

**SCANNER OPERATOR'S  
CERTIFICATE OF AUTHENTICITY**

**THIS IS TO CERTIFY THAT THE FOLLOWING ELECTRONIC RECORDS ARE TRUE AND ACCURATE REPRODUCTIONS OF THE ORIGINAL RECORDS OF: JAMES CITY COUNTY RECORDS MANAGEMENT DEPARTMENT AND WERE SCANNED IN THE REGULAR COURSE OF BUSINESS ON THE DATE LISTED; AND PURSUANT TO ESTABLISHED GUIDELINES BY THE LIBRARY OF VIRGINIA AND ARCHIVES; AND THAT WHEN SCANNED THE RECORDS WERE IN THE CUSTODY OF THE INDIVIDUAL LISTED BELOW**

**CASE NUMBER: 05072008PLC**

**DATE SCANNED: August 8, 2008**

**SCANNER OPERATOR: Jill Andrews**

**LOCATION: WILLIAMSBURG, VA.**

A REGULAR MEETING OF THE PLANNING COMMISSION OF THE COUNTY OF JAMES CITY, VIRGINIA, WAS HELD ON THE SEVENTH DAY OF MAY, TWO-THOUSAND AND EIGHT, 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:

George Billups  
Reese Peck  
Jack Fraley  
Tony Obadal  
Rich Krapf  
Chris Henderson  
Joe Poole III

Staff Present:

Marvin Sowers, Director of Planning  
Adam Kinsman, Deputy County Attorney  
David German, Senior Planner  
Mike Woolson, Senior Watershed Planner  
Scott Thomas, Environmental Director  
Terry Costello, Development Management Assistant

2. PUBLIC COMMENT

Mr. Fraley opened the public comment period.

Mr. Dale Merris, 104 Inverness, requested that Mr. Henderson recuse himself from voting on Case Z-0008-2007 / MP-0006-2007 Ford's Colony Section 37. He mentioned several reasons for his request. The first was concerning an email discussion between Mr. Henderson and the Ford's Colony Homeowner's Association Board of Directors. He also stated that Mr. Henderson assisted in obtaining contributions from developers, totaling approximately \$17,500, for the campaigns of Supervisors Kennedy, Goodson and Jones. Mr. Merris also stated that Mr. Henderson contributed approximately \$5,000 to that total. He stated that the Ford's Colony Homeowner's Association Board of Directors voted to contest the validity of Realtec's rezoning application before the Board of Zoning Appeals. He stated that Mr. Henderson voted against filing the appeal. Mr. Merris felt that due to these reasons, Mr. Henderson has an ethical conflict of interest in this case.

Mr. Fraley asked for comments on conflicts of interest from Mr. Kinsman.

Mr. Kinsman stated that official opinions under the Virginia Conflict of Interest Act can only be rendered by the Commonwealth's Attorney. The Act states forth a number of parameters by which elected and appointed officials measure whether there is a conflict of interest. Mr. Kinsman stated it was Mr. Henderson's decision as to whether to recuse himself from making a decision on this case.

Mr. Henderson stated that he has discussed this issue previously with counsel and has been advised that he does not have a conflict of interest as defined by law. He stated that he felt that he could evaluate the information before him objectively and can render an objective

decision consistent with his appointment to the Planning Commission and in the best interests of the County.

3. MINUTES

A. April 2, 2008 Regular Meeting

Mr. Fraley asked if there were any additions or corrections to the minutes.

Mr. Poole made a motion to approve the minutes.

Mr. Krapf seconded approval.

In a unanimous voice the minutes were approved (7-0).

4. COMMITTEE AND COMMISSION REPORTS

A. Development Review Committee

Mr. Krapf stated the DRC met on April 30, 2008 to discuss one consent item and four cases. The consent item was case SP-0056-2007, Whitehall Design Guidelines Modifications. The applicant in this case requested that a sentence be added to the Design Guidelines stating that any modifications to the Clubhouse must comply with the Preservation Plan for that property. The DRC approved this modification with a vote of 5-0.

Case C-0028-2008, New Town Center Parking Overview was the first case discussed. The DRC conducts quarterly reviews of off-site parking and shared parking for selected blocks in New Town Sections 2 & 4. The DRC voted 5-0 to continue to review the parking updates and to hear the next update in July.

The DRC reviewed a request from the John Deere Dealership, Case SP-0041-2008, to waive off-street parking requirements per Section 24-59(g)(2) of the Zoning Ordinance. The DRC voted 4-0 to approve the off-street parking waiver, with Mr. Obadal recusing himself from the discussion and vote.

The DRC then reviewed Case S-0031-2007, McFarlin Park Easement Crossing, in accordance with Section 24-266(g) of the Zoning Ordinance. DRC approval is required for all utility and easement crossings within perimeter buffers. The DRC voted 5-0 to accept the staff recommendation, subject to satisfactorily addressing JCSA comments. Additionally, the DRC stipulated that if the proposed solution and an alternative solution suggested by the applicant are not feasible, this case will return to the DRC.

Case SP-0100-2007, 128 McLaws Circle, required DRC review because of the two entrances on the same road, and the project exceeded 30,000 square feet. By a vote of 5-0, the DRC granted preliminary approval subject to agency comments.

Mr. Poole made a motion to approve the DRC report.

Mr. Henderson seconded the motion.

In a unanimous voice the minutes were approved (7-0).

B. Policy Committee

Mr. Peck stated the Policy Committee did not meet during April; however, the next meeting is scheduled for May 15, 2008. The Committee will discuss and possibly consider amendments to the special use permit process as well as evaluate the Planning Commission's role in the development of the Capital Improvement Program.

