

MINUTES
JAMES CITY COUNTY PLANNING COMMISSION
REGULAR MEETING
County Government Center Board Room
101 Mounts Bay Road, Williamsburg VA 23185
February 6, 2019
6:00 PM

A. CALL TO ORDER

Mr. Danny Schmidt called the meeting to order at 6:00 p.m.

B. ROLL CALL

Planning Commissioners Present:

Danny Schmidt
Rich Krapf
Tim O'Connor
Jack Haldeman
Frank Polster
Julia Leverenz
Odessa Dowdy

Staff Present:

Paul Holt, Director of Community Development and Planning
Max Hlavin, Deputy County Attorney
Alex Baruch, Senior Planner
Scott Whyte, Senior Landscape Planner
Tori Haynes, Planner

Mr. Schmidt welcomed Ms. Odessa Dowdy to the Commission.

C. PUBLIC COMMENT

Mr. Schmidt opened Public Comment.

Mr. Timothy O. Trant, Kaufman & Canoles, PC, 4801 Courthouse Street, stated that he is speaking on behalf of Carter's Grove Associates, the owners of the 76-acre parcel that Hampton Roads Sanitation District (HRSD) is proposing to condemn. Mr. Trant noted that Carter's Grove Associates also owns the adjacent house and gardens. Mr. Trant stated that the property owners have invested a significant amount of money and time in restoring the property. Mr. Trant further stated that the owners are willing to work out a reasonable expansion plan with HRSD; however, the current proposal is unacceptable. Mr. Trant stated that endorsing the proposal to confiscate the entire 76 acres is counterproductive to developing a mutually acceptable expansion plan. Mr. Trant noted that the acreage to be condemned is nearly ten times the amount required. Mr. Trant further noted that the parcel is crucial buffering for the Carter's Grove Historic Landmark. Mr. Trant further stated that HRSD has indicated that the property is needed to buffer its site. Mr. Trant stated that the HRSD site is highly stable and they have adequate property with easements across the Carter's Grove properties to protect their facility. Mr. Trant stated that ownership of the 76-acre parcel and the fact that the property is in an Agricultural and Forestal District (AFD) is all that protects the Carter's Grove Historic Landmark from unreasonable intrusion. Mr. Trant stated that the HRSD, if it owned the parcel, could choose not to renew enrollment in the AFD.

in the future. Mr. Trant stated that for these reasons, the property owners do not believe that the matter meets the necessary criteria and request that the Commission uphold the determination of the AFD Committee.

Mr. Jay Everson, 103 Branscome Boulevard, stated that he is pleased with the change in how school enrollment is projected for Capital Improvements Program (CIP) requests. Mr. Everson stated that in regard to the high school expansion the new elementary school, the figures are still being overstated. Mr. Everson noted the Future Think method of estimating enrollment has a number of pitfalls and should be replaced with a better method. Mr. Everson further stated that adding the Bright Beginnings program to the elementary schools is causing the projected shortage of space. Mr. Everson stated that there are more economical solutions to solve the space problem such as adding three separate centers in different locations.

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

D. REPORTS OF THE COMMISSION

Mr. Rich Krapf stated that the Development Review Committee (DRC) met on January 23, 2019 to review two Conceptual Plan cases.

Mr. Krapf stated that the Committee reviewed Conceptual Plan-18-0118, 4704 Lady Slipper Fence. Mr. Krapf stated that the applicant requested approval to construct a fence within a scenic easement located at the rear of the property, which abuts John Tyler Highway. Mr. Krapf stated that the easement is 75 feet wide and runs from the highway to the applicant's residence. Mr. Krapf further stated that the intent of scenic easements is not to have structures constructed in the easement area.

Mr. Krapf stated that at the time Graylin Woods was developed, there was no requirement for scenic easements to be owned by the Homeowners Association, which is required today, therefore, the County owns the easement, which is why the DRC reviewed this case.

Mr. Krapf stated that the applicant proposes to build a 6-foot-tall wooden privacy fence that would sit 8 feet closer to the house than the property line, resulting in a distance of 33 feet from the road. Mr. Krapf noted that three adjacent properties also have wooden fences. Mr. Krapf stated that the purpose of the proposed fence is to reduce noise and provide a safe play area for pets.

Mr. Krapf noted that the existing fences were not visible in the pictures taken with the area in full foliage and the weathered wooden fences blend well with the landscape in the absence of foliage.

Mr. Krapf stated that the DRC recommended approval of the application and associated conditions by a vote of 4-0. Mr. Krapf noted that in addition to the fence not being a visible intrusion in the scenic easement, the Committee felt that it was a significant safety enhancement from the busy traffic on John Tyler Highway.

Mr. Krapf stated that the Committee also reviewed Conceptual Plan-18-0124, 3889 News Road, The Village at Ford's Colony. Mr. Krapf stated that this case was submitted for a Master Plan Amendment to Case No. Z-0008-2007, The Village at Ford's Colony (Ford's Colony Section 37).

Mr. Krapf stated that the previously approved Master Plan contained 741 senior housing units; whereas this amended Conceptual Master Plan shows a decrease to 550 units (230 independent living cottages and townhomes, 80 independent living apartments, 60 assisted

living beds, 40 memory care beds and 40 skilled nursing beds).

Mr. Krapf stated that the total parcel size is approximately 180 acres, of which 41 acres are developable. Mr. Krapf stated that the proposed density is 3.94 dwelling units per acre. Mr. Krapf stated that the Continuing Care Retirement Community will not be a part of the Ford's Colony HOA.

Mr. Krapf stated that Mr. Bruce Hedrick, Retirement Unlimited, Inc., and Mr. Tim Trant, Kaufman & Canoles, PC, gave a presentation to the Committee. Mr. Krapf stated that during the discussion, the Committee requested the applicant incorporate several items from the approved master plan into the amended Master Plan:

- Continue to restrict the second entrance to emergency vehicles only, in order to limit traffic on News Road.
- Consider a green roof on buildings 1 and 2, EarthCraft construction standards and other environmentally friendly features.
- Incorporate watershed monitoring and protection.

Mr. Krapf stated that the applicant only requested feedback on the project so no vote was taken.

Mr. Jack Haldeman stated that the Policy Committee met on January 10, 2019.

Mr. Haldeman stated that Mr. Paul Holt, Director of Community Development and Planning, continued the discussion initiated by the Board of Supervisors about revising the process for handling residential developments that deviate from the Master Plan. Mr. Haldeman stated that several Committee members expressed concern that the draft ordinance revisions placed unfair burdens on developers, creating unintended consequences and risking the viability of the project. Mr. Haldeman stated that staff was requested to prepare three alternatives for discussion with the Board of Supervisors at a joint work session on January 22.

Mr. Haldeman further stated that Ms. Tammy Rosario led a discussion about the Comprehensive Plan revision process. Mr. Haldeman noted that the first steps will be a survey of residents and the formation of the Community Participation Team in the spring. Mr. Haldeman noted that the Commonwealth has added projected sea level rise and recurrent flooding; consideration of broadband infrastructure; and groundwater and surface water availability, quality and sustainability to requirements since adoption of the last Comprehensive Plan.

