

A REGULAR MEETING OF THE PLANNING COMMISSION OF THE COUNTY OF JAMES CITY, VIRGINIA, WAS HELD ON THE FIFTH DAY OF OCTOBER, TWO-THOUSAND AND ELEVEN, 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
Joe Poole, III
Rich Krapf
Mike Maddocks
Tim O'Connor
Al Woods
Chris Basic

Staff Present:

Allen Murphy, Director of Planning/Assistant
Development Manager
Adam Kinsman, Deputy County Attorney
Melissa Brown, Zoning Administrator
Tammy Rosario, Principal Planner
Chris Johnson, Principal Planner
Leanne Reidenbach, Senior Planner II
Scott Whyte, Senior Landscape Planner
Jose Ribeiro, Senior Planner
Luke Vinciguerra, Planner
Scott Thomas, Director of Engineering and
Resource Protection

Mr. Jack Fraley called the meeting to order at 7:00 p.m.

Mr. Fraley stated the agenda had been changed. The Commission will hear the New Town Settler's Market and Shellbank Drive accessory apartment cases first, followed by St. Bede and the Development Standards ordinances.

2. PUBLIC COMMENT

Mr. Fraley opened the public comment period.

There being none, Mr. Fraley closed the public comment period.

3. MINUTES – SEPTEMBER 7, 2011

Mr. Al Woods stated that on page 6, his remarks were intended to show his disappointment upon realizing that despite the emphasis in the Comprehensive Plan on improving or preserving citizens' quality of life, many Forest Heights residents do not currently have access to that quality of life.

Mr. Mike Maddocks moved for approval of the minutes as amended.

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

4. COMMITTEE AND COMMISSION REPORTS

A. DEVELOPMENT REVIEW COMMITTEE (DRC)

Mr. Joe Poole stated the DRC met on September 28th. The DRC considered Case No. SP-0082-2011, Weatherly at Whitehall Parking Site Plan Amendment to determine whether the addition of five parking spaces was consistent with the master plan. The DRC voted 4-0 to find the parking consistent with the master plan. The DRC also reviewed Case No. SP-0085-2011, Courthouse Commons Parcels 4 & 5 for master plan consistency for the entrance and drive-thru configuration and a setback waiver. The applicant presented two additional site layouts at the meeting. The DRC voted 4-0 to find the two alternate layouts submitted by the developer at the meeting consistent with the master plan with the condition of using evergreen plant material if the New Quarter Drive connection moves forward.

Mr. Rich Krapf moved for approval of the DRC report.

In a unanimous voice vote, the report was approved (7-0).

B. POLICY COMMITTEE

Mr. Fraley stated the Policy Committee met three times in September. The Committee discussed residential districts, multiple use districts, signage, nonconformities, green building, creation of an R-3 residential redevelopment district, affordable housing, wireless communications facilities, administrative procedures, and submittal requirements. The Board of Supervisors held a work session to discuss wireless communications facilities, residential districts, and the residential redevelopment district. The green building section was delayed to allow the Economic Development Authority time to make comments, and will be discussed at a future work session.

5. PUBLIC HEARINGS

A. MP-0002-2011/Z-0003-2011, New Town Settler's Market (Section. 9) Master Plan Amendment

Ms. Leanne Reidenbach stated Mr. James Peters of AES has applied on behalf of FCP Settler's Market L.L.C. to amend the master plan and proffers for the residential portion of New Town Section 9 Settler's Market. The property is 9.3 acres along Casey Boulevard, zoned Mixed Use, and designated Mixed Use on the Comprehensive Plan. The amendment would reduce the number of residential units from between 215-278 to 120, remove mixed use buildings, modify design guidelines, and revise the residential layout. The proffer amendment change was required to amend references to the design guidelines and the master plan. The applicant also requests a waiver for mixed use internal street setbacks. The New Town Design Review Board (DRB) recommends approval. Staff recommends approval of the amendments and allowing reduced setbacks for buildings fronting Casey Boulevard, Settler's Market

Boulevard, and Yield Street.