C. Comprehensive Plan Update

Mr. Fraley stated that a member of the Community Participation Team is present to address the Planning Commission, Mr. Bob Keith.

Mr. Keith stated that four Community Conversation meetings were held in April to obtain citizen input. Approximately 150 individuals were in attendance at the meetings which were held at Stonehouse Elementary School, Warhill High School, WJCC Recreation Center, and James River Elementary School. Ten listening stations were established to receive citizen input and were placed strategically throughout the area. CPT members have also provided speakers to a number of HOA's and other citizen groups during this time frame. During the month of May, the CPT will begin analyzing the comments received to date and placing them into a meaningful form for later use by the Steering Committee and for preparation for the second round of Community Conversation meetings. Mr. Keith also displayed statistics comparing participation from these Community Conversation meetings to those held in 2003. It showed that attendance for the meetings just held was roughly the same as those held in 2003.

Mr. Fraley thanked Mr. Keith for his comments.

5. PUBLIC HEARINGS

A. SUP-0005-2008 Cingular tower at the Longhill Road Recreation Center

Mr. Sowers stated staff's concurrence with the applicant's request for a deferral to the June 4, 2008 Planning Commission meeting.

Mr. Fraley opened the public hearing and asked for public comment. There being none, he left the public hearing open.

B. Z-0001-2008 / MP-0001-2008 / SUP-0006-2008 St. Olaf's Catholic Church Expansion

Mr. Sowers stated staff's concurrence with the applicant's request for a deferral to the

June 4, 2008 Planning Commission meeting.

Mr. Fraley opened the public hearing and asked for public comment. There being none, he left the public hearing open.

C. SUP-0007-2008 David Nice Contractor's Office and Shed

Mr. Sowers stated staff's concurrence with the applicant's request for a deferral to the June 4, 2008 Planning Commission meeting.

Mr. Fraley opened the public hearing and asked for public comment. There being none, he left the public hearing open.

D. Z-0008-2007 / MP-0006-2007 Ford's Colony Section 37

Mr. David German stated that Mr. Vernon Geddy has applied on behalf of Realtec, Inc. for a rezoning of the 180.79 acre property located at 3889 news Road, to allow for the construction of a Continuing Care Retirement Community (CCRC) to be known as the Village at Ford's Colony. The applicant was seeking to amend the existing Master Plan for Ford's Colony to include the proposed CCRC property as Section 37 of Ford's Colony, and to rezone the property from R-8, Rural Residential to R-4, Residential Planning Community, with Proffers.

Mr. German stated this proposal includes 24 independent living townhouse units, 622 additional independent living units, 118 assisted living units, and 180 skilled nursing beds. The property is located in the Gordon Creek Agricultural and Forestal District (AFD). The AFD Advisory Committee met to consider the applicant's petition to withdraw the property from the AFD for the purpose of development. By a vote of 4-2, the Committee voted to recommend approval of the withdrawal to the Planning Commission and Board of Supervisors. Staff found that the project meets the Zoning Ordinance and Comprehensive Plan requirements for density, that the project provides unusual environmental protections and economic benefit to James City County, and that it is generally compatible with surrounding land uses. Staff recommended that the Planning Commission recommend approval of this application to the Board of Supervisors.

Mr. Sowers stated that questions have been raised about the County's acceptance and processing of this rezoning and master plan application. Mr. Sowers stated that he wished to read a statement expressing the view of the Department of Development Management. He stated that the statement has been reviewed by the County Attorney's office and was prepared in conjunction with the County Zoning Administrator. It read as follows:

The application has been accepted by the County and it is property before the Planning Commission. Questions raised about the acceptance and processing of the case fall solely under the purview of the Zoning Administrator and Board of Zoning Appeals and not the Planning Commission. These questions are not a factor the Commission may consider in its deliberations on the rezoning and master plan, and tonight's meeting is not an appropriate forum in which to deliberate on these questions. Such matters can be appealed to the Board of Zoning Appeals;

however, to our knowledge, there are no valid, pending appeals currently before the Board.

Mr. Obadal stated that he disagreed with staff's interpretation concerning the acceptance of the application. He felt that the Zoning Ordinance gives the Planning Commission the power, authority and direction to consider the elements that compose the Ordinance. He questioned the basis that the claim was made that the Planning Commission does not have jurisdiction. Mr. Obadal cited Section 15.222 (10) that requires the Planning Commission be involved with orderly development in the locality in defining development. He stated it refers to the concept of single ownership and control. Mr. Obadal stated he has discussed this with the County Attorney's office and understands very clear.

Mr. Adam Kinsman stated that the statement was prepared in consultation with the County Attorney's office and that his office is in support of the statement 100%.

Mr. Obadal asked Mr. German what constitutes a living unit.

Mr. German responded that staff considered assisted living and nursing care units as an institutional use rather than a dwelling use because of the lower level of impact.

Mr. Obadal asked where this is mentioned in the Ordinance.

Mr. German stated that the method used to consider living units was a staff interpretation.

Mr. Obadal asked how staff interpreted the Comprehensive Plan on density.

Mr. German stated the Comprehensive Plan states that areas in low density residential may have up to four dwelling units per acre, if the development plans propose unusual protections or benefits to the County. He stated that in this case, unusual economic benefits and unusual environmental protection benefits were cited, and also that staff felt that the use in this case is generally compatible with the surrounding uses. Mr. German stated that the CCRC's that are currently in the County are surrounded by generally residential areas. He stated it would not be appropriate to place a CCRC in a predominantly industrial, commercial, or business area, for example.