Mr. Haldeman stated that Ms. Rosario also led an exercise to determine which topics, in addition to those previously submitted by the Board of Supervisors, the Planning Commission would like to be considered during the review process. Mr. Haldeman stated that the Committee's priorities were Purchase of Development Rights (PDR); realignment of the Primary Service Area (PSA); the Economic Opportunity Zone; incorporating a public facilities master plan into the next Strategic Plan revision; and diversifying the County's revenue sources.

Mr. Haldeman further stated that Ms. Tori Haynes led a tutorial on using the on-line CIP ranking system. Mr. Haldeman stated that departments are currently preparing their requests, and packets will be ready by February.

E. CONSENT AGENDA

1. Minutes of the December 5, 2018 Regular Meeting

2. Minutes of the January 2, 2019 Regular Meeting
3. Development Review Committee Action Item: Case No. C-18-0118. 4704 Lady Slipper Fence

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

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

Mr. Paul Holt, Director of Community Development and Planning, stated that for clarity in the minutes, Ms. Odessa Dowdy abstained from voting on the two Minutes items as she was not present at those meetings; however, her vote was registered in support of the DRC item.

F. PUBLIC HEARINGS

1. SUP-18-0027. 121 Leisure Road, Luxterra Electric Inc.

A motion to Approve was made by Jack Haldeman, the motion result was Passed.

AYES: 7 NAYS: 0 ABSTAIN: 0 ABSENT: 0

Ayes: Dowdy, Haldeman, Krapf, Leverenz, O'Connor, Polster, Schmidt

Mr. Scott Whyte, Senior Landscape Planner, stated that Mr. Clif Martin has applied on behalf of Luxterra Electric Inc. for a Special Use Permit (SUP) to allow a contractor's office with equipment storage on a parcel located at 121 Leisure Road.

Mr. Whyte stated that the original owner operated this business since 1990. Mr. Whyte stated that in order to bring the current operation into compliance with the Zoning Ordinance, an SUP is required as Contractor's warehouses, sheds and offices are specially permitted uses in the A-1 zoning district.

Mr. Whyte stated that the existing single-family dwelling on the site is not part of the SUP and shall remain residential.

Mr. Whyte stated that other existing structures on the property include a 2,600-square-foot pole barn, a 2,800-square-foot shop and a 1,600-square-foot office.

Mr. Whyte stated that the business currently employs nine full-time employees. Mr. Whyte further stated that operating hours are generally between 6:30 a.m. and 6:30 p.m., Monday through Saturday, with most employees just stopping by the shop in the morning or evening.

Mr. Whyte stated that surrounding properties contain single-family residential dwellings and the parcel across Leisure Road is currently undeveloped but is designated for future economic opportunity uses.

Mr. Whyte stated that the site is designated Rural Lands on the 2035 Comprehensive Plan Land Use Map.

Mr. Whyte stated that staff finds that the proposed commercial use does not fully meet the rural lands descriptive language of "certain uses, which require very low-intensity settings relative to the site in which it will be located". Mr. Whyte stated that staff finds this use is slightly more intense than the surrounding properties; however, with the proposed SUP conditions staff finds that it is unlikely that the proposed operation, particularly with the parking of vehicles and storage of electrical contracting equipment located behind the residence, would

visually impact either the right-of-way or adjacent properties.

Mr. Whyte stated that, therefore, staff finds the proposal to be compatible with the Comprehensive Plan, the Zoning Ordinance, and surrounding development. Mr. Whyte stated that staff recommends that the James City County Planning Commission recommend approval of this application to the Board of Supervisors, subject to the conditions listed in the staff report.

Mr. Schmidt opened the floor for questions by the Commission.

Ms. Leverenz inquired if any neighbors had expressed concern about the proposal. Mr. Whyte stated that there were no concerns.

Mr. Schmidt called for disclosures from the Commission.

There were no disclosures.

Mr. Schmidt opened the Public Hearing.

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

Mr. Schmidt opened the floor for discussion by the Commission.

Mr. Krapf stated that the proposed use is similar to the prior use. Mr. Krapf further stated that with the improvements to the buffer and the stormwater management plans, he will support the application.

Mr. Haldeman made a motion to recommend approval of the application.

On a roll call vote the Commission voted to recommend approval of SUP-18-0027. 121 Leisure Road, Luxterra Electric Inc. to the Board of Supervisors (7-0).

2. SUP-18-0031. 115 Constance Lane Detached Accessory Apartment

A motion to Approve was made by Rich Krapf, the motion result was Passed.

AYES: 7 NAYS: 0 ABSTAIN: 0 ABSENT: 0

Ayes: Dowdy, Haldeman, Krapf, Leverenz, O'Connor, Polster, Schmidt

Ms. Tori Haynes, Planner, stated that Ms. Kristen Baum of Guernsey Tingle has applied on behalf of homeowners Mr. and Mrs. Bryan and Barbara Burris for an SUP to allow a detached accessory apartment to be constructed within a new detached accessory structure at 115 Constance Avenue. Ms. Haynes stated that the property is zoned R-8, Rural Residential, is designated Low Density Residential on the Comprehensive Plan Land Use Map, and is inside the Primary Service Area.

Ms. Haynes stated that the detached accessory structure will be 2,064 square feet, with the proposed apartment being 393 square feet. Ms. Haynes stated that the accessory structure will also include a garage and workshop.

Ms. Haynes stated that the R-8 Zoning District allows detached accessory apartments as a specially permitted use in accordance with Section 24-32(b) of the Zoning Ordinance. Ms. Haynes stated that staff has reviewed the proposed design and finds that all requirements have been met.

Ms. Haynes stated that staff finds this proposal to be compatible with surrounding development and consistent with the Comprehensive Plan and Zoning Ordinance. Ms. Haynes further stated that staff recommends that the Planning Commission recommend approval of this application to the Board of Supervisors, subject to the proposed conditions.

Mr. Schmidt called for disclosures from the Commission.

There were no disclosures.

Mr. Schmidt opened the Public Hearing.

Mr. Bryan Burris, 115 Constance Lane, addressed the Commission in support of the application. Mr. Burris requested that the Commission extend the deadline to complete construction from 24 months to 36 months.

Mr. O'Connor inquired if the applicant could complete the project within the 36 months. Mr. Burris stated that he had anticipated more time; however, he could make the 24-month deadline work, but 36 months would be preferred.

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

Mr. Schmidt opened the floor for discussion by the Commission.

Mr. Polster inquired if the Commission could extend the deadline.

Mr. Holt stated that the Commission could make an extension of the deadline part of its recommendation to the Board of Supervisors. Mr. Holt further stated that staff would not object to a 36-month extension.

Mr. Haldeman noted that he supports the application and would not be opposed to a 36-month extension.

Mr. Krapf made a motion to recommend approval of the application with a change to SUP Condition No. 2 to allow a 36-month deadline.

On a roll call vote, the Commission voted to recommend approval of SUP-18-0031. 115 Constance Lane Detached Accessory Apartment (7-0).

3. SUP-18-0032. 3020 Ironbound Road Rental of Rooms

A motion to Approve was made by Rich Krapf, the motion result was Passed.

AYES: 7 NAYS: 0 ABSTAIN: 0 ABSENT: 0

Ayes: Dowdy, Haldeman, Krapf, Leverenz, O'Connor, Polster, Schmidt

Ms. Haynes stated that Mr. Ryan Newsom has applied for an SUP to allow the short-term rental of up to two bedrooms in an owner-occupied single-family home at 3020 Ironbound Road. Ms. Haynes stated that the property is zoned R-8, Rural Residential, is designated Low Density Residential on the 2035 Comprehensive Plan Land Use Map, and is located inside the PSA.

