

A REGULAR MEETING OF THE PLANNING COMMISSION OF THE COUNTY OF JAMES CITY, VIRGINIA, WAS HELD ON THE SEVENTH DAY OF APRIL, TWO-THOUSAND AND TEN, AT 7:00 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101-F MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

1. ROLL CALL

Planning Commissioners

Present:

Jack Fraley
Reese Peck
Joe Poole
Al Woods
Mike Maddocks
Rich Krapf
Chris Henderson

Staff Present:

Allen Murphy, Director of Planning/
Assistant Development Manager
Adam Kinsman, Deputy County Attorney
Tammy Rosario, Principal Planner
Ellen Cook, Senior Planner II
Chris Johnson, Principal Planner
Sarah Propst, Planner
Luke Vinciguerra, Planner
Scott Whyte, Landscape Planner
Bill Cain, Chief Civil Engineer
Melissa Brown, Zoning Administrator
Jennifer VanDyke, Administrative Services Coord.

Mr. Reese Peck called the meeting to order at 7:00 p.m.

2. RECOGNITION

PRESENTATION – RECOGNITION OF MS. DEBORAH KRATTER

Mr. Peck asked Mr. Jack Fraley to speak on Ms. Kratter's time spent on the commission.

Mr. Fraley described on Ms. Kratter's accomplishments during her time spent on the Planning Commission. He stated that Ms. Kratter displayed a great deal of tact and accommodated other points of view. Mr. Fraley stated that Ms. Kratter took the initiative to make improvements and changes to the Capital Improvements Program (CIP) process. Mr. Fraley stated that she was hard working and made intelligent contributions. He expressed his gratitude for all of the work that Ms. Kratter had done while on the Planning Commission.

Mr. Peck then read the Resolution of Appreciation.

Mr. Fraley moved to approve the resolution.

With a voice vote the resolution was approved (7-0).

Ms. Kratter accepted the certificate. She stated that James City County is a special place, and that it was her pleasure to serve the County.

3. RECOGNITION

PRESENTATION – RECOGNITION OF MR. GEORGE BILLUPS

Mr. Peck then asked Mr. Fraley and Mr. Joe Poole to speak about Mr. Billup's time spent on the Commission.

Mr. Poole stated that Mr. Billups had made a meaningful contribution as a public servant. Mr. Poole stated that Mr. Billups displayed sincerity and steadfastness. He stated that Mr. Billups shared his opinion and positions on matters very clearly and openly. He stated that he served the community well with his honest and open approach.

Mr. Fraley spoke about the time he spent with Mr. Billups on the Planning Commission. Mr. Fraley stated that Mr. Billups had nominated him for an award granted as a result of the work on the 2009 Comprehensive Plan. He stated that Mr. Billups executed his time spent with the Planning Commission with wisdom and, worked hard for the citizens of the County.

Mr. Peck then read the Resolution of Appreciation for Mr. Billups.

Mr. Poole moved to approve the resolution.

With a voice vote the resolution was approved (7-0).

4. PUBLIC COMMENT

Mr. Peck opened the public comment period.

Mr. Robert Richardson spoke on behalf of the James City County Citizens for Ethical Government. Mr. Richardson stated that he did receive a response letter from the Chairman, Mr. Peck, regarding some ethical concerns. One concern regarded new members signing the Code of Ethics prior to when they were seated. Mr. Richardson stated that there were also some concerns regarding the records, specifically the public response to Autumn West. Mr. Richardson stated that Mr. Mike Maddocks was ill-prepared for rendering any decision regarding the Autumn West case. He had not been provided full details of the case prior to voting. Mr. Richardson stated that he had spoken with Mr. Maddocks the day of the Planning Commission meeting and, confirmed that he had not received or was familiar with the 37 pages of research that Mr. Richardson had presented to the Development Review Committee (DRC). Mr. Richardson stated that the *Virginia Gazette* had run an article on the King William Reservoir project.

Ms. Dorothy Neiman, 105 Broomfield Circle, spoke of a *New York Times* article. The article speaks on a new technology available to cell phone users to improve the strength of its frequency.

Mr. Peck closed the public hearing.

A. Adoption and Affirmation of the March 17, 2010 Letter

Mr. Adam Kinsman stated that the purpose of this letter is to list the official reason for the Planning Commission's denial of the Autumn West proposal, SP-0064-2008.

Mr. Poole moved to adopt the resolution.

Mr. Chris Henderson asked by voting in the affirmative if he is verifying the reasons stated for denial. Mr. Henderson noted not all Planning Commissioners were in agreement.

Mr. Kinsman confirmed Mr. Henderson's statement.

In a unanimous roll call vote, the March 17, 2010 Autumn West letter was adopted and affirmed (7-0).

5. MINUTES

A. MARCH 3, 2010 REGULAR MEETING

Mr. Al Woods cited one correction needed for the minutes.

Mr. Henderson moved for approval of the minutes with the correction.

In a unanimous roll call vote, the minutes were approved (7-0).

6. COMMITTEE AND COMMISSION REPORTS

A. Development Review Committee (DRC)

The March meeting of the DRC was held on March 31st at 4:00 pm. The first case was C-0006-2009 John Rogers Fast Food Restaurant. The DRC reviewed a conceptual plan for property on Pocahontas Trail (Rte 60) adjacent to the Ball Metal Manufacturing plant. The applicant is proposing to change the use of this property from a truck wash to a fast food restaurant. The parcel is currently zoned M-2, General Industry. The M-2 zoning district does not allow fast food restaurants as a use. The applicant is considering applying for a rezoning to B-1, General Business. He is working with the County's business facilitator and requested DRC feedback. After discussing this project with staff, the applicant, and the business facilitator, DRC members indicated that the project would be better as a rezoning application, rather than a Special Use Permit (SUP) application. The other case the DRC reviewed was SUP-0004-2010 Courthouse Commons. The applicant asked to make a presentation to the DRC in order to obtain feedback on the project. The proposal includes potential building setback waivers and landscape modification requests. Mr. Henderson recused himself from the discussion due to a financial

interest in the transaction. DRC members reviewed conceptual plans and discussed the various waivers and the reasons for the requests. Staff only recently received the case materials and is still in the review process.

Mr. Poole moved for approval of the report.

In a unanimous roll call vote, the action report was approved (7-0).

B. Policy Committee

Mr. Fraley stated that the Policy Committee met on March 17th. The Committee discussed protocol for meetings with applicants and discussed the methodology for the Comprehensive Ordinance Update. The full Planning Commission was in attendance at this meeting. Staff presented guidelines for consideration regarding Commissioners meeting with applicants based on feedback at the last Policy Committee meeting on February 25th. Amendments to the bylaws and policy guidelines adopted by the Committee are included in this evening's agenda for the Planning Commission's consideration. The Committee recommended the establishment of five priorities for the Comprehensive Plan Ordinance Update. Three of the five priorities are: the provision for additional public forums for community input, the establishment of a schedule of Policy Committee meetings for additional community participation, and guidance from the Board of Supervisors (BOS) for Rural Lands. The revised methodology will be further discussed this evening for the Planning Commission's endorsement and recommendation to the BOS. A recommended schedule for upcoming Policy Committee meetings that will also include those meetings on the Comprehensive Plan Ordinance Update has been forwarded to the full Planning Commission and, will be publicly announced upon its finalization.