Mr. Obadal questioned the density calculation in an area deemed low density residential with respect to the Comprehensive Plan. He also stated he believed that density should be calculated with respect to suitable land.

Mr. German stated that the Comprehensive Plan does not specify how the density should be calculated; and he refers to the Zoning Ordinance.

Mr. Sowers stated the practice that has been recommended by staff, and accepted by the Planning Commission and Board of Supervisors in previous cases, has been to calculate density on a gross parcel basis. He stated that more recently there has been discussion about changing the method of calculation, there has been no official action taken by the Planning Commission or Board of Supervisors. He did state that if the Planning Commission and/or Board of Supervisors

wish to change this method, then staff would recommend a formal action by the Commission and/or Board preferably through the Comprehensive Plan update process.

Mr. Obadal asked if there were any cases that contested the way the density was calculated.

Mr. Sowers stated there were.

Mr. Obadal made reference to a case that was heard by the Board of Supervisors two years ago where it was determined that suitable land meant developable land.

Mr. Poole asked Mr. German to explain the process by which property is added and/or deleted from an agricultural and forestal district (AFD).

Mr. German explained the procedure by which a landowner can add or delete property in an agricultural and forestal district. He also stated the Board of Supervisors has laid down policies about land added and deleted from the AFD in and out of the Primary Service Area.

Mr. Poole asked if a public hearing is held when an owner wishes to add or delete property.

Mr. German stated that the AFD Advisory Committee meets on an as-needed basis, and makes recommendations to the Planning Commission and Board of Supervisors. He stated that, in-effect, this rezoning application will serve as the public hearing to withdraw the property from the AFD, as the final decision with respect to withdrawing the property from the AFD rests with the Board of Supervisors.

Mr. Peck asked Mr. German to show on the map the current structures on the adjacent properties and the relative densities to the property where the development is proposed. His concern is that there is 150,000 square feet of building, several different structures, and 300 people that are not accounted for in density.

Mr. German stated that the density for the proposal, if calculated without the assisted living units and skilled nursing beds, is 3.573 dwelling units per acre. If the assisted living units are added to the calculation, the density becomes 4.226 dwelling units per acre. If all units are counted in the density, the density is 5.222 dwelling units per acre. Mr. German stated that Greensprings Plantation is zoned R-4 and has 1.07 dwelling units per acre, and includes Patriot's Colony, which is a CCRC with a much higher density than the overall development. He stated Monticello Woods, zoned PUD-R, has 1.36 dwelling units per acre; Powhatan Secondary and Powhatan Village, zoned R-4 has 2.8 dwelling units per acre; Springhill, zoned R-2, has 2.5 approved dwelling units per acre; and Ford's Colony, zoned R-4, has 1.17 dwelling units per acre. Mr. German stated that upon build-out, Ford's Colony will have 3,250 units in total. He stated that the property west of the proposed development is not developed, and is zoned A-1.

Mr. Peck asked about the type of structures proposed in the CCRC.

Mr. German answered that the buildings are one to five stories tall, with a mixture of townhomes two stories tall, and assisted living and skilled units, along with service buildings.

Mr. Fraley thanked Mr. German for all his work on this project, and spoke of the numerous compliments that have made by citizens and others involved in the project.

Mr. Billups commented that he had concerns about whether this application provided a public benefit. He also expressed a concern that this development would not be included in the Homeowner's Association, but wants to be included in the master plan for Ford's Colony. He stated the felt that this was a private development in-and-of-itself. Mr. Billups had concerns with the response that the developers gave to the Department of Social Services, and felt there could have been more negotiation between the two.

Mr. Henderson asked Mr. German to state the permitted uses in R-4 zoning which is the zoning proposed by this application, and asked if there are any communities such as Ford's Colony that are zoned R-4.

Mr. German stated that, in addition to Ford's Colony, Greensprings Plantation, Powhatan Village, and Powhatan Secondary are zoned R-4, among others. He stated typical uses in R-4 districts are townhouses, single family development, nursing facilities, timeshares, and other residential and minor commercial uses.

Mr. Henderson asked what the procedures are for amending a master plan, and the conditions that must be met in order to amend the plan.

Mr. German stated the land needs to be contiguous, except for roads and other geographical features which do not prevent parcels from being contiguous. He stated that there is also a certain acreage requirement, and the land must be in control of the developer.

Mr. Sowers stated that Patriot's Colony is the same type of use that is being proposed and that is in an R-4 zoned community.

Mr. German stated all the other CCRC's in the County, with the exception of Windsor Meade, are in an R-4 zoning district.

Mr. Obadal asked whether the density in Patriot's Colony includes the nursing care and beds.

Mr. German stated that Patriot's Colony is the only one out of the five CCRCs in the County that did not calculate density based on including the nursing care and beds. He stated Patriot's Colony was developed with a unit cap.

Mr. Krapf asked about the reference made to News Road being substandard.

Mr. German stated that VDOT has determined that News Road is a substandard road in terms of current design standards. He stated that when the road was constructed, there were



certain VDOT-approved standards of construction, but, over time, as standards have changed, the road has not been changed to meet the new standards. He stated that the road is safe, and when compared to similar roads statewide, this road has half the accidents. Mr. German stated that activity and conditions on News Road are reviewed by VDOT in specific segments, and that per-segment traffic counts are performed by VDOT, as part of its ongoing analysis.

Mr. Sowers stated the Board of Supervisors will consider the secondary road plan at their May meeting and this will include improvements to News Road. He stated that improvements include an additional turn lane at the entrance to Powhatan Secondary, and adding paved-and-strengthened shoulders.

