.

Mr. Krapf made a motion to recommend approval of the Ordinance amendments.

On a roll call vote the Commission voted to recommend approval of ORD-18-0010 and ORD-18-0011. Amendments to Address a Code of Virginia Change Prohibiting Mandatory Conceptual Plans (7-0).

G. PLANNING COMMISSION CONSIDERATIONS

There were no items for consideration.

H. PLANNING DIRECTOR'S REPORT

Mr. Holt stated that there is one item of note in addition to the report provided in the Agenda Packet. Mr. Holt stated that on December 13, the Policy Committee would be discussing the Comprehensive Plan Review methodology. Mr. Holt noted that the three Planning Commission members who are not on the Policy Committee are invited to attend the meeting. Mr. Holt noted that this would not be the only discussion on the methodology.

Mr. Holt stated that the Board of Supervisors work session provided clarity on some of the items that would be reviewed for the Comprehensive Plan.

Mr. Krapf inquired if the Old Stage Road Event Facility application is the first one submitted under the recent Ordinance amendments.

Mr. Holt stated that it is the first.

1. Planning Director's Report - December 2018

I. PLANNING COMMISSION DISCUSSION AND REQUESTS

Mr. Schmidt inquired if the DRC would meet in December.

Mr. Holt stated that a request has been submitted for a presentation in advance of an upcoming rezoning application. Mr. Holt noted that this item would not require a vote by the DRC. Mr. Holt stated that he would update the DRC if any items came forward that would require action.

Mr. Schmidt noted that he would be out of town.

Mr. O'Connor complimented staff on providing the necessary information and updates on the Oakland Pointe case.

Mr. Polster stated that cumulative impacts and transportation impacts are areas that the County needs to assess more accurately. Mr. Polster stated that while the County contributes to the database, we need to understand how those impacts will be addressed.

J. ADJOURNMENT

Mr. Haldeman made a motion to adjourn.

The meeting was adjourned at approximately 11:12 p.m.

Heath Richardson, Chair

Paul D. Holt, III, Secretary