Mr. Peck stated that there will be an article added to the by-laws, article four, Outside Meeting with Applicant. "1. The Planning Commissioners are permitted to meet with applicants outside of a Planning Commission meeting. 2. Commissioners shall publically disclose all meetings."

Mr. Poole stated that it is imperative that Planning Commissioners have contact with applicants and citizens as long as they are disclosed. Mr. Poole stated that as a Planning Commissioner one should not engage in negotiating.

Mr. Henderson moved for approval of amendments to the by-laws, article four.

In a unanimous roll call vote, the minutes were approved (7-0).

Mr. Peck read from the new policy. "Planning Commissioners are permitted to meet with applicants outside of a public hearing pursuant to the below:
Applicants are defined as all individuals directly participating in the preparation of or having a material financial stake in the application that is subject of a meeting.

1. Commissioners may find it helpful to contact the Planning Division staff prior to such meeting to gather facts about the application. The staff may attend such meetings if

- requested by the Commissioner and approved by the Planning Director or designee.
2. The purpose of such meetings is limited to fact finding and clarification for all parties.
 3. Commissioners shall not make a commitment of their voting intent.
 4. Commissioners shall disclose all meetings by reporting them verbally at the Planning Commission meeting where the case is scheduled for a public hearing.

Mr. Henderson moved for approval of the proposed policy statement regarding meetings with applicants.

In a unanimous roll call vote, the minutes were approved (7-0).

There were no other committee reports.

7. PLANNING COMMISSION CONSIDERATIONS

A. Initiating Resolution – Pedestrian Oriented Signage

Ms. Melissa Brown stated the initiating resolution is being considered for amendments to the Sign Ordinance. The amendment to the Zoning Ordinance would allow for the inclusion of pedestrian-oriented and directional signage in certain districts. Specifically, this ordinance amendment would allow pedestrian oriented signage in districts governed by a binding master plan and a design review board or other districts where there exists a binding area study approved by the BOS. The intent of the proposal is to address business owner concerns regarding the ability of their customers to easily locate the businesses located in the districts.

Mr. Poole asked if this has to do with New Town.

Ms. Brown stated that Staff is looking at New Town as well as other areas that have binding area studies such as Toano and Norge.

Mr. Peck stated that before the Planning Commission can investigate developing ordinances an initiating resolution must be passed.

Mr. Richard Krapf moved for approval of the initiating resolution.

In a unanimous roll call vote, the initiating resolution for pedestrian-oriented signage was approved (7-0).

B. Initiating Resolution- SSPRIT Recommendations

Mr. Chris Johnson stated that following an acceptance of the Business Climate Taskforce (BCTF) Report by the BOS in 2008 County Administration charged Development Management staff with organizing a team to review the County's development plan review process. The team worked at identifying issues at every level of that process and make recommendations to fulfill BCTF action items. The Subdivision and Site Plan Review Improvement Team (SSPRIT) offered recommendations which were designed to provide transparency throughout the plan

review process, improve communications between staff and the development community, and enhance the quality of plans and foster a positive perception of the County's review process for all parties involved. The initiating resolution is for the consideration of amendments to both the Subdivision and Zoning Ordinance plan review criteria and procedures for both administrative and commission review of conceptual plans, site plans, and subdivisions. Staff recommends that the Planning Commission adopt the attached resolution and refer this matter to the Policy Committee.

Mr. Poole asked Mr. Johnson if this is in response to a particular concern the development community has raised.

Mr. Johnson stated that the previous statement was taken directly from the BCTF report. This was in response to one action item taken from the BCTF report. Before any changes are implemented the changes will be reviewed by the Policy Committee and Staff then ultimately Planning Commission and BOS.

Mr. Poole stated that Planning Commission is tasked with maintaining the unique characteristics of the area. Policy changes should not compromise the Planning Commission's ability to serve the community in this way.

Mr. Johnson stated that the Committee's recommendations are not intended to limit the role of the DRC or Planning Commission. Staff has already initiated some changes at the DRC level by bringing conceptual plans forward for consideration. This enables more feedback early on in the process. This initiating resolution is an attempt to bring those forward and put them into the Ordinance.

Mr. Henderson moved for approval of the initiating resolution.

In a unanimous roll call vote, the initiating resolution for SSPRIT recommendations was approved (7-0).

C. Zoning Ordinance Methodology

Ms. Tammy Rosario stated that staff had prepared a revised methodology for the Zoning Ordinance and Subdivision Ordinance update. The methodology and its related scope and process documents were revised based on guidance provided by the Commissioners at the Policy Committee meeting on March 17, 2010. The changes included three main items. First, the ordinance update priority items identified at the meeting have been inserted into the methodology in the Scope of Work section. Those include cumulative impact database setup, sustainability audit, development standards with the sign ordinance, commercial business districts, and Economic Opportunity District. Second, the same section of text was revised to include a goal of completing or adopting the priority items by the end of 2011. Third, two forums were created at the beginning of the process which would involve the whole Planning Commission and focus on collecting the input of groups, similar to the Community Participation Team forums during the Comprehensive Plan review. The text reflecting this is in the process components section. The methodology and the Planning Commissions changes were discussed

again at the joint work session with the BOS on March 23, 2010. Consensus was reached on moving forward with the adoption of the revised methodology. Staff recommended the Planning Commission endorse the revised methodology and forward it to the Board for consideration at its May 11, 2010 meeting.

Mr. Henderson moved to endorse the revised methodology.

In a roll call vote, the Zoning Ordinance methodology was unanimously endorsed and forwarded to the Board of Supervisors (7-0).

8. PUBLIC HEARINGS

A. Z-0002-2009/MP-0002-2009- Governor's Grove Section III Proffer and Master Plan Amendment- deferral request

Mr. Peck asked Staff and the Commissioners if they had any objection to the applicant's request for a deferral.

Mr. Allen Murphy stated there is no objection.

Mr. Peck stated he will continue the public hearing to the May Planning Commission Meeting.

B. SUP-0002-2010 CVS and Food Market at Soap and Candle Factory Site

Ms. Sarah Propst stated Mr. David Todd of The Rebkee Company has applied for an SUP to allow the construction of a CVS store and a Food Lion store at 7521 Richmond Road. This SUP replaces SUP-0008-2009 for a CVS on this site, approved by the BOS in July of 2009. The parcel is zoned M-1, and designated Mixed Use. The site fronts on Route 60, a community character corridor, and it is located within the Norge Community Character Area. The 13 acre Candle Factory parcel will be subdivided to create separate parcels for the pharmacy and the grocery store.