Mr. Fraley stated that there is a County policy for developments that affect the intersection of News Road and Monticello Avenue, whereby developers must contribute cash based on their incremental impact in that area. He stated there is a plan and design and it is included in the VDOT six-year-plan.

Mr. Sowers stated there is approximately \$900,000 accumulated to date, toward a goal of \$1.2 million that the project is estimated to cost.

Mr. Obadal stated that the new VDOT traffic analysis standards say that comparisons are to be made on a regional basis. He stated that News Road currently has nine-foot-wide travel lanes, and current VDOT standards are 12 feet wide and call for the elimination of all blind turns. He stated this road has at least six blind turns. Mr. Obadal stated that current standards require five foot shoulders, and News Road has none that he is aware of. He stated News Road has culverts within two feet of the lane itself. He felt that this is an accident waiting to happen.

Mr. Henderson stated that as part of the application, a traffic impact assessment was provided. He mentioned that the Planning Commission issued comments and the applicant submitted a revised assessment. Mr. Henderson stated that the assessment was then reviewed by an outside party for the County other than VDOT.

Mr. Krapf asked for a comment from the traffic consultant.

Mr. Carroll Collins, with Kimley Horn & Associates, spoke on the third party review that his company performed on the traffic assessment. He stated that the areas of highway capacity, volume, and lane width were reviewed. He stated that with regards to capacity, the road operates efficiently. Mr. Collins also stated that if there were an unusual number of accidents or a trend in crash data, those statistics are monitored. He stated that if these numbers were out of the normal range, VDOT and the County would have been notified.

Mr. Vernon Geddy spoke on behalf of the applicant, Realtec. He stated that Realtec has assembled a team of experts in the CCRC field. The property is 180 acres and is surrounded by R-4 developments. He stated the goal was to continue and to build on the Ford's Colony lifestyle, and to provide comprehensive life care needs of an aging population. He stated the proposal includes 24 townhouse units, 622 independent living units, 118 skilled living units, and 180 skilled nursing beds. Mr. Geddy stated there would be appropriate dining facilities,

recreational facilities, wellness, pools, and medical offices. He stated the project is age restricted, with the average age of a person moving into a CCRC to be 78 years of age. He said it will include a dedicated dementia/alzheimer's unit. Mr. Geddy stated there were be monthly fees, no units would be sold, and there would be a single owner of the project. He stated that bus service will be provided to those residing in the CCRC. He stated the development would be done in phases, with pre-sale requirements established. Mr. Geddy mentioned the environmental benefits, the buffers along Powhatan Creek and the BMP modifications that were designed. He asked that decisions be made on this proposal based on impacts rather than deciding solely on numbers and density calculations.

Mr. Geddy then compared the proposed development with two existing sections of Ford's Colony, Marriott Timeshares and Eaglecliffe Condominiums, and then with a nearby subdivision, Powhatan Secondary. He stated densities for Marriott are 10 dwelling units per acre, Eaglecliffe is 12 dwelling units per acre, and Powhatan Secondary apartments are 11.8 dwelling units per acre with the townhouse units of 8.7 dwelling units per acre. He also stated that the Marriott Timeshare community is not a part of the Ford's Colony Homeowner's Association. Mr. Geddy explained the extraordinary environmental protections that the proposed plan provides. He also stated the applicant's consultant, DRW, submitted a traffic study. During its February Work Session, the Planning Commission had issued comments which were incorporated into a revised traffic study. Mr. Geddy stated that VDOT, Kimley Horn & Associates, and staff all concur with the methodology, trip generation, trip distribution, recommendations, and conclusions of the traffic study.

Mr. Geddy showed visual impacts from different areas surrounding the proposed development. It was decided that a balloon test would be performed to confirm the computer generated elevation studies, and the results were displayed. Mr. Geddy listed all of the proffers that were pledged as part of the application. He stated that the fiscal impact would be a net positive annual impact of \$640,000. He also stated that the project will generate onetime positive net revenue of \$3,500,000 during the construction phase.

Mr. Krapf questioned Proffer #9 which was for sustainable building practices. He felt this proffer was too general in nature, and he asked the applicant whether they would consider proffering obtaining LEED certification and the use of geothermal technology. He also asked whether the applicant would proffer the use of green roof technology. Mr. Krapf stated he would like to see these things proffer on all or some of the buildings.

Mr. Geddy stated they would be willing to look at some of these practices. He stated however, that they might be willing to incorporate some LEED practices but obtaining the certification would be difficult.

Mr. Krapf asked whether the applicant would be willing to proffer that no building exceed 60 feet in height.

Mr. Geddy stated that they would be willing to look at that.

Mr. Peck asked for clarification on Proffer #17. It was his understanding that there is no

financial connection between this project and Ford's Colony Homeowner's Association and there is no social linkage or use of Ford's Colony facilities. Mr. Peck stated he was trying to understand how this facility is to be a part of Ford's Colony.

Mr. Geddy stated there is no financial connection and if use of the facilities were warranted there would have to be a separate contractual agreement.

Mr. Peck asked if the CCRC was located in other than the current location, could they still market the facility using Ford's Colony's name. He also asked if this was developed under another zoning, could they still use Ford's Colony's name.

Mr. Geddy stated yes.

Mr. Poole asked how many employees would be needed to run this facility.

Mr. Geddy stated he will get those figures to the Commission.

Mr. Fraley thanked Mr. Geddy and his team for responding to all of the Commissioners' concerns at the public Work Session.

Mr. Fraley asked if the applicant was considering some design change requests.

Mr. Geddy answered yes, based on input from citizens of Monticello Woods.