Ms. Haynes stated that the owner and his family will continue to reside in the home and will be present at the time of rentals. Ms. Haynes stated that short-term rental tenants will use an

existing parking area located on the southern end of the property. Ms. Haynes further stated that no changes to the home's footprint are proposed. Ms. Haynes noted that staff considered the home's location, parking provisions, and screening all to be favorable factors in the evaluation of this application.

Ms. Haynes stated that this property is located near two tourist homes that were approved in 2018 by the Board of Supervisors. Ms. Haynes further stated that unlike the "Tourist Home" use, the "Rental of Rooms" limits rentals to a maximum of three bedrooms and requires the homeowner(s) to continue residing at the property during the time of rental.

Ms. Haynes stated that staff is recommending conditions which are intended to mitigate the impacts of the use and preserve the residential character of the home, including limitations on the number of rooms rented and total number of rental occupants per stay.

Ms. Haynes stated that staff finds the proposal to be compatible with the Comprehensive Plan, Zoning Ordinance, and surrounding development, and recommends that the Planning Commission recommend approval of this application, subject to the proposed conditions.

Mr. Polster inquired about access to the property.

Ms. Haynes stated that the home was originally constructed with two driveways and the driveway on the southern end of the property will be used for the rental tenants.

Mr. Schmidt called for disclosures from the Commission.

There were no disclosures.

Mr. Schmidt opened the Public hearing.

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

Mr. Schmidt opened the floor for discussion by the Commission.

Mr. Schmidt noted that this was the third similar application from the same area that the Commission had considered recently. Mr. Schmidt further noted that he appreciated the applicants abiding by the Zoning Ordinance by bringing these proposals before the Commission and the Board of Supervisors.

Mr. Krapf stated that this use is less intense than the two that were previously approved by the Board of Supervisors.

Mr. Krapf made a motion to recommend approval of the application.

On a roll call vote, the Commission voted to recommend approval of SUP-18-0032. 3020 Ironbound Road Rental of Rooms (7-0).

4. Z-19-0001. Powhatan Terrace Proffer Amendment

A motion to Approve was made by Julia Leverenz, the motion result was Passed.

AYES: 7 NAYS: 0 ABSTAIN: 0 ABSENT: 0

Ayes: Dowdy, Haldeman, Krapf, Leverenz, O'Connor, Polster, Schmidt

Ms. Haynes stated that Tom Tingle of Guernsey Tingle Architects has submitted a request on

behalf of Housing Partnerships to amend Condition No. 19 of the adopted Proffers for Powhatan Terrace. Ms. Haynes stated that the development was approved by the Board of Supervisors on March 28, 2008 as a cluster development consisting of 36 townhome units. Ms. Haynes further stated that at that time, all units were intended to be offered for sale. Ms. Haynes stated that an amendment to Condition No. 1 of the original Proffers was adopted on January 9, 2018, which allowed the development the ability to offer units for rent.

Ms. Haynes stated that per the applicant, Powhatan Terrace is being developed with the use of the Low-Income Housing Tax Credit (LIHTC) program, an affordable housing tax credit program administered by the Virginia Housing Development Authority (VHDA) that focuses on rental housing.

Ms. Haynes stated that currently, Condition No. 19 requires at least three affordable units to be offered for sale. Ms. Haynes stated that the applicant has determined that having three units for sale could disqualify the project from the LIHTC program, and has requested to revise this condition to instead require at least three affordable rental units with rates at or below 60% of Average Median Income, with annual verification of rental rates to the Planning Director for 15 years.

Ms. Haynes stated that staff notes that the amended Proffer by itself doesn't fully satisfy the Housing Opportunities Policy; however, as the amended Proffer binds the owner to the requirements of the LIHTC program, staff felt that the combination of the voluntary amended Proffer and inclusion in LIHTC better satisfies the intent of the HOP than the original proffer.

Ms. Haynes stated that staff finds the proposal to be compatible with surrounding development and consistent with the adopted Comprehensive Plan regarding affordable housing. Ms. Haynes stated that staff recommends that the Planning Commission recommend approval of this application and acceptance of the amended Proffers to the Board of Supervisors.

Ms. Leverenz inquired if the concerns about the deep ravine were brought forward during previous discussions.

Ms. Haynes stated that she was not certain if the ravine itself was discussed; however, there is an environmental mitigation proffer and any of the policies and procedures that have been updated since prior approvals would apply.

Ms. Leverenz inquired whether this would apply to flood plain regulations as well.

Ms. Haynes confirmed.

Mr. Polster noted that the Commission had received a letter from a concerned citizen related to flooding issues on the property. Mr. Polster stated that sea level rise has been impacting that area for a number of years. Mr. Polster further stated that the issue is not that there is flood plain on the property but the siting of the development. Mr. Polster stated that the question for him is if the site plan would go through a legislative review that would allow the Commission to consider those implications.

Ms. Haynes stated that site plans are able to be reviewed and approved administratively; however, environmental proffers would have to be satisfied and current regulations would have to be satisfied. Ms. Haynes noted that in this early draft, none of the development occurs in an environmentally sensitive area.

Mr. Polster inquired if the Commission would consider this matter again.

Ms. Haynes stated that the Commission would not review the site plan; however, it will be held to the approved Proffers.

Mr. Haldeman inquired why the Proffer Condition was 15 years instead of 30 years. Mr. Haldeman noted that the VHDA requirement is 30 years.

Ms. Haynes stated that she would defer to the applicant; however, the LITEC program does require the applicant to commit to a 30-year affordability time period. Ms. Haynes stated that the Proffer requires reporting to the Director of Planning for 15 years. Ms. Haynes stated that the Proffer combined with the LITEC requirements brings the application closer to compliance with the HOP and the LITEC requirement will keep the affordability period at 30 years.

Mr. Polster stated that he would like to understand the applicant's rationale for the 15-year time frame. Mr. Polster stated that the County no longer has a HOP and saying that the project conforms to the HOP does not hold any weight.

Mr. Haldeman inquired if the original conditions dating from 2008 are still in force. Ms. Haynes confirmed. Mr. Haldeman inquired about the 2008 requirement for establishment of an Owners Association when the proposal is now for all rental units.

Ms. Haynes stated that the County Attorney's Office believes that the requirement can be met in other ways. Mr. Haldeman stated that his concern was how the financial responsibilities for maintenance of the property and stormwater facilities would be covered. Mr. Haldeman inquired whether the cash proffers would remain the same. Ms. Haynes stated that the cash proffers would be the same, with adjustment for inflation. Ms. Haynes noted that cash proffers are paid after the final inspection is approved. Mr. Haldeman noted that this property seems vulnerable to flooding issues from stormwater runoff from adjacent properties that are at higher elevations. Mr. Haldeman asked staff to look carefully at the siting of the development at the site plan stage.

Mr. Schmidt called for disclosures from the Commission.

Mr. Haldeman noted that he visited the property.

Mr. Schmidt stated that he spoke briefly with one of the applicant's representatives.

Mr. Schmidt opened the Public Hearing.