Ms. Propst stated a shared access agreement between the Candle Factory, CVS, and Food Lion is one of the conditions for approval. A portion of the existing Candle Factory commercial complex will be demolished to accommodate CVS. A section of the existing parking area adjacent to Route 60 will be removed and the existing buffer between the front parking area and Richmond Road will be widened to 50 feet to meet the Community Character Corridor requirement. Additionally, the existing parking area located along Croaker Road Extended will be removed and the buffer will be widened to 30 feet. A shared parking agreement between CVS and Food Lion is one of the conditions of approval for this SUP. Elevations for this proposed development have been reviewed at two DRC meetings. These elevations were revised per comments at the last DRC meeting on January 27th. This SUP application includes a landscape modification request. To transfer plant materials from the eastern side of the properties and between the CVS and Food Lion Parcels to the western, southern and northern buffers. This request has been reviewed by staff and approval of this landscape modification is

recommended. Staff and all agencies have reviewed this proposal and find it to be in accordance with the Zoning Ordinance and Comprehensive Plan. Staff recommends that the Planning Commission approve the landscape modification request and recommend approval of this application with the conditions included in the staff report.

Mr. Peck opened the public hearing.

Mr. Tim Trant with Kaufman and Canoles spoke on behalf of the Rebkee Company. Mr. Trant stated the neighboring property owner at Crosswalk Community Church had been concerned with how this parcel would be redeveloped and how it would impact the area. The applicant has since received a letter of support from the pastor of this church. Mr. Trant read from the letter. Reverend Mark Murrow stated the leadership of the church has closely reviewed the plans forwarded by the Rebkee Company to redevelop a portion of the Candle Factory Shopping Center into a CVS and Food Lion. The leadership does support the project and ask that the Planning Commission approve the SUP for the development. Mr. Trant pointed out that this project is a redevelopment and that there have been buffering increases as a result. This will be seen along the Route 60 Community Character Corridor. The architectural consistency displays that which has been envisioned by the Comprehensive Plan for the Norge Community Character Area. There are significant enhancements gained from this redevelopment. There are also enhanced environmental controls with this project, particularly better stormwater management tools. The type "A" soils found on this site are particularly good for infiltration which the design team has attempted to take maximum advantage of, using pervious pavement in the parking lot, underground storage vaults for the recycling of stormwater for irrigation.

Mr. Henderson asked that Mr. Trant display the building elevation for CVS. The building elevation has been amended per DRC request, and has become an attractive building. Mr. Henderson stated that the biggest concern he has is with the traffic movement at the intersection with Richmond Road. Also, the right-in and right-out east of CVS, may be problematic. Mr. Henderson stated he is concerned with the interaction of traffic leaving the CVS parking lot and attempting to make a left-hand turn while vehicles are approaching at a fairly high-rate of speed into the site. Mr. Henderson expressed concern over conflicting traffic movement on the other side of the parking lot.

John Riley with Kimley-Horn stated the majority of traffic would be using Croaker Road. The queuing at Croaker Road is expected to be one vehicle or less. The flow of traffic will not be blocked.

Mr. Henderson stated he is looking to the future when the adjoining property is developed and there is conflicting traffic movements and higher volume. Mr. Henderson stated he is concerned with the safety at this intersection.

Mr. Trant stated the adjacent property owner is the landowner of the subject property as well as the seller to the Rebkee Company. In the closing of this development there is under negotiation and review a binding agreement for an Easements Convenience Restrictions (ECR) to address the redevelopment of both sites. Traffic flow and other safety issues would be taken into consideration to mitigate any potential problems.

Mr. Henderson asked if this document has been approved.

Mr. Trant stated it is not at this time, though it will be at closing.

Mr. Woods asked staff to further elaborate on “an aggravated initial impact” and “mitigated future impact” as referenced in the staff report.

Ms. Propst stated that the traffic impact analysis suggests this development will increase the volume of traffic. It will be mitigated by the traffic improvements recommended as conditions of approval by staff, and in the future this intersection is showing a drop in the level of service. The drop in service will be seen and future improvements will be made to the extent that it will resume a level of service comparable to the one seen today.

Mr. Woods asked for the underlying analytical basis of this determination.

Mr. Trant stated there are declining levels of service predicted in this intersection in a “no build” scenario. Meaning, in looking ahead to future traffic volumes without development of this parcel, the traffic volume of this road will still increase at a certain rate due to anticipated development of surrounding parcels and neighborhoods. Using the Institute in Traffic Engineers (ITE) Manual one can determine the rate of increased volume. In a build scenario without traffic improvements those declining levels of service would become worse. What the applicant has agreed to do, based on analysis, is to make the necessary improvements to mitigate future traffic impacts. With the proposed improvements in place the decline in the level of service is a wash. It is equivalent to the “no build” scenario.

Mr. Woods asked, will traffic be aggravated initially.

Mr. Trant stated no.

Mr. Woods asked if the ECR will improve the functionality of the intersection Mr. Henderson had spoken of.

Mr. Trant stated yes.

Mr. Woods asked if the applicant had considered making this a condition of the proposed development.

Mr. Trant stated no. Mr. Trant stated that in a practical sense the ECR is necessary. Making this a condition upon approval is not feasible due to the degree of complexity seen with this agreement.

Mr. Henderson stated that this is the first case review in the County subject to the VDOT 527 Review. The traffic report seen here is much more comprehensive than those seen in the past. Mr. Henderson asked if the portion of the property in the rear had been had been treated as if it had been redeveloped while creating traffic forecasts?

Mr. Riley stated that the redevelopment of the property in the rear had been taken into consideration. There are two scenarios for build out. Scenario one is without those developments in place. Scenario two is with those impacts in place.

Mr. Henderson asked if redevelopment of the property in the rear had been incorporated into the development proposal.

Mr. Riley stated yes.

Mr. Peck opened the public hearing.

Seeing no speakers, Mr. Peck closed the public hearing.

Mr. Krapf commended the applicant for their efforts to work with the feedback received.

Mr. Poole stated that given the zoning and Comprehensive Land Use designation of the site this type of redevelopment makes a lot of sense. The life-span of the property has passed. Mr. Poole stated that he understood Mr. Henderson's concern though he is inclined to hold onto the increased setback.

Mr. Poole moved for approval with the attached landscape modification request and conditions.

In a unanimous roll call vote, the motion passed (7-0).

C. Z-0001-2009/MP-0001-2009/SUP-0007-2010/SUP-0011-2010 Colonial Heritage Deer Lake

Mr. Peck asked staff to make their presentation.

Mr. Fraley stated he had met with the applicant to discuss a number of features including the stormwater management plan, the clearing and grading plan and a conceptual plan layout.

Mr. Maddocks stated that he had met with the applicant, Mr. Davis, to review the proposal.

Ms. Ellen Cook stated Mr. Gregory Davis of Kaufman & Canoles has applied, on behalf of the Lennar Corporation, to rezone a 130.3 acre portion of the 731.5 acre Deer Lake parcel located at 499 Jolly Pond Road from A-1, General Agricultural, with proffers, to MU, Mixed-Use, and R-2, General Residential, with amended proffers, with SUP for the extension of public utilities and a cluster overlay.