Mr. Vernon Geddy III, representing the applicant, FCP Settler's Market, stated they acquired the project in 2011 and applied to amend the master plan. He stated they submitted a conceptual plan which was determined by the Planning Director to be consistent with the New Town master plan for the commercial areas. The owner decided that the approved multi-story mixed use building condominiums were not feasible. FCP proposes reducing density to properly scale the development. The amended plan includes 120 townhome-style units comparable to other units in New Town. Units will front the street or open space. Alleys and sidewalks will increase walkability. The only changes to the proffers will be references to the New Town master plan and design guidelines: all other proffers remain. The proposal reduces impact on public facilities, including roads and schools. The project will allow for the completion of the Settler's Market area in a manner benefitting the New Town area, the County, and residents.

Mr. Fraley stated many citizens were concerned with empty commercial space. He stated he was pleased the plan reduced residential and commercial space. He asked if Mr. Geddy was hearing any interest in the commercial part of the application.

Mr. Geddy stated there was substantial interest on the commercial part. He stated announcements will be forthcoming when a critical mass of leases has been signed.

Mr. Poole stated those concerned with commercial overdevelopment hope Settler's Market tenants were not simply moving from other shopping centers in the County.

Mr. Woods commended the applicant on the presentation of materials.

Mr. Chris Basic stated that given past experience with the rear elevations of buildings along Main Street, he was concerned about the side of the commercial building along Settler's Market Boulevard that faced the residential portion of the development.

Ms. Reidenbach stated the New Town DRB desired the two commercial buildings to have four-sided architecture. The DRB and staff will emphasize that aspect when they receive elevation drawings.

Mr. Geddy stated that was correct. He stated his client was working on ideas for those elevations.

Mr. Fraley opened the public hearing. Hearing none, Mr. Fraley closed the public hearing.

Mr. Krapf stated he was pleased with the plan's improved design and reduction of dwelling units, while retaining the affordable housing component. He stated he would support the proposal.

Mr. Woods stated the plan was vastly improved. He stated he was prepared to support the proposal.

Mr. Poole moved to recommend approval of the amendments and setback waiver.

Mr. Fraley stated he was pleased with the developer, but hoped the commercial tenants would not be moving in from other parts of the County. He stated he would support the proposal.

In a unanimous roll call vote, the Commission recommended approval (7-0).

B. SUP-0006-2011, Shellbank Drive Accessory Apartment

Ms. Reidenbach stated Mr. Roger Hunt has applied for a special use permit (SUP) to allow a 250 square foot expansion of an existing nonconforming accessory apartment at 126 Shellbank Drive. The apartment was built with the house in the 1960s and has been consistently used by the family. The SUP will make the apartment more accessible to Mr. Hunt's parents and bring the accessory apartment into compliance with the Zoning Ordinance. The parcel is zoned R-1, Limited Residential and designed Low Density Residential on the Comprehensive Plan. Staff recommends approval of the accessory apartment expansion with the proposed conditions.

Mr. Fraley opened the public hearing. Hearing none, Mr. Fraley closed the public hearing.

Mr. Poole stated given the zoning, Comp Plan designation, and the fact that the residence was originally constructed with an accessory apartment, he would support the application.

Mr. Poole moved to recommend approval of the accessory apartment.

In a unanimous roll call vote, the Commission recommended approval (7-0).

C. SUP-0004-2011/MP-0001-2011, St. Bede Catholic Church Mausoleum Addition

Mr. Jose Ribeiro stated Mr. William Holt of Kaufman and Canoles has applied on behalf of St. Bede's Parish of the Catholic Diocese of Richmond to amend the adopted master plan and SUP conditions to allow the construction of six mausoleum buildings and associated parking. The church is located on a 42 acre parcel at 3636 Ironbound Road, zoned Rural Residential, and designated Low-Density Residential. Each building will be roughly 10,000 square feet and hold 1500 crypts. Construction and clearing will both be phased. Staff contacted the Virginia Department of Environmental Quality (DEQ) and the Cemetery Board of the Virginia Department of Profession and Occupations Regulations to discuss permits and regulations. The DEQ stated no permits would be required. The Cemetery Board, which regulates funeral homes, does not regulate church cemeteries. To address environmental impacts, the SUP conditions do not allow the mausoleum to discharge anything into the ground or storm water basins. The applicant has agreed to a new SUP condition which would establish a perpetual care fund to maintain the mausoleum buildings. Staff has received 202 form letters in opposition to the project. Staff recommends approval of the mausoleum.

Mr. Krapf asked if there had been code compliance violations or complaints related to the mausoleum at the Williamsburg Memorial Park.