Mr. Tom Tingle, Guernsey Tingle Architects, representing the applicant, stated that he did not have a formal presentation; however, he would be happy to answer the Commission's questions. Mr. Tingle noted that this is an opportunity for a significant affordable housing project with few new impacts to the infrastructure and surrounding development. Mr. Tingle stated that the reason for the proffer amendment is to make the project eligible for the LIHTC program by making the three units rental units. Mr. Tingle stated that the 15-year commitment is the initial compliance period under LIHTC. Mr. Tingle stated that LIHTC does require that the properties remain rent restricted for 30 years. Mr. Tingle further stated that the 15-year commitment under the Proffers is to provide additional assurance to the County that the units will remain affordable. Mr. Tingle noted that the request is only to amend the Proffers and that the previously proposed site plan and master plan are not being changed.

Mr. Steve Romeo, VHB, 351 McLaws Circle, stated that his firm is developing the site plan for the project. Mr. Romeo stated that the property has a steep drop-off at the back and at least 50% of the parcel is undevelopable. Mr. Romeo stated that the development would be sighted more toward the front of the parcel. Mr. Romeo noted that the difference in elevation between the flood plain and the lowest sited apartment is at least 20 feet. Mr. Romeo further

noted that the older adjacent developments discharge their drainage uncontrolled across the subject property through the natural ravine system which creates further incising of the ravine. Mr. Romeo further noted that the design for the property takes this into account with proposed remediation.

Mr. Polster requested additional clarification on the siting of the development.

Mr. Romeo stated that less than half the property is developable and that the farthest extent is approximately in line with Shibui Woods.

Mr. O'Connor noted that one of the main concerns mentioned in the letter was whether the units would be built on slabs or with a crawl space.

Mr. Romeo stated that the units would be built on slabs, primarily because of accessibility concerns.

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

Mr. Schmidt opened the floor for discussion by the Commission.

Mr. Polster stated that the clarification on the siting of the development has removed many of his concerns. Mr. Polster further stated that he still has reservations about the 15-year commitment in the Proffers. Mr. Polster noted that some other developments have actually increased their length of commitment to ensure that the units would not quickly become market rate units. Mr. Polster stated that he will support the application but would prefer to see the term increased to 30 years.

Mr. Holt clarified that these are voluntary proffers and that the County cannot further attach conditions or make recommendations as with an SUP. Mr. Holt noted that the Commission would vote on the application as submitted.

Mr. Schmidt noted that he is supportive of the application.

Ms. Leverenz made a motion to recommend approval of the application.

On a roll call vote the Committee voted to recommend approval of Z-19-0001. Powhatan Terrace Proffer Amendment (7-0).

5. SUP-18-0030. 6446 Richmond Rd. Convenience Store with Gas Pumps (Wawa)

A motion to Approve was made by Jack Haldeman, the motion result was Failed.

AYES: 2 NAYS: 5 ABSTAIN: 0 ABSENT: 0

Ayes: Haldeman, Schmidt

Nays: Dowdy, Krapf, Leverenz, O'Connor, Polster

Mr. Alex Baruch, Senior Planner, stated that Tim Trant of Kaufman and Canoles, PC has applied for an SUP to allow for the construction of a convenience store and gas station which sells and dispenses fuel. Mr. Baruch stated that the parcels are located at the corner of Lightfoot Road and Richmond Road across from Lightfoot Marketplace and are currently used as an Exxon gas station with convenience store. Mr. Baruch stated that the parcels are zoned B-1, General Business and are designated Mixed Use by the 2035 Comprehensive Plan. Mr. Baruch further stated that a convenience store which sells and dispenses fuel is a specially permitted use in the B-1 Zoning District.

Mr. Baruch stated that the parcel is split by the James City County and York County jurisdictional line with the entrance from Richmond Road in James City County. Mr. Baruch stated that one of the proposed gas pumps and a portion of the canopy also fall on the James City County side of the parcel. Mr. Baruch stated that this site is within a Community Character Corridor (CCC) and is an entryway into the County. Mr. Baruch stated that staff does not find that the visual impacts from the proposed development to this entry corridor have been mitigated through enhanced architectural design, signage and landscaping requirements that have been approved by the Board of Supervisors in previous applications along a CCC.

Mr. Baruch stated that staff recommends that the Planning Commission recommend denial of this application to the Board of Supervisors due to the visual impacts on the entry corridor. Mr. Baruch stated that should the Planning Commission recommend approval of this application to the Board of Supervisors, staff recommends that the conditions listed in Attachment 2 be applied.

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

Ms. Leverenz inquired about the County's authority to impose the CCC requirements on the architecture for this case.

Mr. Baruch stated that the CCC guidelines have been approved by the Board of Supervisors to ensure that visual appeal is maintained. Ms. Leverenz inquired if having an entrance on Richmond Road gave the County the right to enforce these standards. Mr. Baruch stated that because a portion parcel lies in James City County it is subject to the Zoning Ordinance which requires an SUP for this use.

Mr. Holt clarified that the County cannot write conditions that would be binding on the portion of the development in York County; the SUP conditions would only apply to the portion of the parcel in James City County.

Mr. Haldeman inquired if the revised landscape plan and signage submitted earlier in the day had alleviated any of the concerns.

Mr. Baruch stated that there are still aspects of the plan that do not meet James City County standards. Mr. Baruch noted that the digital sign would not be allowed under the Sign Ordinance and the landscaping plan still does not fully meet the landscape requirements.

Mr. Haldeman noted that there is an existing digital sign which is taller than the proposed sign.

Mr. Krapf stated that it appears that the three major concerns are the canopy design, the LED sign and the landscaping plan. Mr. Krapf further stated that the York County Planning Commission has already recommended approval and the case is moving forward through the York County processes. Mr. Krapf inquired if staff met with York County and the applicant early in the process to discuss these issues.

Mr. Baruch stated that there have been a number of meetings with York County and the applicant throughout the process. Mr. Baruch stated that these three issues remain because the James City County Zoning Ordinance sets higher standards. Mr. Baruch further stated that York County has approved similar canopies and signs throughout their jurisdiction and did not want to impose different standards for this development.

Mr. Holt stated that the case is very unique due to the split jurisdiction. Mr. Holt stated that the landscaping and the sign are located on the York County side. Mr. Holt further stated that the

only thing the Commission can address is the portion of the canopy on the County side of the parcel. Mr. Holt stated that staff has suggested acknowledging that the canopy is not consistent with County requirements and the standards imposed with recent cases, including the one at Lightfoot Marketplace.

Mr. Polster requested clarification on the landscaping concern along the corridor. Mr. Baruch stated that the landscaping only extends 45 feet along the greenway as opposed to the 50 feet that the James City County standards require.

Ms. Leverenz inquired about the difference between this digital sign and the two existing signs at Five Forks.

Mr. Holt stated that those signs are most likely non-conforming. Mr. Holt clarified that at one time digital signs were permitted; however, they are not permitted under the current Sign Ordinance.

Mr. O'Connor inquired if the Commission was limited to considering traffic impacts on Richmond Road or if impacts on the intersection and Lightfoot Road could be considered as well.

Mr. Holt stated that the Traffic Study considered everything together. Mr. Holt further stated that if the improvements on Lightfoot Road were not implemented, then the traffic would be funneled to the Richmond Road entrance which lies in the County. Mr. Holt noted that the SUP Conditions attempt to address and mitigate this concern.