Ms. Cook stated that the existing Master Plan for Colonial Heritage has a unit cap of 2000, which includes a 50-lot rural cluster on approximately 221 acres of land located outside the PSA and zoned A-1. On that same 221 acres, the new proposal is seeking to rezone 66.4

acres to Mixed-Use, to be included in the Colonial Heritage Master Plan, and also rezone 63.9 acres to R-2 (with a cluster overlay) for the 50 lot cluster both with the extension of public water/sewer. The applicant would dedicate the remaining 90 acres zoned A-1 as conservation area. New proffers for this application include:

- Additional 90 acres of conservation open space to be dedicated
- Adherence to the Yarmouth Creek Watershed Plan goals and priorities
- Implementation of the County Streetscape guidelines
- Neighborhood Recreation Facility and adherence to the Parks and Recreation proffer guidelines
- And, cash contributions for both schools and JCSA water connections.

Staff recommends the Planning Commission recommend denial of this rezoning, master plan amendment and the special use permit applications to the BOS. Should the Planning Commission wish to recommend approval of these applications to the BOS, Staff recommends attaching the conditions for the utility extension SUP that were attached to your staff report as well as recommending approval of the attached proffers.

Staff would like to make the Planning Commission aware that subsequent to the development and distribution of the Staff report Staff identified a concern with the proffer language describing the timing of dedication of areas to be placed under conservation easement. Staff has communicated this concern to the applicant and has received a commitment to revise the language to address this concern moving forward.

Mr. Peck opened the public hearing.

Mr. Davis of Kaufman and Canoles stated he represents the applicant. In 2004 zoning was approved for 2000 units at Colonial Heritage, 1950 age-restricted units in the active-adult Colonial Heritage community as well as a 50 lot cluster development, not a part of Colonial Heritage and outside the PSA. 282 acres of conservation open space were dedicated and proffered. This application involves the preservation of an additional 90 acres of conservation area while spreading the age-restricted community onto 66 acres which were already approved for development in 2004. This application, by extending public utilities, eliminates the need for a private water system and septic drain fields for the 50 lots outside the PSA. The application also offers a long list of environmental benefits adjacent to Yarmouth Creek.

Mr. Davis, using an illustration, pointed out various landmarks and features of interest. He stated the proposal exceeds the Yarmouth Creek Watershed Plan measures. It preserves type "A" permeable soils. The 90 acres set aside for conservation buffers is a part of the non-tidal mainstem of Yarmouth Creek. The 90 acres are adjacent to the 282 acre conservation easement that is already established, making one large contiguous undisturbed area. When the rezoning application was submitted, workforce housing was proffered in the 50 unit, true cluster. Since that time, with input from the community, the applicant has begun to question if the housing meets a County need. Mr. Davis stated the applicant would like to hear from the Planning Commission what they feel is an appropriate use for the 50 unit, true cluster. The age-restriction component of the community produces a positive fiscal impact. The 2,000 unit cap still applies to Colonial Heritage. The public benefit of this project should be appropriate justification for

amending the PSA to include the proposed development. The alternative, a private well system, would be a cost incurred by the County in excess of \$100,000 per year.

Mr. Fraley asked for Mr. Davis to elaborate on the ten-foot clearing proposed.

Mr. Davis stated in the existing approved A-1 cluster the applicant was committed to a 35-foot setback from structures to the top of steep slopes and a 20-foot setback from the edge of clearing to the top of steep slopes. Staff noted that the current application reduced the distance from the edge of clearing to the top of steep slopes to ten feet down from twenty. After hearing this concern the applicant has agreed to a proffer revision that would increase the distance from clearing to top of steep slope to twenty-feet.

Mr. Fraley asked Mr. Davis to elaborate on the difference of stormwater management and the outflows between the two plans as well as the limits of clearing and grading.

Mr. Arch Marston of AES displayed some images to relay the differences between the stormwater management plans. The approved rural cluster concept plan has 15 lots that do not drain to any stormwater management facility. With the new proposal the development is confined to a small area. The topography is such that the cluster follows the contours as it falls down the hill towards the Best Management Practice (BMP). The drainage can be picked up and routed to one spot where a stormwater forebay would be designed. The water would be collected, pretreated and slowed before let go into Deer Lake. Regarding the clearing and grading, the new proposal does include some grading across lots due to the compact nature of the development. What is gained is additional saved areas around the cluster. Fifteen acres of the 63.9 area is dedicated to the cluster, minimizing negative impacts.

Mr. Henderson asked if there was a plan for development for the area proposed to go into the Mixed-Use zoning.

Mr. Davis stated that there is not a plan of development, though the development of Colonial Heritage up to this point can serve as an example.

Mr. Henderson asked from a traffic stand point, would it be the applicant's intention to have the traffic exit to Centerville Road as opposed to Jolly Pond Road.

Mr. Davis stated that there are no plans for an entrance on Jolly Pond Road.

Mr. Peck opened the public hearing.

Mr. Michael Hipple of 112 Jolly Pond Road asked for confirmation regarding no new entrances on Jolly Pond Road.

Mr. Davis confirmed that there will be a new entrance for the cluster development.

Mr. Hipple stated he has concern regarding traffic on Jolly Pond, especially due to the two new schools. Mr. Hipple stated that he is not against the proposed plans. Mr. Hipple stated

that he is representing the subdivision on Jolly Pond Road. Mr. Hipple stated that he does have a concern regarding property values if the new development includes workforce housing. Jolly Pond is frequently used as an access to get from Centerville to Toano. Mr. Hipple stated that he would like to see the addition become an age-restricted development. There are a lot of steep slopes in the area under discussion. The cluster development does make sense due to the slopes. In regards to the stormwater management going into Deer Lake, can the dam sustain further stress? In his view the PSA is used intelligently to contain development, in this case though it may be in the County's best interest to extend the PSA.

Mr. Fraley asked Mr. Davis if the development were to be age-restricted would that lessen the impact of traffic on Jolly Pond Road.

Mr. Davis stated yes. A key feature of age-restricted communities is the limited number of accesses. The Centerville and Richmond Road entrances would be the only entrances if the residential cluster were to be an age-restricted community. The Jolly Pond entrance would be removed from the plans.

Mr. Fraley asked if there would be additional stress placed on Cranston's Mill Pond.

Mr. Davis stated that Deer Lake has been identified and planned as a BMP for Colonial Heritage. Some upgrade to the dam will be made; failure is not a risk.

Mr. Henderson asked if the property was not age-restricted would it still be within the Home Owners Association (HOA) for Colonial Heritage. Would the roads be public or private?

Mr. Davis stated that it would be a stand-alone development with its own HOA. Mr. Davis stated that it had been proffered as public or private subject to input of the Commission on the type of housing product.

Mr. Peck closed the public hearing.