Mr. Ribeiro stated there had been no code violations. He stated staff's calls to the Williamsburg Memorial Park about complaints had not yet been returned.

Mr. Krapf stated there was an existing columbarium at the church for cremated human remains. He asked about the capacity of the columbarium.

Mr. Ribeiro stated he would defer that question to the applicant.

Mr. Woods asked Mr. Ribeiro to elaborate on the 125% landscape ordinance requirement detailed in Condition #9.

Mr. Ribeiro pointed out the location for enhanced landscaping on the map and stated that all plantings within this area would be evergreen to promote screening of the structures.

Mr. Allen Murphy stated there are requirements for both height and caliper. He stated a 25% increase in basic landscaping requirements would take place.

Mr. Basic stated evergreen trees which are normally eight feet would be ten feet with the recommended enhanced landscaping condition.

Mr. Woods asked if the condition specified evergreen trees.

Mr. Ribeiro stated yes.

Mr. Woods asked how much leeway the County gives developers to encroach the buffer area during construction.

Mr. Ribeiro stated the buffer is included as a part of a conservation easement and cannot be disturbed.

Mr. Tim O'Connor asked about the size of the cemetery on the original master plan.

Mr. Ribeiro stated the original master plan is not specific. He stated the plan only defines the location of the cemetery. The cemeteries were not built given some topography and soil issues.

Mr. Mike Maddocks asked if the project infringed on the current parking lot.

Mr. Ribeiro stated it does not.

Mr. Maddocks stated he was a parishioner of St. Bede.

Mr. Krapf stated he met with the applicant prior to the case being reviewed by the DRC a month or so ago.

Mr. Maddocks stated he met with the applicant as well.

Mr. Woods stated he had a conversation with the applicant.

Mr. Fraley stated he and his family were parishioners at St. Bede. He stated he had met with both citizens opposed to the project and the applicant.

Mr. Poole stated he had been in email contact with the applicant.

Mr. Greg Davis, with Kaufman and Canoles, representing the applicant, stated modern mausoleums welcome the living and the dead. He stated mausoleums are used for funerals, social events, feature modern architecture, and are climate controlled. The closest neighboring parcel to the mausoleum is an undeveloped open space parcel in The Meadows, while two or three Meadows lot owners are located in close proximity to the site. The columbarium already holds 200-300 urns and has a capacity of 1,600. Burial on consecrated ground is the preferred manner of funeral for many Christians. The mausoleum's architecture will compliment the church. The mausoleum will be built in six phases over 25 years, as demand provides. The average height of the Ironbound Road buffer tree canopy is 49' versus the mausoleum's 30' maximum height. A 50' tree buffer in front of The Meadows will be preserved. The closest mausoleum building will be 125' from the nearest residence. Existing greenspace buffers will remain. A supplemental tree buffer will be built adjacent to homes in The Meadows during construction of the first phase and will grow 25 years before the last mausoleum is added. The project will generate no noise, minimal lighting, include no Sunday funerals and have shared parking. Regarding questions about odor and fluids, water vapor is released in small amounts. A drainage system attached to each crypt captures any released liquid. No moisture would escape the mausoleum buildings. The Catholic Diocese of Richmond supports the project, a builder experienced in mausoleum construction has been hired, and the Perpetual Care Endowment Fund will reserve 10% of revenues for upkeep and maintenance. There is no evidence of mausoleums affecting the property values of nearby properties.

Mr. Krapf asked the applicant to elaborate on the capped drain plug.

Mr. Davis stated the drainage system can remove moisture from individual vaults, but will not discharge it into the ground or water. He stated there is a gravel trench and impervious cover under the mausoleum that will not be used.

Mr. Krapf stated the air vent does not appear to have a filter. He asked if there were instances of odor associated with a mausoleum.

Mr. Davis stated no. He stated most problems are due to older mausoleums not built to modern standards and substandard operators. The vault vents are akin to sewer lines which also have no noticeable smell.

Mr. Krapf asked the applicant to discuss the seasonality of the tree buffer in front of The Meadows.

Mr. Davis stated the applicant will abide by the evergreen and deciduous mixture recommended by staff at the site plan level.

Mr. Woods asked if the gravel capture area under the mausoleum would not be employed.

Mr. Davis stated that was correct.

Mr. Woods asked if the pipe would be capped.