Mr. Fraley asked about the large building that is 150 feet off of News Road. He asked if the applicant would consider moving the structure further away from News Road. He also asked about the peninsula section, for them to take a look at the vertical and horizontal mass.

Mr. Geddy agreed to do this.

Mr. Krapf asked about proffer #14, the greenway trail. He asked them to consider a trail other than mulch, maybe a pervious paved surface.

Mr. Geddy stated it was a mulch trail because it is in an environmentally sensitive area.

Mr. Krapf asked about the units not used in the density calculation. These units were not used in the proffer calculations for cash contributions for water and EMS services. He felt that these units should be included in the calculations.

Mr. Geddy stated he was not sure, but that typically proffers are calculated based on dwelling unit numbers.

Mr. Krapf asked that some factor be used for these units. He asked whether the Health Center offer the same services as an acute care hospital.

Mr. Geddy stated it will be a licensed nursing facility, not an acute care hospital.

Mr. Henderson asked about the timing of the development and how it will be phased over time.

Mr. Geddy stated the project is to be built in three phases. There are legal and financial requirements for new phases of this project being built; for the financial requirements, 70% of the units have to be presold before a new phase is started.

Mr. Henderson asked Mr. Geddy to comment on the certificate of public need for this type of skilled beds and if the COP is in hand.

Mr. Drew Mulhare stated the applications to the State have not been made yet.

Mr. Henderson asked for a net-present value estimate of dollars upon the CCRC's completion in terms of fiscal impacts.

Mr. Geddy stated he will obtain those figures for the Commission.

Mr. Geddy commented on the travel lanes on News Road. He stated that they have measured these lanes and that they were 11 feet at their narrowest point.

Mr. Billups asked for the square footage of the buildings that were not included in the density calculations.

Mr. Peck read aloud the figures that were included in the information provided to the Commission.

Mr. Billups expressed his concerns that the proffers were for a year or two, and that the long term cost of services would then be on the County, such as emergency services. He is trying to determine a public benefit from the project.

Mr. Obadal asked for a comparison between square footage of buildings in New Town to this project.

Mr. Geddy did not have the figures for the square footage of New Town.

Mr. Henderson asked if the applicant has undertaken any market studies with respect to this project.

Mr. Geddy stated that there were several studies done and showed that there was a need for a facility such as the one proposed. He stated the CCRC's in the County are at 90% capacity, and it is projected that Windsor Meade will be at capacity within three years. He stated the area has an aging population and the applicant feels there is a need for this type of facility.

Mr. Billups asked whether this project was targeting aging residents of Ford's Colony.

Mr. Geddy stated that Ford's Colony was the natural target for this facility, but that it would be open to anyone in need of this type of care. He believes the vast majority of residents would be from the local population as individuals tend to stay closer to home.

Mr. Billups asked the applicant if they were willing to be more flexible with the Department of Social Services suggestions.

Mr. Geddy said they would look into suggestions from the Department of Social Services but that no other CCRC in the area has been asked to undertake this.

Mr. Rick Overy, of 4088 Ambassador Circle, stated he represented over 350 citizens in the Monticello Woods Subdivision. He stated that there were five points that they had concerns about. First, the residents of Monticello Woods are not opposed to this project. He stated the residents of Monticello Woods would like to work with the developer and the Planning Commission to allow the developer the right to develop their land, to have a project that is economically feasible, meet or exceed the environmental recommendations of the Staff, and is compatible with the Comprehensive Plan and surrounding neighborhoods. Mr. Overy stated they felt there was a lack of sufficient notification. He stated the notification that was sent to the developer of Monticello Woods was not shared with anyone in the Homeowner's Association. He stated most residents feel that they have not had a reasonable time period to review the development plans. Mr. Overy stated the third concern was a lack of equitable treatment due to the lack of notice concerning this case. He stated the homeowners felt that they have not been given equitable treatment given to other neighborhoods such as Powhatan Secondary and Ford's Colony. He stated that 40% of the units proposed were in close proximity to the Monticello Woods Subdivision. Mr. Overy stated their fourth concern was the size of the proposed development. He stated there are concerns over the height and size of the buildings that would be visible in their subdivision through the trees. He also stated that residents had concerns over the lighting and noise that might be present. Mr. Overy expressed concerns over the number of employees needed to staff this facility, generators (and associated noise thereof), dumpsters, lighting, and noise from heating and air conditioning systems, traffic and noise from delivery and EMS services. He finally expressed concerns about the density proposed. He stated over the last few days they have met with the developer and have requested that the density be moved away from Monticello Woods and toward the center of the development. Mr. Overy stated the developer is willing to do this.

Mr. Richard Wandtke, of 4048 Ambassador Circle, stated he is the chairman of the advisory committee of Monticello Woods Subdivision. He requested that the Planning Commission delay their decision until the residents of Monticello Woods have ample time to work with the developer. He stated that they are a small neighborhood and they would like to preserve the quality of their neighborhood. Mr. Wandtke stated they would like to work with the developer and reduce the impact on their neighborhood.