Mr. Rich Krapf stated that the application concerns him. Expansion of the PSA is a violation of the land-use policies established in the November 2009 Comprehensive Plan. This would also set a precedent by extending public utilities outside of the PSA. This may have other consequences. It could send a message to the community that the PSA line is arbitrary and can be proffered away. The PSA is currently used as a tool for growth management. Extending the Mixed-Use designation onto the additional acreage runs the risk of allowing the applicant to meet the density at the expense of the rural lands. The environmental recommendations in the staff report are valid. The central well versus the public water argument has been addressed in the Comprehensive Plan. There is an acknowledgement that right now for the James City County Service Authority (JCSA) to take over wells would have a cost for the County. There is an action item in the Comprehensive Plan to remedy this situation. The BOS has agreed to study this issue at the June meeting. Therefore, this argument does not hold water. This proposal does not support our land use management strategies. It undermines the Comprehensive Plan and PSA as a growth management tool. It also extends suburban density into the rural lands. Mr. Krapf stated that he cannot support the proposal.

Mr. Poole stated that he shares Mr. Krapf's views. He stated he notes some benefit. However extending the PSA would have notable consequence. The PSA is used to effectively provide smart growth. In those areas noted for economic opportunity/development it may be okay to extend the PSA, though the evidence has to be extremely compelling to consider an extension. In 2004, Mr. Poole had voted against Colonial Heritage though he has considered the new proposal independently. Mr. Poole stated that he is glad to see the Magnolia Trees will be preserved.

Mr. Peck read the goals of PSA as provided in the Comprehensive Plan. Mr. Peck provided a map of the PSA. Governor's Land which is outside the PSA has public water and sewer. Greensprings West is also outside of the PSA.

Ms. Cook stated that these developments were approved by the BOS in the 80's.

Mr. Peck asked if this was prior to the adoption of the PSA.

Ms. Cook stated that she believed it was after the PSA was adapted and identified on the Comprehensive Plan.

Mr. Allen Murphy stated that the zoning category, which the BOS supported, mandated the extension and provision of public water and sewer.

Mr. Peck stated that here are two cases where we have both public water and sewer not subsidized. The locations are near environmentally sensitive areas next to a water way. There are two new developments going up, one being Liberty Ridge, that have to have public water supply systems. The two will not be connected to the JCSA system, but will be turned over to them.

Ms. Cook stated that those two developments are by-right, A-1 developments that will have central well facilities and private septic systems.

Mr. Peck stated that they are high-cost systems that the County will end up subsidizing once they are turned over to the JCSA.

Ms. Cook stated that this issue was raised and discussed during the Comprehensive Plan update. An action item was added to the Comprehensive Plan to look at equalizing the cost.

Mr. Peck stated that he is aware of this, though these two developments would be grandfathered in according to Mr. Larry Foster of JCSA. They are not promoting increase public benefit per dollar spent, nor are they encouraging the efficient use of public facilities and services such as water and sewer. Mr. Peck located Freedom Park on the map. Mr. Peck stated that Freedom Park has had public water and sewer extended through it.

Ms. Cook stated that the BOS did approve the extension of utilities for this development concurrent with the approval of the SUP for the two new public schools.

Mr. Peck stated that another policy for the PSA is to make sure that public facilities are provided in a timely manner. Adjacent to these parcels is an elementary and middle school. There is a large sports complex, a new public safety building for the County Police Department, Warhill High School, as well as Freedom Park. By ordinance we will have public water supplied by the well system. The PSA is to help manage the cost of public facilities. We have built public facilities out of the PSA. There may be other draw backs for this project. By not extending the PSA the actions of the Planning Commission would run contrary to the intended use as stated in the Comprehensive Plan. The County needs to develop more workforce housing. This may be an ideal location due to the proximity to public facilities.

Mr. Henderson stated he is driven to recognize the significant public benefit with this project. He is in favor of this development becoming part of Colonial Heritage, therefore age-restricted. Eliminating an entrance on Jolly Pond is beneficial to the community. He stated he is compelled to recognize the economic benefit connected to senior housing. This is the only scenario that produces a positive economic development for the County. The significant protection put in place for the environment is another benefit. He will support the application; provided it is included into the parent development as age-restricted housing.

Mr. Fraley stated that during the Comprehensive Plan process the applicant did file a land use designation change request. It was denied by a vote of (6-5). He voted for the land use designation change. One of the benefits of this project is the environmental protection. The cluster would provide 90 additional acres of conservation area. It is subject to County special stormwater criteria. It is subject to the BOS resolution for resource management area buffers for legislative cases. The currently proposed plan is not subject to either of those. With the provision of public sewer service it eliminates the need for septic drain fields. With the provision of public water service less stress is placed on the aquifers and lowering operating cost for the service authority. The proposal is more consistent with the Yarmouth Watershed Management Plan Conservation Area recommendations. This is a superior open-space design. It would be undisturbed and contiguous with adjacent natural open space. The residential cluster conceptual design proposed does preserve highly permeable soils, minimizes cut-and-fill, provides an envelope around clearing and grading, provides large amounts of natural open space and is in harmony with the contours of the land. In terms of stormwater management this proposal provides for the collection of all runoff, 100% treatment by a single, state-of-the-art forebay structure and discharge into a wet BMP, Deer Lake, and directing outflow into only one finger of the lake. Mr. Fraley stated that he does support age-restriction. The residential cluster would generate a large positive fiscal impact. The current rural cluster would be negative. If age-restricted the residential clusters would be connected internally through Colonial Heritage and access from Centerville Road compared to an island development that is currently approved accessed from Jolly Pond Road. One of the negative features of this proposal includes having a higher density on the property adjacent to the eastern side of Deer Lake. It is also inconsistent with current Comprehensive Plan Land Use Designations. The current, approved plan preserves the integrity of the PSA boundary. The PSA is not stopping the growth in the rural lands. Smart sustainable growth is not supported by the PSA. In regards to rural lands, smart sustainable growth would lower the base density by implementing a by-right cluster providing a higher density with conservation zoning and a robust transfer of development rights. The PSA line is

arbitrary in that it was not drawn around ridge lines, sensitive environmental features, or big blocks of property owners. Mr. Fraley supports the application.

Mr. Peck stated he shares Mr. Fraley's vision of what rural lands should look like. Contiguous green space is important. This proposal supports the goals and principals of the PSA. As a note of disclosure this is consistent with his position during the Comprehensive Plan discussion.

Mr. Woods stated he is torn by this discussion. Mr. Peck pointed out inconsistencies with actions taken in the past. Other colleagues have identified the reaffirmation for the need to have certain discipline in the process. Those disciplines were more recently examined and rules have been affirmed. Rules in terms of frameworks had been just recently been reexamined. There is the notion that some type of control needs to be in place. If we take each perimeter individually each is flawed, though in total context it makes sense. Mr. Woods stated that he is not persuaded by what took place in the past. What we have decided recently is most important. The "we" being the combination of government and citizens. Irrespective of individual points on a standalone basis you must make sense in the aggregate. Mr. Woods stated he is not persuaded by any of these arguments. Mr. Woods stated that he is not in support of the proposal because you must have structure. There are individual aspects that are positive in the proposal. The boundaries need to be respected. We would do best by attempting to either manage them or advise them appropriately.