Mr. Davis stated yes. He stated there will be no liquid discharge into the ground.

Mr. Woods asked if there was a supplementary system to handle the liquid.

Mr. Davis stated no. He stated the liquid discharge is so minimal the piping system itself would handle it all.

Mr. Al Starkey, representing Ingram Construction, the builder, stated the capped drain is a failsafe. He stated caskets have a liner and tray that capture most fluids. The pipe is used for venting as well.

Mr. Woods asked if that was a unique design standard.

Mr. Starkey stated it was a typical drainage and venting system for mausoleums built throughout the United States.

Mr. Woods asked if the applicant had spoken with The Meadows homeowners' association. He asked for the essence of the conversation.

Mr. Davis stated his office contacted the five or seven Meadows owners closest to the project area. He stated Monsignor McCarron, on behalf of St. Bede's, sent a letter to all Meadows homes, offering to meet and provide information. In a meeting with the Meadows HOA board, the board had questions, and it stated not enough homeowners had a position on the project for it to make a recommendation either way.

Mr. Maddocks asked about the size of the tree buffer area between the mausoleums and The Meadows.

Mr. Davis stated the existing 50' buffer would be supplemented. He stated the measurement from the closest The Meadows house to the closest Mausoleum building is 127'.

Mr. Maddocks asked if it is possible to measure the visibility of a future structure, given the existing trees.

Mr. Davis stated a project consultants had walked through the woods with a large orange board, trying to gauge the visibility of a structure. He stated the existing buffer would be adequate, even before the addition of the supplemental buffer.

Mr. Maddocks asked if it was difficult to see.

Mr. Davis stated yes.

Mr. Maddocks stated the building appeared grouped into three clusters, with the northern most cluster affecting The Meadows the most. He asked if the final buildings would be built 25 years into the future.

Mr. Davis stated possibly longer than that.

Mr. Maddocks asked what would trigger construction of the third cluster.

Mr. Davis stated the mausoleum is a self-funding project. The stated the buildings will be built from the proceeds of pre-sold crypts.

Mr. Maddocks asked how the 25-year timeline was projected.

Mr. Davis stated his firm researched the number of annual Williamsburg area funerals and the size of the parish. He stated there is some sentiment that the full construction will take longer than 25 years, and perhaps never occur.

Mr. Poole asked if the 60,000 square footage was based on the current parish size.

Mr. Davis stated interment would be open to people of all faiths, as well as anyone in the Richmond Diocese. He stated it was impossible to predict demand outside of the local area.

Mr. Poole asked if the concrete structure was pre-cast.

Mr. Davis stated the structure will be poured in place.

Mr. Krapf stated he was trying to differentiate between urban myths and a possible biohazard. He stated many letters to the Commission addressed that issue. In his research, he discovered many in-ground burials have the same issues with contamination and leakage. He asked if all current in-ground burials are done in a vaulted container within the ground and what is potential for contamination by leakage.

Mr. Starkey stated state law does not require an in-ground vault, although individual cemeteries often require it to keep the ground from sinking. He stated some cemeteries are going green, including no vaults and no embalming.

Mr. Krapf asked about the durability of caskets to remain sealed over time.

Mr. Starkey stated he would have to defer to one of the casket companies. He stated he had been in business 30 years and had not seen any problems.

Mr. O'Connor stated he came across dioceses that required 15% or 20% of mausoleum revenue go into the perpetual care fund. He stated he wanted to make sure that if was being set as an SUP condition, he wanted to make sure the facility was adequately funded. He asked if the applicant would be willing to agree to an SUP condition to replant or reforest any part of the buffer adjacent to The Meadows affected by a large storm out of the perpetual care fund.

Mr. Davis stated yes.

Mr. Basic stated he had researched different burial options, such as wraps and boxes. He asked if it would be better for the church to require one of those on the casket to ensure the better building maintenance.

Mr. Davis stated responsible mausoleum operators have detailed polices for accepting caskets. He stated embalming is a requirement, which controls the rate of dehydration and decomposition. Some operators require steel or absorbent coffins, internal and external wraps,

trays under the casket, or crypt liners. Operations include period inspections, pest control, and ozone generators to control odors. Casket conditions will be addressed at the development plan level.

Mr. Basic stated he was pleased that the operator would not limit maintenance to the structure itself.