Mr. O'Connor inquired if VDOT has provided a timeframe to connect the signalization for the Railroad Crossing.

Mr. Holt stated that at this time VDOT has not yet identified funding for that project.

Mr. Schmidt asked if York County has already approved the project.

Mr. Baruch clarified that the case has only been heard by the York County Planning Commission to date.

Mr. Schmidt inquired if they approved the multi-purpose path on Lightfoot Road.

Mr. Baruch stated that York County did approve the multi-purpose path. Mr. Baruch further stated that York County has a separate process in their Zoning Ordinance that allows swapping of different types of bicycle accommodations. Mr. Baruch stated that the multi-purpose path will replace what is shown on the plan.

Mr. Krapf inquired if the Traffic Study included the proposed apartment complex to be constructed in York County adjacent to the subject property.

Mr. Baruch stated that it he believes it was included.

Mr. Polster stated that he believes the apartment complex may not have been included.

Mr. Schmidt called for disclosures from the Commission.

Mr. Schmidt stated that he had spoken with Mr. Trant about the matter.

Mr. Krapf stated that he had also spoke with Mr. Trant.

Mr. Schmidt opened the Public Hearing.

Mr. Tim Trant, Kaufman and Canoles, PC, 4801 Courthouse Street, provided a presentation to the Commission. Mr. Trant provided background on Doswell Ventures and Wawa. Mr. Trant noted that Wawa is distinguished in the convenience store industry and provides a very clean, well designed, well landscaped product.

Mr. Trant noted that this store will provide approximately 30 new jobs which come with full benefits and tuition reimbursement, even for part-time positions.

Mr. Trant stated that the design team attempted to place the improvements within the larger York County portion of the site in order to facilitate site plan review as well as construction reviews. Mr. Trant noted that in spite of those efforts, a portion of the fuel canopy falls within James City County.

Mr. Trant stated that the applicant has made a number of concessions to James City County recommendations. Mr. Trant further stated that the applicant believes the monoplane fuel canopy is a better and less visually intrusive design. Mr. Trant requested that the Commission endorse the proposed canopy design.

Mr. Trant noted proposed changes to the SUP Conditions including a change to the size of the building footprint to 6,500 square feet; a 10-foot multi-purpose path instead of a shoulder bike lane; and that the fuel canopy be consistent with the elevations provided for review.

Mr. Polster stated that he is still trying to understand whether the setback is 40 or 50 feet.

Mr. Trant stated that the setback is 50 feet in James City County and drops down to 45 feet in York County to accommodate the standpipes for the fuel tank.

Mr. Polster inquired about the landscaping concern along the line with Hardee's.

Mr. Trant stated that the James City County Zoning Ordinance requires a landscaping island every 90 feet in a parking area. Mr. Trant noted that York County does not have the same requirement. Mr. Trant noted that there are areas on this plan where the landscaping gap is approximately 10 feet more.

Mr. Polster stated that his question on the Traffic Study is the left-turn lane on Lightfoot Road going north where the entrance has been pushed back toward the railroad tracks. Mr. Polster noted that the VDOT comments indicate that this may ultimately be only a right-out.

Mr. Trant stated that the entrance has been pushed back far as possible toward the railroad tracks to still have the necessary right-in taper; however, this is still not far enough from the Richmond Road/ Lightfoot Road intersection to qualify for access management. Mr. Trant stated that a condition of VDOT's approval of the entrance design is that the left-out may be eliminated.

Mr. Polster stated that the figures he has reviewed indicate the Traffic Study did not include the apartment complex along with its retail and restaurant components. Mr. Polster further stated that when buildout is complete, that segment of road will be at LOS E/F in 2023 where that LOS was not anticipated until 2040. Mr. Polster stated that to him, the left-out is almost unacceptable and he believes it should be eliminated at this stage.

Mr. Trant stated that it was important to VDOT and to both localities that the background traffic numbers include the apartment development as well as the changes to Lightfoot

Marketplace.

Mr. Carl Hultgren, Ramey Kemp & Associates, 4343 Cox Road, Glen Allen VA, stated that the trip potential for the apartment community and the expansion at Lightfoot Marketplace was included in the Traffic Study. Mr. Hultgren stated that the projected 2040 figures fell outside the scope of the analysis which was to assess the Wawa build out year of 2020.

Mr. Polster stated that the 2040 study figures were based on the Mooretown Road Extension not being built. Mr. Polster stated that the figures for Wawa at build out equal or exceed those figures.

Mr. Hultgren stated that Mr. Polster's figures could be correct. Mr. Hultgren stated that the 2040 projections would also include the traffic on Richmond Road as well which is an even more heavily traveled corridor. Mr. Hultgren noted that if you grow traffic far enough out to the future, most intersections would be a LOS E or LOS F.

Mr. Polster stated that even the projections in the Comprehensive Plan show the intersection at LOS E/F. Mr. Polster stated that it is the cumulative impact of the traffic impact. Mr. Polster stated that his concern is the impact of the left-out.

Mr. Hultgren noted that VDOT shares those concerns. Mr. Hultgren noted that VDOT. Had concerns about the initial location of the full movement driveway. Mr. Hultgren stated in response to VDOT comments, the entrance has been moved as close to the railroad tracks as possible and the left-in turning movement has been removed. Mr. Hultgren noted that the reduction in turning movements would make the left-out easier. Mr. Hultgren stated that VDOT has provided conceptual approval of the proposed design; however, VDOT has made it clear that they reserve the right to modify the driveway should it prove necessary.

Mr. Hultgren noted that currently there are two access points to the property along Richmond Road. Mr. Hultgren stated that the one closest to the intersection would be closed under this proposal. Mr. Hultgren stated that the second entrance would be right-in; right-out. Mr. Hultgren further stated that the right turn lane on Lightfoot Road and the left-turn lane on Richmond Road at the signal would be extended.

Mr. O'Connor inquired if there had been any discussion about making the right turn from Lightfoot Road onto Richmond Road a "No Right on Red" due to the potential increase in U Turns at the intersection.

Mr. Hultgren stated that the "No Right on Red" had not been discussed.

Mr. O'Connor inquired if there was any data on the delays due to train crossings.

Mr. Hultgren stated that the figures did not include the impact of train crossings. Mr. Hultgren noted that the intersection signal is not affected by the train crossing.

Mr. O'Connor noted that the impact would be to the Wawa.

Mr. O'Connor inquired about the difference between trip generation for the Wawa and trip generation for the existing Exxon station.

Mr. Hultgren noted that most of the trips would be pass by traffic from vehicles already on the road. Mr. Hultgren noted that Wawa generally created very few new trips.

Mr. Krapf noted that it appears that Wawa has used A-Frame canopies in other locations. Mr. Krapf inquired whether, since it is an approved Wawa design, the A-Frame canopy could be

substituted for the proposed design to eliminate staff objections.

Mr. Trant stated that Wawa takes pride in continually improving its design to be more aesthetically pleasing. Mr. Trant stated that Wawa believes the A-Frame is an inferior design that would be more obtrusive than the proposed design.

Mr. Krapf if the applicant has received confirmation from staff that the landscaping plan for the James City County parcel does meet the Enhanced Landscaping Policy.