Mr. Peck asked if staff would like to make any additional comments.

Ms. Cook stated she wanted to review what is and is not proffered. The proposed 50-lot age-restricted cluster and workforce housing are not currently in the proffer set. The access on Jolly Pond Road is currently shown on the Master Plan.

Mr. Kinsman stated that Mr. Davis also offered to change the proffers regarding 20 feet setback from the steep slopes, as well as the mechanism that will trigger when the conservation easement would be deeded to the County.

Mr. Poole moved for denial of the Rezoning, SUP and Master Plan amendment per staff's recommendation. In a roll call vote the motion failed (4-3, NAY: Maddocks, Fraley, Henderson, Peck; AYE: Woods, Poole, Krapf).

Mr. Henderson moved for adoption of the Ordinance as amended with further restriction stating: the property would be age-restricted consistent with the current proffer on Colonial Heritage, there will be no access to Jolly Pond Road, the setback in the R-2 cluster be extended to 20 feet, and the trigger for the dedication of the easement would be amended upon recordation of the first lot. In a roll call vote the motion passed (4-3, AYE: Maddocks, Fraley, Henderson, Peck; NAY: Woods, Poole, Krapf).

D. SUP-0028-2009 Ingram Road Pegasus Tower

Mr. Luke Vinciguerra stated that Mr. Stephen Romine has applied for an SUP to allow

for the construction of a 120' wireless communications facility with a four foot lighting rod at 108 Ingram Road. The parcel is zoned B-1 and, designated Mixed Use. Tower mounted communication facilities higher than 60 feet in the B-1 district require an SUP. The proposed facility would be a "slick stick" with no visible external antennas.

Staff found that the combination of topography, low tree cover, and proximity to multiple neighborhoods and primary routes would make the proposed tower highly visible from multiple locations. The BOS adopted Performance Criteria for Wireless Communication Facilities in 1998. These performance criteria noted that tower mounted facilities should be located in a manner that minimizes their impacts to the maximum extent possible and minimizes their presence in areas where they would depart from existing and future patterns of development. The Performance Standards also indicate that towers should be compatible with the use, scale, height, size, design and character of surrounding existing and future uses. The proposed tower is highly visible north and southbound on Ironbound Road from Clara Byrd Baker Elementary School to the entrance of the Powhatan Crossing subdivision and east and westbound on Route 5 from the Five Forks Water Treatment Facility to the entrance of the Graylin Woods subdivision. The proposed facility will also be visible from a portion of Powhatan Crossing and multiple points within Brandon Woods, The Villas at Five Forks, and the Governors Green Shopping Center.

Staff found that the application is not in compliance with the Comprehensive Plan, specifically the Community Character Corridor and Community Character Area recommendations, and does not meet the BOS adopted Performance Standards for Wireless Communications Facilities due to the negative visual impact. Staff recommends denial of this application. Should the Planning Commission wish to recommend approval of this application, staff recommend including the conditions that were listed in the staff report.

Mr. Peck asked if there were any questions of staff at this time.

Hearing none, Mr. Peck opened the public hearing.

Mr. Romine, representing the applicant spoke. This location was initially being developed for AT&T. Technology provides a critical link for government and emergency services. Today over 80% of the U.S. population relies on wireless telephone service. Fifty percent of all subscribers use their wireless phone as a primary phone. The growth and use of wireless has developed an expectation of service availability in all locations. Seventy percent of all 911 calls are made from wireless phones. Reliability is critical. The phone works by operating on a low-power radio signal. Where there are no antennae, there is no coverage. The application is an attempt to address a coverage gap. If you have unreliable or non-existent coverage you cannot sustain or maintain a phone call. Lack of availability is evident in this vicinity, especially near the intersection of Ironbound Road and John Tyler Highway. Pegasus is working with AT&T to provide service to the community in this area. The location, 108 Ingram Road, is zoned B-1 General Business. It currently has several industrial, flex-type buildings stacked behind one another. Mr. Romine provided several images. Mr. Romine stated that they ran balloon tests at several heights. The primary concern expressed to them was the visual effect/impact. Mr. Romine provided a map to illustrate how the accessibility of service would be

improved as well as currently available coverage. This is the 13th site that the applicant has considered in this area over the course of five years. Mr. Romine provided a map to illustrate the other sites that were considered. Mr. Romine provided images of the balloon test. Mr. Romine stated that there were a couple of areas where the balloon was slightly visible. At 120-feet it is not possible to completely eliminate the visibility of the tower. Mr. Romine reviewed the reasons for dismissal regarding the other 12 sites. In the staff report there are some determinations made regarding "highly visible". Mr. Romine stated that this has been a difficult area to provide coverage for. Mr. Romine stated that he acknowledges that it is visible in certain areas. The staff report states that the tower is not camouflaged. Mr. Romine stated that the "slick stick" proposed is considered camouflaged. One hundred twenty feet is as low as they can go without eliminating functionality. The facility is consistent with the County guidelines and the Comprehensive Plan. It is in a Community Character Corridor and Community Character Area they have gone to great lengths to accommodate that. Pegasus has agreed to the ten conditions proposed by staff. One condition, number nine, requires a 100-foot buffer. The trees will remain notwithstanding the ability to develop the property. The viewshed will remain virtually the same.

Mr. Peck asked if the Commissioners had any questions for the applicant.

Mr. Peck asked if there were any members of the public that would like to speak.

Mr. Gerald Johnson of 4513 Wimbledon Way stated that he gets excellent reception throughout the area. Mr. Johnson stated that he is representing the Historic Route 5 Association. On the occasion of the balloon tests he drove throughout the area to get a sense of the visibility. Mr. Johnson stated that staff's assessment of it being "highly visible" is accurate. The major disagreement is that it is not inconspicuous. Given that it is a Community Character Corridor makes it even more important. The Five Forks study illustrates that the community is suppose to have a coherency. The housing around the area is numerous. The housing developed because it is a small community setting. This is what the people expect. The Commission should deny the application. This is not a ridge as described by the applicant. The Commission should support Staff's position.

Mr. John Miller representing AT&T Mobility stated that. AT&T has been looking for an appropriate site in the area for the past five years to provide satisfactory coverage. The site is a good location and will help satisfy coverage needs along the Ironbound corridor. Earlier on there were questions regarding the JCSA property, next to the elementary school. There are two communication towers already located on the site; AT&T has collocated on one tower at 90 feet. Placing a new tower on this site would not satisfy their coverage needs. The applicant also considered extending the tower at 140 and 160 feet, still it would not meet the coverage needs. The balloon tests showed that it would not be highly visible from many subdivisions. It was visible along Ironbound Road and John Tyler Highway. In certain areas in Brandon Woods it was visible.

Mr. Peck closed the public hearing.

Mr. Henderson asked if the applicant had considered the timeshare property at Powhatan

Plantation as a possible location for the tower. That site may be ideal considering the coverage area the applicant is attempting to target.

Mr. Miller stated that the site had been considered, though due to the 400-foot setback required it was not feasible.