Mr. Davis stated if there were an issue, such as a casket system failure, the applicant could not say 'It's not our problem.' He stated the parishioners, the bishop, and the County would not tolerate a subpar mausoleum.

Mr. Fraley asked Mr. Davis to comment on how citizens from neighboring subdivisions might react to a significant change to an approved master plan. He stated citizens want predictability in their areas. He asked how that type of change would affect community character.

Mr. Davis stated master plans are flexible, and any changes must balance the health, safety, and welfare of citizens against landowner rights. He stated buying a home next to one of the state's largest churches, one would expect parish halls, picnics, traffic, cemeteries, and the storage of human remains. It is not unreasonable to expect landowners to realize that changes in land use do occur. Meadows homeowners can rely on buffers, a lack of noise, light pollution, and other tangible impacts.

Mr. Fraley opened the public hearing.

Ms. Laura Gwen, 142 Old Field Road, stated she lived in the neighborhood prior to St. Bede's. She stated her family had operated funeral homes and cemeteries out of state and had seen many problems with perpetual maintenance situations. The mausoleum should not be built due to nearby residences, ongoing construction, increased traffic, less safe parking access, increased parking lot size, environmental impacts, visual impacts, and St. Bede's promise to be a good neighbor.

Mr. Tim Costelloe, 104 Whistle Walk, stated he was against the mausoleum due to traffic, decreased property values, environmental degradation, and it being an element out of synch with both the residential community and the church itself, neighbors being against the project, and its large scale and visibility.

Ms. Fran Dunleavy, 108 Worksop, stated she was concerned with the project's size, proximity to a residential area, and the church's lack of data on the need for such a large mausoleum. She recommended eliminating Building 6. She was also concerned with a 25-year window resulting in a grandfathered situation as laws change, the rush to complete the project, landscaping requirements, inadequate tree buffers in winter, lack of additional handicapped parking, and how the church communicated with the neighborhood.

Mr. Scott Blossom, 168 Old Field Road, stated he received no correspondence for the application. He stated he was concerned with quality of life in the community and opposed the mausoleum. He stated was concerned with the scale, health and safety impacts, the applicant not mentioning any positive community impacts, pushing setbacks to the limit, and inconsistency

with the master plan.

Ms. Kimberly Blossom, 168 Old Field Road, stated she was concerned with a lack of correspondence from the applicant, the mausoleum not fitting within the area's community feel, inconsistency with the original master plan, the size, lack of predictability, and lowered property values. She stated Code of Virginia Section 57-26 prohibits cemeteries within 250 yards of a residence without consent of the owner. Seven to ten homes are within that 750' threshold. There are also concerns of St. Bede's zoning is inconsistent with the surrounding community and visibility from her property.

Ms. Janice Nimmo, 115 Whistle Walk, stated the mausoleum will negatively impact home values, exacerbate existing neighborhood water runoff issues currently being addressed by the County, increase traffic, and impair access homes and Kidsburg.

Mr. Sasha Digges, 3612 Ironbound Road, stated he had never been called to meeting to express his opinion, neither with the church nor the law firm. He stated the vast majority of cars heading into the church for services had either one or two occupants. The church has already run out of parking spaces. He is concerned with emergency vehicles being unable to access the church due to the tight parking. A new emergency entrance should be built. The redesign will also reduce handicapped parking.

Mr. Ralph Spohn, 121 Broadwater, stated he was concerned with air, ground, and water pollution. He stated 9000 bodies represent over a million pounds of pollution, causing the release of untreated aromas. Odors will be concentrated due to their proximity to the ground being below nearby trees. Decomposing bodies are very corrosive, and could damage the mausoleum, are concentrated into a small place, and could run into the groundwater.

Mr. Gerald Johnson, 4513 Wimbledon Way, stated the mausoleum would force the church to relocate additional parking to more sloping landscape, increasing erosion and storm runoff. The phased construction will disturb neighbors six times. He is opposed to a mausoleum so close to a neighborhood.

Mr. Verne Stocker, 102 Little Astin, stated he was opposed to the mausoleum. He stated mausoleum is at odds with the originally approved SUP and the church should use the property for another purpose. Neighbors have a right to quiet, and to be free from adverse property values and environmental harm.

Ms. Elaine Swartz, 236 William Way (City of Williamsburg), stated the church has not revealed any of the mausoleum's financial details to the congregation. She asked what would the county be left with if the plan did not succeed, including tree loss.