Mr. Trant stated that there has not been direct confirmation; however, it appears that it is only the landscaping plan for York County that is in question. Mr. Hultgren stated that based on standard trip generation figures, the Exxon would generate 1,720 trips and the Wawa 2,766, roughly a difference of 1,000 trips over a 24-hour period.

Mr. Trant noted that a condition coming out of York County requires the facility to be generator equipped to provide service in times of emergency. Mr. Trant further noted that the conditions for the York County Conditional Use Permit do address traffic improvements.

Mr. O'Connor inquired when VDOT might approve the exception for Lightfoot Road.

Mr. Trant stated that it had already been approved.

Mr. O'Connor inquired if the James City Service Authority is providing water for the site.

Mr. Trant stated that he did not have this information.

Mr. O'Connor noted that he was trying to assess other impacts on the County. Mr. O'Connor inquired if James City County would receive any financial benefit from the gas pump located on the County portion of the parcel.

Mr. Trant stated that he did not have information on how the sales tax would be apportioned.

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

Mr. Schmidt opened the floor for discussion by the Commission.

Mr. Haldeman stated that this proposal is a far better use for the property than its existing use. Mr. Haldeman stated that the Wawa would be an improvement visually and financially. Mr. Haldeman noted that a digital sign would not be new to the site and that the proposed landscaping is much better than what exists. Mr. Haldeman stated that the entrance changes would also be a great improvement. Mr. Haldeman stated that if this were a proposal for an undeveloped site, he might look at it differently. Mr. Haldeman stated that he intends to support the application with the two changes proposed by the applicant to Condition Nos. 5 and 9.

Mr. Krapf stated that he concurs with Mr. Haldeman on the aesthetics. Mr. Krapf stated that the traffic impacts of an additional 1,000 trips per day are a concern due to the existing conditions on Lightfoot Road and Richmond Road. Mr. Krapf stated that he has no concern about the proposed change to the square footage in Condition No. 1. Mr. Krapf further stated that he also has no objection to the change to Condition No. 5 to provide a 10-foot multi-purpose path instead of the bike lane. Mr. Krapf inquired if these proposed changes were acceptable to staff.

Mr. Baruch stated that staff would still recommend what is shown on the adopted Bikeways Master Plan which is the bike lane separate from the multi-purpose path. Mr. Baruch further

stated that staff would not recommend any change to the condition for the canopy architecture.

Ms. Leverenz inquired if staff concurred to the change in square footage.

Mr. Baruch confirmed.

Mr. Polster stated that the proposal is an aesthetic improvement over the existing use. Mr. Polster further stated that there is not much that can be done about the conditions on Richmond Road. Mr. Polster stated that he does have on Lightfoot Road. Mr. Polster noted that the right-turn lane on Lightfoot Road can move quickly. Mr. Polster stated that anyone attempting to negotiate a left turn onto Lightfoot Road already has difficulty. Mr. Polster stated that it would be almost impossible to negotiate that left turn with the increase in traffic.

Ms. Leverenz stated that while the Wawa would be an aesthetic improvement over the existing use, James City County works very hard to maintain the standards that preserve the character of the area. Ms. Leverenz stated that she does not see a compelling reason to relax those standards. Ms. Leverenz stated that doing so would be a disservice to the businesses that have adhered to the standard, particularly those in proximity to this location. Ms. Leverenz stated that she finds the A-Frame canopy to be more aesthetically pleasing and appropriate.

Mr. Schmidt stated that he does not see the Wawa as generating so many more trips. Mr. Schmidt noted that the apartment community certainly would generate a substantial increase. Mr. Schmidt stated that he believes the multi-purpose path would be much safer and would be more likely to be continued with future development.

Mr. Krapf stated that bicycle accommodations are very important in the County; however, a bit of flexibility could be applied depending on the intensity of the roadway. Mr. Krapf stated that he believes the 10-foot multi-use path is a safer option than the dedicated bike lane.

Mr. Schmidt stated that it appears that York County has approved the multi-use path for their portion of the parcel. Mr. Schmidt stated that he hoped that similar pedestrian accommodations would be incorporate for the apartment community.

Mr. O'Connor stated that it is not the trip generation that concerns him but the increase in turning movements. Mr. O'Connor noted that the Commission did not recommend approval of another proposal for similar concerns. Mr. O'Connor stated that he appreciated the improvements and desire to invest in the community; however, he does not see the greater benefit to the County economically. Mr. O'Connor stated that he is not inclined to support the application.

Mr. Haldeman made a motion to recommend approval of the application with the conditions listed in the staff report with three changes: Condition No. 1 would be amended for the square footage to change from 5,850 square feet to 6,500 square feet; Condition No. 5 would be amended to state a 10-foot multi-use path and condition No. 9 would be amended to state that the architecture of the canopy shall be consistent with the elevations shown on that certain exhibit entitled "WAWA GAS CANOPY STRAIGHT 6 – TRASH COMPOUND MASQ17-R – STORE #8458", prepared by Cuhaci & Peterson Architects Engineers Planners, dated January 7, 2019, a copy of which is on file with the Planning Director.

On a roll call vote the motion to recommend approval of SUP -18-0030, 6446 Richmond Rd. Convenience Store with Gas Pumps (Wawa) failed by a vote of 2-5.

G. PLANNING COMMISSION CONSIDERATIONS

1. C-18-0123. HRSD Treatment Plant Expansion within Carter's Grove AFD

A motion to Approve was made by Frank Polster, the motion result was Passed.

AYES: 5 NAYS: 2 ABSTAIN: 0 ABSENT: 0

Ayes: Dowdy, Haldeman, Krapf, Leverenz, Polster

Nays: O'Connor, Schmidt

Ms. Tori Haynes, Planner, stated that the Hampton Roads Sanitation District (HRSD) currently operates the Williamsburg Treatment Plant located at 300 Ron Springs Drive. Ms. Haynes stated that this is a landlocked parcel that is wholly surrounded by 250 Ron Springs Drive and the Carter's Grove AFD.

Ms. Haynes stated that HRSD has stated that it requires a facility expansion adjacent to the Williamsburg Treatment Plant. Ms. Haynes further stated that this expansion is in response to federal enforcement action taken by the Environmental Protection Agency (EPA) and the Department of Justice. Ms. Haynes stated that HRSD has stated there is insufficient property on their current parcel to accommodate the facility expansion, and as such has stated its intent to acquire 250 Ron Springs Drive by condemnation for public utility purposes.

Ms. Haynes stated that HRSD is not requesting a withdrawal of the property from the AFD or any approvals for the facility itself at this time. Rather, per State Code, utilities may acquire interests in properties within an AFD, provided that the Board of Supervisors, in consultation with the AFD Advisory Committee and Planning Commission, reviews the proposal and specifically examines the following three criteria: the effect the action would have upon the preservation and enhancement of agricultural and forestal resources within the district and associated policies; the necessity of the proposed action to provide service to the public in the most economical and practical manner; and whether reasonable alternatives to the proposed action are available that would minimize or avoid any adverse impacts within the district.

Ms. Haynes stated that ultimately, the Board of Supervisors will make a determination as to whether the proposed action is necessary to provide service to the public in the most economical and practical manner, and whether it will have an unreasonably adverse effect upon state or local policy.