Mr. Poole stated he understands the difficulty in finding an appropriate site. Mr. Poole stated that the visual quality along Route 5 is very important. The apparent visibility of the tower along Route 5 is a concern.

Mr. Romine stated that this area is highly developed making the placement of a tower more difficult. The proposed site will be further developed however, if the tower is approved the required buffer of trees would remain. Otherwise the trees may be cleared to make way for another type of development. The other landscaping elements required will also provide screening at the vehicle and pedestrian level coming up Route 5. The top 20 feet cannot be screened. If you look at the staff report and the outlined performance standard requirements the applicant has satisfied all of the standards other than a visible viewshed-type impact. The viewshed impact is in itself debatable.

Mr. Krapf asked if the applicant had examined any alternatives beyond the tower.

Mr. Romine stated that he was not aware of AT&T considering any alternatives.

Mr. Krapf stated that he shares Mr. Poole's concern. The proposed location is a prominent location.

Mr. Romine stated that they had conducted a community meeting. After providing several images of the viewshed the response from the community was not one of concern.

Mr. Mike Maddocks asked for clarification regarding visibility of the tower from certain locations.

Mr. Romine provided information regarding visibility.

Mr. Maddocks asked if the diameter of the tower is comparable to the diameter of the balloon.

Mr. Romine stated that typically the diameter of a "slick stick" is between two and three feet. The diameter of the balloon was five feet.

Mr. Fraley stated that the Commission did receive a letter from a community organization regarding the tower. Verizon will be an active participant in an industry forum on planning for wireless communication facilities. Planning for the facilities in a more comprehensive way would be advantageous for the community and the service carriers. Finding locations in the least obtrusive areas is of foremost concern. By working in this manner the public can become more engaged in the process, and it can be more predictable for service providers. Mr. Fraley stated

that he cannot support the proposal.

Mr. Henderson asked for more information regarding the service customers that would be served by the proposed tower. Specifically this would provide in-office capability for people in the office park nearby.

Mr. Romine stated yes. This area is lacking in-building coverage.

Mr. Henderson stated that there is a significant day-time population in the vicinity within the professional buildings. Also, the neighborhoods nearby would benefit from more reliable coverage. Mr. Henderson stated that he can support the proposed location.

Mr. Romine stated that coverage in the area needs to be addressed.

Mr. Krapf moved for denial of the proposed SUP. In a roll call vote the motion passed (5-2, AYE: Poole, Fraley, Woods, Krapf, Peck; NAY: Maddocks, Henderson).

E. Z-0003-2009/ SUP-0017-2009 Freedom Market

Mr. Vinciguerra stated that Mr. Philip Richardson has applied for a Rezoning from Limited Business to General Business with proffers and an SUP to permit the operation of a convenience store with fuel sales for a 1.1 acre parcel located at 5534 Centerville Road. A rezoning is necessary because fuel sales are not a permitted or specially permitted use in the Limited Business district. General Business permits convenience stores with fuel sales only with an SUP. The applicant is proposing a 2,400 square foot store and six gas pumps. The BOS approved a similar proposal in 1998 for a 2,700 square foot store and eight gas pumps. The SUP has since expired.

Staff found the proposed site design and architecture compatible with surrounding development and consistent with the Neighborhood Commercial designation and recommended approval of the application and acceptance of the voluntary proffers

Mr. Vinciguerra stated that the applicant proposed a change to Condition No. 8, Enhanced Landscaping, to reduce the required planting size from 133% to 125% of ordinance requirements. The applicant stated that it is difficult to purchase plant materials at 133% of ordinance requirements. Mr. Vinciguerra stated that staff supports the requested change.

Mr. Henderson stated that he only sees three pumps but six fueling positions on the plans.

Mr. Vinciguerra stated that is correct.

Mr. Fraley stated that he had had a meeting with the applicant some time ago with Ms. Kratter. A report had been issued directly thereafter.

Mr. Peck opened the public hearing.

Mr. Vernon Geddy representing the applicant spoke. Freedom Market has been proposed by Whitfield Bacon, LLC. Mr. Whitt Richardson is a business owner with another convenience store, with fuel sales on Route 143 in Lee Hall. It is called the Patriot Market. The site is just over one acre. It is on the corner of Longhill and Centerville Road. It is zoned Limited Business and is Neighborhood Commercial on the Comprehensive Plan Land Use Map. It is inside the PSA. It was previously approved for a larger convenience store with fuel sales. The parcel is surrounded by the Longhill Grove Apartment complex. There is a veterinary office nearby, as well as the entrance to Freedom Park. It is a small, neighborhood-scale use. The proffers and conditions associated with this ensure that there will be no adverse impacts on the neighbors. We think it is a use that the neighbors will embrace and use. It is needed in the area. Mr. Geddy pointed out several features on an image.

Mr. Geddy pointed out that there are limited hours of operation and delivery. There are no outdoor merchandise sales. There are limits on lighting, noise, signage, and trash removal. There is dumpster screening, and enhanced buffer landscaping. The site layout and number of fueling islands are established by the Master Plan and conditions. There is architectural review provided for by the elevations. The applicant has not provided the Community Character Corridor landscaping to open up the view. It is an attractive building and is compatible with the neighboring buildings. The buildings have brick siding with a "V" architectural shape. There was a traffic study done by DRW. It accounted for existing development as well as approved, but un-built development in both corridors. There is a new traffic signal being installed at this intersection, with turn lanes and various improvements. The study has been submitted to and approved by VDOT, and the approval is granted under the access management regulations for the entrances. It is a Community Character Corridor buffer and is an extremely small site, 1.15 acres. There are two Community Character Corridors that meet here. The site would be severely limited with a full, 50-foot buffer. The applicant is proposing a 30-foot buffer with enhanced landscaping. The site would use the Longhill Grove BMP pond, which was designed to handle stormwater from this site. There is a swale by a retention area and pervious pavement incorporated into the design. There is a water conservation plan. Because of fuel use, there will be stormwater pollution prevention, spill prevention, a control plan and a proffer of mitigation for an impact on any JSCA facilities. This was a condition developed for Exxon and has been carried forward into these plans. Mr. Richardson has met with the Forest Glen Neighborhood Association and briefed them on the proposal. He met with the management of the Longhill Grove Apartments and provided renderings for residents to see. He went to a second community meeting with the New Zion Baptist Church. Certain Commissioners were present along with Staff. Staff made a presentation on the Comprehensive Plan at that time. There have been a couple of petitions that have circulated in support of this proposal. The owner of the adjacent apartments has written a letter supporting it. The applicant agrees with the staff report and the proposed conditions. The applicant believes that it is consistent with the Neighborhood Commercial Designation on the Comprehensive Plan Land Use Map.

Mr. Henderson asked if the fuel offering will be branded and, if so, has it been identified?

Mr. Geddy stated that it is likely to be unbranded.

Mr. Henderson stated that on the rendering he did not see any signage on the canopy. He

asked whether this was an omission or an intended circumstance?

Mr. Geddy stated that the applicant does not plan for there to be signage on the canopy.