Mr. Richard Boggs, 105 Butler, stated is the director of James City County Citizen's Coalition and is the coordinator for the Ford's Colony Citizens for Controlled Growth. He wanted to express his thanks to Mr. German for his professional work on this case. He stated that the Coalition did a cumulative impact analysis identified more than 11,500 additional

dwelling units already approved, so that at build out the suggested County population would be over 90,000. He stated that factoring in another 15,000 units that could be developed under current zoning the County could grow up to 130,000 residents. Mr. Boggs mentioned that petition signed by over 800 residents of Ford's Colony opposing this project. He stated their petition raised serious concerns including the misguided interpretation of Section 24-283 of the Zoning Ordinance, as well as questioning other sections of the Realtec proposal regarding traffic and environmental issues among many others. Mr. Boggs stated that they felt the Ford's Colony master plan was being used as a device to obtain more density in order to rezone the adjacent property so that Realtec can develop this CCRC as large as the three existing CCRC's in the County. He quoted Supervisor Mary Jones, in a recent article in the Williamsburg Magazine, stating that if officials had the foresight ten years ago, a better job could have been done managing the rapid growth and the strain on the infrastructure. He also quoted Ms. Jones stating one thing she would change, which would be citizen's perception that if one does not live in a certain neighborhood their voices are not listened to. Mr. Boggs stated that they are not opposed to a CCRC, just the size of this one. He questioned the need for such a large CCRC in the Monticello traffic corridor. He stated the James City County Citizen's Coalition and the Ford's Colony Citizens for Controlled Growth urge the Planning Commission to reject this proposal as presently configured. Mr. Boggs also stated that these groups recommend that no rezoning or special use permits be approved until a cumulative impact analysis is done.

Mr. Dave Jarman spoke as a member of the executive committee for the James City County Citizen's Coalition. He stated the Coalition felt that his project should be reviewed as a standalone project and reviewed on its own merits. He also noted that this CCRC will compete with the three other CCRC's in the community. Mr. Jarman stated that these three CCRC's have over 946 units in total and this project will double this number. He stated that at build out this proposed CCRC will be the 18<sup>th</sup> largest in the country. He stated that the Coalition felt that there was no benefit to the County which is required by the Comprehensive Plan. He also stated that the environmental protections proposed are those necessary to develop in this sensitive watershed area, but do not offer unusual environmental protections. Mr. Jarman felt that the cumulative impact on the quality of the community was not addressed by this proposal. He mentioned three concerns, environmental, flooding and traffic. He stated that upon build out, this project would further impact the watershed areas. Mr. Jarman did thank Realtec for having a preassessment study done of the environmental impacts. He spoke about the Coalition's report on flood control. He stated that a flood abatement plan is needed for this project. Mr. Jarman stated that they felt that traffic in the News Road corridor would be forever altered with a project this size. He stated the Coalition recommends that the Planning Commission reject this proposal and consider a much smaller, downsized version as a standalone project.

Mr. John Gilmour, of 110 Barley Mill Place, spoke on behalf of the Powhatan Secondary Homeowner's Association. He identified the positive features of this project, including the environmental protections, and the proffer of a left turn lane. He stated his subdivision is against this project due to the size of the development, and the traffic and safety problems associated with it on News Road. Mr. Gilmour stated the projected increase of vehicles on News Road, due to this project, will be 2,700 vehicles per day. This was his estimate based on figures available to the public. He stated that News Road is a winding country road and is not built for a high volume of traffic. Mr. Gilmour felt that the traffic study is not adequate because it

underestimates density for other projects along News Road. He stated that they felt the speed limit on News Road is too high, and that some of the elderly residents in the Powhatan Secondary subdivision find the turn lanes out of their subdivision to be unsafe. He stated this is not a problem created by Realtec, it already exists, therefore this project, and other further development will make it worse. Mr. Gilmour showed pictures of the traffic on News Road. He stated that many residents of Powhatan Secondary feel that a traffic light may solve some of the traffic concerns on News Road or reduce the speed limit. He stated that the residents do not believe this project is compatible with the surrounding uses. Mr. Gilmour also stated that the units not counted in the density calculation need to be factored in somehow. He stated the residents request the Planning Commission reject this proposal as it is currently submitted, and maybe consider a small low density project.

Mr. Bill Geib, 104 Alwoodley, is a resident of Ford's Colony. He spoke on traffic concerns at the intersection of News Road and Centerville Road. He stated that traffic studies done on the project called for improvements at this intersection. Mr. Geib cited, for example, with the new school opening on Brick Bat Road, more students, buses and parents are travelling through this intersection. Mr. Geib requested that if the Planning Commission approves this application, that a recommendation is made to require improvements to this intersection before any further development is permitted on News Road.

Ms. Fran Dunleavy, who resides at 108 Worksop, is a resident of Ford's Colony. She discussed Section 24-283 of the Zoning Ordinance. She disagrees with the addition of this property to the Ford's Colony master plan and the County's acceptance of the application. She stated that Realtec does not own Ford's Colony which is a condition of adding it to the master plan. She stated that there are 2,200 homes in Ford's Colony with another 75 under construction. She stated that in 2002, Realtec transferred control to the newly elected Board of Directors of the Homeowner's Association. She stated that when the transfer was done the developer no longer controls the majority of a subdivision. Ms. Dunleavy felt that the acceptance of this application is in violation of the Zoning Ordinance. She also stated that the County Attorney's opinion should not have been the end of this discussion. She also felt that the acceptance of this application sets an illegal precedent for all R-4 communities within the County.

Mr. Bob Lovegren of 4200 Tita Court stated he represented the Villages of Powhatan. He expressed concern about the impact that the proposed development will have on News Road. He stated that many of the homes in his subdivision are adjacent to News Road and there is no room for the widening of the Road. Mr. Lovegren stated that traffic has increased in the Powhatan Secondary and Villages of Powhatan neighborhoods due the traffic at Monticello and News Roads. He stated that this will cause added repair costs to their roads for their Association. He requested the Planning Commission reject the current application.