Ms. Haynes stated that in consideration of the State Code criteria, HRSD has stated that they will reduce clearing impacts to approximately 7 acres, and would not need to remove the entire parcel from the AFD. Ms. Haynes stated that undeveloped portions of the parcel and the resources therein would be preserved in the AFD and subject to AFD regulations. Ms. Haynes stated that the proposed action is in response to a federal enforcement action taken against HRSD and the proposed facilities would provide necessary service to the public by alleviating groundwater shortages in the Hampton Roads region. Ms. Haynes stated that given the landlocked nature of the HRSD parcel, staff finds there is no practical way to avoid action within the Carter's Grove AFD if the project is to be completed in the most economical and practical manner possible. Ms. Haynes stated that should HRSD pursue a nearby non-contiguous parcel, they would still need an access and utility corridor through the subject parcel, and per HRSD's estimate, this would increase capital costs.

Ms. Haynes stated that staff recommends that the Planning Commission find the proposal necessary to provide service to the public in the most economical and practical manner and that it will not have an unreasonably adverse effect upon state or local policy.

Ms. Haynes stated that at its January 24, 2019 meeting, the AFD Advisory Committee voted 5-1-1 that the proposal is not necessary and would have an unreasonably adverse effect upon state or local policy.

Mr. Krapf inquired if there had been any recent developments on the discussion of the conservation easement.

Ms. Haynes stated that HRSD does not own the parcel at this time so there have been no formal talks. Ms. Haynes stated that HRSD has indicated that they would be willing to put some of that land in a conservation easement.

Mr. Holt stated that those details would come as part of a later decision. Mr. Holt further stated that the Commission's recommendation should focus around the three specific criteria. Mr. Holt stated the Commission would have an opportunity to consider legislative applications at a later time that would allow the Commission to consider those design details.

Mr. Krapf stated that he believed the question was germane to the three criteria, particularly Criteria No. 1, the effect the action would have upon the preservation and enhancement of agricultural and forestal resources within the district and associated policies. Mr. Krapf stated that he was looking at the case from both the standpoint of the criteria as well as from the historic perspective of a landmark case which would affect the Carter's Grove property which would be affected by activities taking place within the buffer.

Mr. Haldeman noted that acquiring more acreage than is actually needed would affect the economic viability of the project. Mr. Haldeman noted that the additional costs would potentially affect water rates.

Mr. Krapf commented that at this time the action is for a taking of the property since HRSD and the property owner have not been able to agree on a purchase price.

Ms. Haynes stated that this was staff's understanding as well.

Mr. O'Connor inquired if there is a market value attached to the property as part of the condemnation process.

Mr. Max Hlavin, Deputy County Attorney, stated that there are a number of steps that there are a number of steps that a political subdivision or municipality must take as part of the condemnation process. Mr. Hlavin further stated that at the time the taking is finalized, there must be a valuation attached to the property. Mr. Hlavin stated that assessing the valuation is part of a separate process than what the Commission is considering at this time. Mr. Hlavin stated that what the Commission is making a recommendation on is the effect of the purchase or taking of the property on the district as a whole.

Mr. O'Connor stated that his concern with the valuation is to compare the cost with the cost of acquiring a portion of 200 Ron Springs Road in order to determine if it fits the criteria of a reasonable alternative.

Mr. Polster stated that he understands that the reason for acquiring the entire 76 acres is because HRSD has not been allowed to make a site visit to determine where the project could reasonably be located which would result in acquiring something substantially less. Mr. Polster further stated that if HRSD did pursue the alternative site, they would still need an easement across 250 Ron Springs Drive to access the project. Mr. Polster stated that if they cannot reach an agreement on acquisition of a portion of the property, then they likely will not be able to acquire the easement either.

Ms. Leverenz inquired if the property required for the easement would have to be negotiated or could it be condemned rather than taking the entire property.

Mr. Schmidt noted that this is not a public hearing case and inquired if letting the applicant speak would then require opening the floor for others to speak.

Mr. Hlavin stated that it is within the Commission's prerogative to ask questions of the applicant on this matter. Mr. Hlavin noted that an easement or any other property right can be acquired by condemnation.

Ms. Robyn Hansen, of Jones, Blechman, Woltz & Kelly, P.C., stated that she serves as counsel for HRSD. Ms. Hansen stated that HRSD has considered the parcel at 200 Ron Springs Drive; however, the current HRSD facility is completely surrounded by the 76 acre AFD parcel. Ms. Hansen further stated that to develop and operate the new facility, the facility must be able to work with the existing treatment plant. Ms. Hansen further stated that the AFD will be impacted no matter which parcel is acquired. Ms. Hansen stated that HRSD is committed to developing as little of the parcel as necessary to accomplish what is required. Ms. Hansen further noted that much of the parcel is undevelopable. Ms. Hansen stated that the remainder of the parcel would be used to protect its facilities. Ms. Hansen stated that acquiring the parcel is the most economical option.

Ms. Lauren Zuravnsky, PE, stated that by seeking approval for a more open-ended plan at this time, it would allow HRSD to find the best location for the new facility without having to return to the Commission multiple times. Ms. Zuravnsky stated that HRSD seeks have the flexibility to layout the site in the most cost effective manner with one action and put the remaining land in a preservation easement.

Mr. Polster inquired about the location of the existing easement across the AFD parcel.

Ms. Zuravnsky stated that the easement runs where the force mains exist. Ms. Zuravnsky stated that those easement would not be available for the new facility.

Mr. Polster inquired if there were any other easements on the property.

Ms. Zuravnsky stated that she was not aware of other easements.

Mr. Polster inquired about the footprint of the HRSD Sustainable Water Infrastructure for Tomorrow (SWIFT) research facility in Suffolk.

Ms. Zuravnsky stated that the facility in Suffolk is a research and public outreach center which is of a different character and size than the full scale facility.

Mr. Polster inquired if the treatment processes are the same.

Ms. Zuravnsky stated that the process is the same; however, the intent with the research facility was to have a flexible design to support all of the permitting and development going forward.

Mr. Polster stated that he was looking for an idea of the scale and footprint of the facilities on the proposed site and how the SWIFT facility interacted with the existing treatment plant.

Ms. Zuravnsky explained the flow of the process through the existing facility. Ms. Zuravnsky noted that there would be some additional facilities constructed on the existing site to support the SWIFT process. Ms. Zuravnsky stated that HRSD hopes to nest the new facility on a potentially buildable area close to the existing influent force mains. Ms. Zuravnsky further stated that the additional wells to support the process would primarily be scattered throughout the existing site with one or two located on the new site.

Mr. Polster inquired about the reason for the increased cost of locating the new facility on the alternate parcel.

Ms. Zuravnsky stated that some of the wells would be relocated as not all of them can be on the same site. Ms. Zuravnsky further stated that it is more efficient for the new facility to be located as close to the existing facility as possible.

Mr. Polster inquired if there was a plan to monitor subsidence.

Ms. Zuravnsky stated that there are associated monitoring wells; however, they are not monitoring subsidence. Ms. Zuravnsky further stated that there is an extensometer at the Nansemond facility in Suffolk through a partnership with the U.S. Geological Survey (USGS).

Mr. O'Connor inquired about the approximate cost of the project.