Mr. Woods asked Mr. Geddy to expound on the anticipated community need.

Mr. Geddy stated that the closest gas station is near Olde Towne and Longhill on Route 60.

Mr. Woods noted that there is a gas station on News Road.

Mr. Fraley asked Mr. Geddy for more information regarding the conditions. One condition has to do with the intercoms, as stated: "Any intercom system designed to allow oral communications between employees and customers shall operate in such a manner that they would not be audible by adjacent property owners." What does "not be audible" mean?

Mr. Geddy stated that it means you cannot hear it (from an adjacent property).

Mr. Murphy stated that he would be inclined to ask Mr. Geddy if his client intends to have an intercom system.

Mr. Richardson stated that he is not certain at this time. If there is a system put in place it would be used exclusively for communications between the attendant and customer.

Mr. Geddy stated that for that limited purpose it would not be difficult to make it inaudible at adjoining properties.

Mr. Fraley asked about the intended hours of operation. Mr. Fraley stated that the proposed 5:00 a.m. seems early.

Mr. Richardson stated that in this location they will serve a number of commuters, they would be leaving for work early. If you visit some of the convenience stores in the area they are busy at this time. The proposed hours are 5:00 a.m. till 11:00 p.m.

Mr. Fraley stated that delivery would take place between 7:00 a.m. and 8:00 p.m.

Mr. Vinciguerra pointed out that Staff drafted SUP conditions similar to the conditions adopted by the BOD for the Greensprings Grocery on Centerville Road.

Mr. Fraley stated that Mr. Geddy had referred to a prior application. Mr. Fraley asked Mr. Vinciguerra if the hours are comparable to this other proposal.

Mr. Vinciguerra stated that he believes they are consistent.

Mr. Geddy stated he was not certain.

Mr. Fraley stated that he was interested in those hours, as they were proposed for this site.

Mr. Peck opened the public hearing.

Dr. Bonnie Brown of 105 Crescent Drive spoke. Dr. Brown noted that she is very happy about the new CVS that will be coming in down the street. Dr. Brown stated that she is the owner of Jolly Pond Veterinary Hospital, near the site. The location of the clinic is 3800 Longhill Road, directly across from the street from the proposed development. She stated she is against the proposal. She is concerned about the added traffic that would be generated. This is an already very busy and at times dangerous intersection. Dr. Brown stated when she first built in 2003 this was a relatively quiet intersection. Over the last seven years several new housing developments have been added. The Wisk Complex, Freedom Park, Warhill School, Matoaka Elementary, and the Thomas Nelson Community College have all been brought in over the past seven years. This coming September, Hornsby Middle School and Blakely Elementary School will add volume to the busy Jolly Pond Road near this intersection. The bus traffic alone will cause this Longhill/Centerville intersection to be a trouble spot for motorists. A gas station and convenience store have a very high turnover of cars every hour, making turns into and out of the business an unwise choice for this intersection. A similar situation exists at the intersection of 199 and Jamestown Road where a 7-11 was located prior to the 199 bypass becoming a busy thru fare. The parking lot of that business has been reduced with each change in the traffic pattern, leaving a very narrow and at times harrowing entrance and exit of cars into the area. The intersection of Longhill and Centerville is already a busy intersection. The piece of property in question is limited in scope to accommodate reductions that will be necessary in the very near future to keep the intersection safe for motorists and school buses alike. My second concern is the anticipated increase in foot traffic to and from the apartment complex. Over the last seven years Dr. Brown stated she has been a victim of vandalism ranging from stolen light bulbs to one or two broken windows per year. Loitering was a problem in their parking lot necessitating the erection of a fence around the property. The fence has greatly reduced the foot traffic around the parking lot. We are grateful to the James City County Police Department who frequently parks in the parking lot to keep an eye on things. The area could become a busy place during late evening hours, and loitering could once again become a concern for the safety of my business, my employees, as well as the residents in the area. I have no problem with progress and understand the need for the County to allow businesses to come in and generate services for the citizens and tax revenue for the County. Zoning changes are frequently positive for the community. One only has to remember the high crime and abandoned apartments that were replaced by the well kept and nicely managed apartments we now have at this very intersection. These apartments were enabled to be built because of the zoning changes made, allowing a higher density complex. That zoning change made this corner safer and a more attractive place to live and work. The businesses permitted with the current zoning designation would be appropriate for the location and, would have little negative impact on the traffic patterns and overall safety of the area. The proposed zoning changes and SUP's are a poor choice and would have a negative impact on this section of town.

Mr. Peck closed the public hearing.

Mr. Woods asked Mr. Vinciguerra if there were any traffic studies or analysis available for this area.

Mr. Vinciguerra stated that within the packet of materials there is a traffic study. The traffic study does conclude that an additional delay would be caused by the proposed development. The capacity of Longhill Road and Centerville Road can handle the expected traffic. VDOT concurs with this analysis.

Mr. Woods asked for more detail regarding the traffic light previously discussed.

Mr. Vinciguerra stated that the County will be putting up a new traffic light at the intersection as well as creating new turn lanes. The Master Plan shows what the intersection will look like following its construction within eight months.

Mr. Woods asked if the new traffic pattern has been incorporated into the analysis.

Mr. Vinciguerra stated that the traffic analysis includes the new turn lanes and the traffic light.

Mr. Poole stated that he is very impressed with the proposal. Externally the appearance is attractive and an enhancement to the area. Mr. Poole stated that he would hope, if approved, there would not be a great deal of convenience store debris. The music, commercials, and advertisements seen at many convenience stores is very unattractive. Mr. Poole stated that he can support this rezoning. It fits into the other elements already occurring in the area. It does not have a preponderance of gas pumps. He stated he is comfortable with the conditions as they are written as well as the landscaping. With the density of residential units in the area this development is appropriate. Mr. Poole stated that he would appreciate the applicant enhancing condition number seven, about temporary signage. Limiting signage would be appreciated.

Mr. Krapf thanked Dr. Brown for speaking. Her concerns are not unreasonable. If you consider this proposal on the grounds of compatibility with zoning, land use designations and the architecture it is a good fit. If there is an increase of loitering as a result of this development Dr. Brown should notify Staff. Mr. Krapf stated that he supports this proposal.

Mr. Henderson moved for approval of the proposal as amended, with the landscape reduction from 133% to 125% of required planting size requirements. In a unanimous roll call vote, the motion passed (7-0).

9. PLANNING DIRECTOR'S REPORT

There were no Planning Director comments.

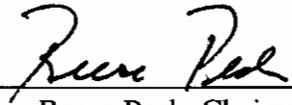
10. COMMISSION DISCUSSIONS AND REQUESTS

Mr. Peck asked if any Commissioner would wish to speak, none responded.

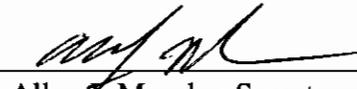
11. ADJOURNMENT

Mr. Poole moved to adjourn.

The meeting was adjourned at 10:55 p.m.



Reese Peck, Chairman



Allen J. Murphy, Secretary