Ms. Lisa Schmidt, of 108 Powhatan Overlook, stated she works at Patriot's Colony, another CCRC in the County. She stated there is a shortage of workers that are employed in these facilities. She expressed her concerns about the size of the proposed development. Ms. Schmidt's property is adjacent to this proposed development, and felt that it will disturb the quality of life in their neighborhood. She felt that the residents of the County would benefit from a facility such as this, but the size is too large for the surrounding areas.

Ms. Kinset Teller, of 126 Lake Drive stated she has been a resident of the County for over 50 years. She felt that adding another development of this size would put large demands on water, the land, and wetlands. She stated that she believes that the quality of life in the County is on the decline. Ms. Teller stated that making quick decisions and approving rezoning applications and special use permits will only add to the decline. She suggested using the slow period in the market, to assess the physical condition and health of the community. She also suggested assessing the cumulative impacts of future developments. Ms. Teller would like the Planning Commission to deny this rezoning and other subsequent rezonings that would add to the abuse of the County.

Mr. Ken Jacobs, 4067 Ambassador Circle, stated he is a resident of Monticello Woods. His concerns have already been addressed by other speakers.

Mr. Robert Richardson, 2786 Lake Powell Road, stated he felt Mr. Henderson should recuse himself from deciding on this case due to his past involvement with Ford's Colony. He stated that cumulative impacts on traffic, environment, water, and air quality need to be addressed before approving a plan of this magnitude. Mr. Richardson believes this application should be reviewed as a stand-alone project and not treated as an addition to the Ford's Colony master plan. He was also concerned with the precedent that approving this case might set for future developments. He questioned the fact that it was mentioned that there would be one owner, but then it was stated that the units need to be presold. Mr. Richardson concluded by stating he felt that this proposal was too large for the area in which it is proposed.

Mr. Howard Goldstein, of 108 Shinnecock, stated he is a resident of Ford's Colony. He stated that first the applicant states he is the owner of Ford's Colony which has not be shown. He then stated that adding the CCRC to the master plan cannot be done since the ownership issue has not been decided. Mr. Goldstein then stated that there was an agreement made between the Ford's Colony Homeowners' Association and the developer not to add it to their organization, so he couldn't see why it should be added to the master plan. He felt that the size of this development will be larger than what is needed by the aging residential population of Ford's Colony. He felt that approving this development will add new users of the County's dwindling resources. Mr. Goldstein stated that the residents of the area do not want a development of this magnitude with the size of the buildings proposed. He also stated that he felt Mr. Henderson should be recusing himself from this project due the fact of his involvement with Ford's Colony. He also commented on the fact that balloon tests were done with leaves on the trees, which does not account for what the view will be in the fall and winter months when the trees are bare.

There being no further speakers, Mr. Fraley closed the public hearing.

Mr. Poole stated he appreciated the public comments that were made. He wanted to commend the public, the applicant, and staff for their patience and time. He also wanted to recognize that the application represents what may be a growing need in our nation and in our community. Mr. Poole complimented the applicant with regards to the environmental protections offered and the open space. He felt that the staff report was balanced. He does however, have concerns with the application as it stands now. Mr. Poole addressed his concerns



over the number of employees and the fact that some adjacent property owners were not fully aware of the proposed development. He felt that there is a need for additional discussion especially with the residents of Monticello Woods and he would support a request for a deferral.

Mr. Geddy stated they would agree to a deferral.

Mr. Obadal thanked all of the citizens who came to the meeting. He stated that their presence was very important at events such as this. He also stated that if a deferral is approved, the citizens' as well as the applicant's presence is important. Mr. Obadal stated that the Planning Commission is interested in doing what is good for the community as a whole. He encouraged all citizens to participate when this case is heard again. Mr. Obadal stated that it takes several days, at times, to go through all the material that the Commissioners are given to review for cases.

Mr. Krapf thanked the applicant and all the speakers. He stated that the public comments do help when the Planning Commissioners make their difficult decisions. He stated this project has many positives; the tremendous environmental protections, 60% of the site will remain as open space, and 93 acres will be in a permanent conservation easement. Mr. Krapf stated that if traditional R-4 housing were developed on this site, the impact on the infrastructure would be greater than what the applicant is proposing. He stated that over a third of the parking spaces will be underground which will reduce the amount of pervious cover, and the CCRC will be part of a commercial revenue stream. Mr. Krapf expressed concerns about the sustainable building proffer, and noted that he would like to see additional measures such as geo-thermal heating and cooling and the use of green roof technologies, and would like the factoring-in of assisted living units in the density count, a reduction in the height and size of the development. He felt that there is more work to be done on this project and would support a deferral.

Mr. Billups thanked the public for their comments. He wanted to make sure there were consistencies with the applicant's presentation and what was submitted for review to the Commissioners.

Mr. William Porter stated that the document is consistent with the presentation.

Mr. Billups expressed his concern that the CCRC does not represent a public benefit to him. He does not see a benefit to the County overall. He also has concerns about the density. Mr. Billups expressed his concerns with regards to the environment, the watershed, flooding issues, and the need to address suggestions offered by the Department of Social Services. He felt it was important to preserve the community character corridor and manage growth. Mr. Billups stated he does not see a reason to rezone.

Mr. Peck stated he represents many of the citizens in the room from the Berkeley District. He stated that the discussions about the rezoning have involved stating what could be done with the property in a by-right scenario. His point was that these are all speculations. Mr. Peck stated that the County has one of the highest percentages of residents over 65. He stated there is a natural market in the County for these types of facilities. He also stated that these facilities need to be compatible with the surrounding areas. Mr. Peck stated he was not sure of the relationship

of this development with Ford's Colony. He also stated that all units need to be accounted for in density.