Ms. Zuravnsky stated that the construction cost for the treatment works is approximately \$120,000,000. Ms. Zuravnsky further stated that she believes that figure includes the recharge and monitoring wells.

Mr. O'Connor inquired about the \$1,000,000 additional cost to locate the new facility on the 200 Ron Springs parcel.

Ms. Hansen stated that the cost comes from creating the necessary utility corridor for the water to move back and forth between the existing and new facility. Ms. Hansen further stated that even under this option the AFD would be impacted. Ms. Hansen noted that the \$1,000,000 does not factor in the cost of acquiring the 24-acre parcel.

Ms. Zuravnsky stated that the \$1,000,000 is related to construction cost alone; however, there are other greater costs associated with using the 24-acre parcel.

Ms. Leverenz noted that the cost to acquire 24 acres is likely less than the cost to acquire 76 acres.

Ms. Hansen stated the 24-acre parcel is developable whereas the 76-acre parcel is not and would, therefore, have a greater land value.

Mr. Polster noted that HRSD has been working for two years to find a suitable location on the parcel. Mr. Polster inquired why they have not yet been successful.

Ms. Hansen stated that they do not own the property. Ms. Hansen further stated that HRSD has been denied access to the property. Ms. Hansen stated that negotiations to purchase the property or acquire an easement have failed, which has led to the condemnation action.

Mr. Polster inquired about the deadline imposed by the consent decree.

Ms. Hansen stated that this is one of the major projects that HRSD must complete under the Consent Decree. Ms. Hansen further stated that HRSD filed the condemnation action as a last resort to meet those obligations. Ms. Hansen stated that the request tonight is to consider the three criteria and determine if the proposal meets those criteria.

Mr. O'Connor inquired about the easements currently in place. Mr. O'Connor inquired about any easements at the shore line.

Ms. Zuravnsky stated that there are no easements in that location and that is part of the reason HRSD wants to acquire the entire 76 acres to protect its assets. Ms. Hansen stated that the

only existing easements are over the influent force mains. Mr. O'Connor inquired about the size of the lines needed to access the wells. Ms. Zuravnsky stated that the wells are 24 inches and the supply lines would be approximately the same size.

Mr. Krapf inquired if there have been any adverse effects on water quality in the aquifer in other locations where the water is injected when it does not meet purity standards. Mr. Krapf further inquired if there was any evidence of land movement where water has been injected in the aquifer.

Ms. Zuravnsky stated that there is an extensometer in Suffolk which has shown subsidence and recovery when flushing the wells and recharging waste water. Ms. Zuravnsky further stated that these measurements were, however, only millimeters. Ms. Zuravnsky stated that there is some evidence that the project could impact subsidence in a positive way. Ms. Zuravnsky stated that there is a full suite of critical control sensors monitoring the water quality in the aquifer on a continual basis. Ms. Zuravnsky stated that each sensor monitors a particular set of parameters. Ms. Zuravnsky further stated that any one of those sensors can trip and divert the water.

Mr. Polster stated that this project represents a vast public benefit, particularly to the County as it will put water back in the aquifer. Mr. Polster further stated that the ability of the aquifer to provide water for the County is critical based on the County's growth rate. Mr. Polster stated that if only a portion of the property is ultimately withdrawn from the AFD and the remainder stays in the AFD or is put in a conservation easement, the impact on the AFD is minimal and is far outweighed by the public benefit.

Ms. Zuravnsky stated that this project also represents a benefit to rate payers as an economical method of effluent management.

Mr. Polster further noted that there is a benefit also from the Total Maximum Daily Load (TMDL) credits. Mr. Polster noted that the TMDL credits can be sold and represent an economic benefit.

Mr. Schmidt noted that he did discuss the matter with Mr. Trant.

Mr. Krapf, Mr. Haldeman and Ms. Leverenz stated that they also spoke with Mr. Trant.

Mr. Polster stated that Mr. Trant contacted him but he did not return the call.

Mr. Schmidt noted that this is a complicated matter. Mr. Schmidt noted that the environmental benefit is there. Mr. Schmidt noted that his main concern is any impact on cultural resources in that area.

Mr. Haldeman inquired if the Commission was making a recommendation on the matter.

Mr. Holt clarified that the request was for the Commission to find whether the proposal provides service to the public in the most economical and practical manner and that it will not have an unreasonably adverse effect upon state or local policy.

Mr. Polster noted that AFDs only bind the property for a limited time and that property can be withdrawn for development during the renewal period. Mr. Polster noted that the subject property is zoned for residential development. Mr. Polster noted that the property would be better protected if it were in a conservation easement.

Ms. Leverenz noted that the majority of the parcel is not developable due to topographical constraints. Ms. Leverenz stated that if the impact is only the seven acres with the remainder

preserved, then it would meet the criteria of minimal effect on the AFD.

Mr. Krapf stated that he believes the proposal meets all three criteria and that he would support the application.

Mr. Polster made a motion that the proposed action set forth in C-18-0123, HRSD Treatment Plant Expansion within Carter's Grove AFD would not have an adverse impact have upon the preservation and enhancement of agricultural and forestal resources within the district and associated policies; proposed action is necessary to provide service to the public in the most economical and practical manner; there are no reasonable alternatives to the proposed action are available that would minimize or avoid any adverse impacts within the district.

On a roll call vote the Commission voted that the proposed action set forth in C-18-0123, HRSD Treatment Plant Expansion within Carter's Grove AFD would not have an adverse impact have upon the preservation and enhancement of agricultural and forestal resources within the district and associated policies; proposed action is necessary to provide service to the public in the most economical and practical manner; there are no reasonable alternatives to the proposed action are available that would minimize or avoid any adverse impacts within the district (5-2).

H. PLANNING DIRECTOR'S REPORT

1. Planning Director's Report - February 2019

Mr. Holt stated that he did not have anything in addition to what was included in the agenda packet.

I. PLANNING COMMISSION DISCUSSION AND REQUESTS

Mr. Schmidt stated that due to Mr. Richardson leaving, it is necessary to elect officers.

Mr. Holt stated that pursuant to the Planning Commission's adopted By Laws, when there is a vacancy for the Chair or Vice Chair, an election shall be held on the next meeting date.

Mr. Haldeman inquired if this term would be through March.

Mr. Holt confirmed that the term would run until the Organizational Meeting on March 18.

Mr. Haldeman nominated Danny Schmidt for Chair.

There were no other nominations for Chair.

Mr. Schmidt nominated Jack Haldeman for Vice Chair.

There were no other nominations for Vice Chair.

On a voice vote, the Commission elected Mr. Schmidt as Chair and Mr. Haldeman as Vice Chair.

Mr. Schmidt noted that the Commission would discuss preferences for committee assignments prior to the organizational meeting.

Mr. O'Connor noted that it might be prudent to consider defining the differences between a convenience store and a super convenience store.

Mr. Polster stated that he hopes that the joint traffic study that is underway will address the Lightfoot Road corridor.

Mr. Holt noted the difficulty of increasing capacity on roads with an at grade railroad crossing.

Mr. O'Connor requested that VDOT look at connecting the controller for the train at the Richmond Road/ Lightfoot Road intersection.

J. ADJOURNMENT

Mr. Krapf made a motion to adjourn.

The meeting was adjourned at approximately 9:10 p.m.

Danny Schmidt, Vice Chair

Paul D. Holt, III, Secretary