Mr. Henderson commended staff and everyone involved in this process for all their hard work. He was hopeful that the applicant will take into considerations the concerns expressed at the meeting, and return back with a plan that will have more community support. He stated it was important to state facts that are in fact true today. Mr. Henderson stated that this will not be the 18<sup>th</sup> largest in the country. He stated that there were claims of representation of a majority of homeowner associations when those claims are not representative of the facts. He also expressed concerns about the notification of the residents in Monticello Woods. Mr. Henderson also supports a deferral.

Mr. Fraley stated that Mr. Henderson, since being on the Planning Commission, has been non-political, insightful and helpful to the process. Mr. Fraley does however understand the public's point of view on the subject of Mr. Henderson recusing himself.

Mr. Fraley stated he does not feel that this application should be handled as an addition to the master plan. He did meet with the Zoning Administrator and expressed his concerns but will follow the advice of the County Attorney's office. Mr. Fraley stated that he and his fellow Commissioners have worked very hard on this project. He met with concerned citizens who asked thoughtful questions and were concerned with their community. He stated he has asked for several considerations with regards to this plan, and the applicant has responded to some of those considerations. Mr. Fraley has a different idea for this plan, a clustered down development with low rise buildings, with the largest buildings being in the center. He would like to see lower impacts on the perimeters. He does believe more work is needed with this plan. Mr. Fraley supports a deferral and would like to see Proffer #18 become more definitive.

Mr. Fraley also mentioned the Comprehensive Plan. He hopes during the current update, that a build-out plan is developed, where all the citizens can see what the vision will be. He would like to see some micro-master planning before waiting for each individual project to be submitted.

Mr. Geddy requested a deferral.

Mr. Poole made a motion for deferral.

Mr. Henderson seconded the motion.

Mr. Fraley re-opened the public hearing.

In a roll call vote the deferral was approved. (7-0) AYE: Krapf, Peck, Poole, Henderson, Billups, Obadal, Fraley.

## 6. PLANNING DIRECTOR'S REPORT

Mr. Sowers stated that the Land Use Application Process is now open and will close on

June 30, 2008. He stated the Planning Commission will have an opportunity to participate in the review of the Parks and Recreation Master Plan. He said it will be a separate document that will be submitted this summer or fall, and it will also be included as part of the Comprehensive Plan. Mr. Sowers stated that a status report will be presented to the Board of Supervisors at the May 27, 2008 work session and Planning Commissioners are encouraged to attend or watch on TV.

Mr. Poole asked about the Honda Expansion case that was approved by the Planning Commission and forwarded on to the Board of Supervisors.

Mr. Sowers stated that the application had been withdrawn.

## 7. COMMISSION DISCUSSION AND REQUESTS

Mr. Fraley stated he was asked to address the Economic Development Authority (EDA) on their role in the Comprehensive Plan update process. He consulted with staff, and made a presentation to the EDA. He will be sending his report to the Commissioners.

Mr. Billups commented on the involvement of the Department of Social Services with the CCRC case.

Mr. Sowers stated that the applicant met with the Department of Social Services. He will forward Mr. Billup's comments and check with the applicant as to whether they would like to meet with the Department again.

Mr. Kinsman stated that the Department of Social Services' concerns were relayed to the applicant during the process.

Mr. Sowers stated that all of the concerns that were expressed by the Commissioners will be taken back to the applicant.

Mr. Billups also expressed his concerns about the environmental issues in the CCRC case, and the potential for flooding. His concern was that the cost will fall back on the County.

Mr. Krapf wanted to emphasize the need for a cumulative impact study and some kind of overlay map. He felt it was important to layer this information together.

Mr. Sowers stated that through the Comprehensive Plan update some of this will be addressed.

Mr. Poole also mentioned the value of a schools capacity test and the development potential analysis.

Mr. Henderson asked about the email from Mr. Poole concerning a public meeting at Kingsway Church.

Mr. Poole stated that he was invited as a neighbor and as a Planning Commissioner. He

stated that the application submitted was to expand the school on the property.

Mr. Henderson asked what the criteria are for a work session, especially on sensitive projects.

Mr. Fraley stated that it can be requested by anyone, although it usually is requested by the applicant.

Mr. Poole stated it has never been formalized.

Mr. Sowers stated that staff would send information on the Kingsway School Expansion to the Commissioners and if requested by the Commissioners a work session can be scheduled.

Mr. Billups stated that a staff member should always be present at the work session.

Mr. Fraley stated that staff is normally present.

Mr. Henderson stated that it might prove beneficial to have another work session if there are substantial changes to the CCRC plan.

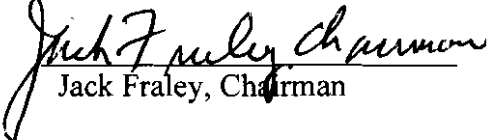
A question was asked of Mr. Porter as to whether another work session would be feasible considering the time restraints.

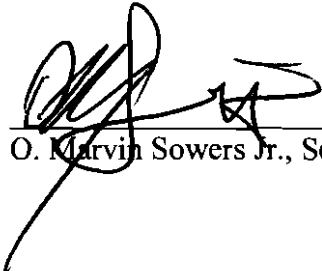
Mr. Porter stated that if a work session is needed it will be scheduled. He stated it really depends on the applicant. He stated that there is an expectation with the public that this case will be heard in June, and he would like to work towards that.

Mr. Henderson made a motion for the meeting to be adjourned.

Mr. Krapf seconded the motion.

The meeting was adjourned at 11:25 p.m.

  
\_\_\_\_\_  
Jack Fraley, Chairman

  
\_\_\_\_\_  
O. Marvin Sowers Jr., Secretary