Ms. May Avera, 150 Old Field Road, stated she was concerned with leakage, smells, water pollution, insects, the size and proximity to the neighborhood. She stated she was opposed to the mausoleum.

Mr. Rick Avera, 150 Old Field Road, stated the mausoleum will reduce marketability and home values, and further burden already inadequate parking, since some parishioners already park on his yard.

Ms. Ellen Postemski, 105 Old Field Road, stated a friend's family had issues with a mausoleum burial in Richmond. That mausoleum had an obnoxious odor, cobwebs, and flies. The Richmond Diocese oversees that mausoleum as well. She stated she was concerned the church's capacity to maintain the mausoleum into the future, especially there were not enough maintenance funds.

Mr. Aden Digges, 3607 Ironbound Road, stated he was against the project due to the scale of the project, lowered property values, lowered tax revenues, lowered quality of life, and visibility. He was also concerned with security, light pollution, vagrants, fencing, traffic, environmental issues, and possible bankruptcy.

Ms. Mary Catherine Digges, 3612 Ironbound Road, stated she was a parishioner and was opposed to the project. She stated she opposed the mausoleum due to financial reasons, the size, and its distance from the sanctuary. The County ordinance allows a cemetery, not a mausoleum. There are also concerns with scale, the buffers, and tree loss from construction equipment.

Mr. Sam Trapani, 130 Sharps Road, stated his sister is buried in a 15-year-old mausoleum, and that there is an odor. He stated he is concerned about odor, coffin flies, traffic, location, loss of property values, proximity to Kidsburg, financing, and potential earthquake damage.

Mr. Brian Foote, 128 Sharps Road, stated he was opposed to the mausoleum. He stated the community was opposed and the mausoleum would generate an average of a funeral a day. He read a letter from Robert and Eleanor Sandidge, 159 Old Field Road, who oppose the project due to loss of property values, to having any type of burial ground near, parking issues, and placement on the church property.

Mr. Richard Feller, 121 Sharps Road, stated he was opposed to the mausoleum. He stated he was opposed to leakage onto his property, ongoing construction, and the scale.

Ms. Christina Pickens, 3805 Fleetwood Lane, stated she was opposed to the mausoleum. She stated the Catholic Church's own policy documents state mausoleums should only be constructed on existing cemeteries. Another Hampton Roads mausoleum with financial difficulties was placing classified ads to help fill its crypts.

Ms. Ann Trapani, 130 Sharps Road, stated she was opposed to the mausoleum. She stated people had spoken out against the mausoleum by sending letters and she hopes their voices are heard. She is also a St. Bede's parishioner and has financial concerns.

Ms. Donna Feller, 121 Sharps Road, stated she had environmental concerns. She stated The Meadows already has a number of environmental and drainage issues. She stated she was opposed to the proposal.

Ms. Elizabeth Gregory, 111 Whistle Walk, stated she was opposed to the project. She stated she was concerned with decreased property values, an inappropriate setting for the mausoleum, loss of buffer along a community character corridor, the church not installing a required sidewalk, the SUP duration, and traffic.

Mr. Fred Metcalf, 3600 Woodbury Drive, stated he was opposed to the mausoleum. He

stated he was concerned with lowered property values, the size of the structure, and community impacts.

Ms. Sasha Eckstein, 702 Conway Drive, stated she was a parishioner of St. Bede's. She stated she supported the mausoleum since the church needs a nearby, consecrated place for people to be interred.

Ms. Catriona Gwynn, 142 Old Field Road, stated the mausoleum would intrude into The Meadows. She stated she was concerned with leakage into the water and loss of animal habitat.

Mr. Robert Morris, 3206 Pristine View, stated he was a member of St. Bede's financial council. He stated the church always intended to have on-site burials. Poor soils and air conditioner noise prevented the cemetery originally slated to go behind the sanctuary, and financial issues prevented the proposed catacombs under the church. The church's funds are carefully managed and reported to parishioners. He stated was in favor of the proposal.

Mr. Richard Wandtke, 4048 Ambassador Circle, stated he was a member of the St. Bede's funeral ministry. He stated he was in favor of the proposal. He stated he participates in columbarium burials, which the church handles with strict procedures. The church will show the same standards to the mausoleum. His son is buried in a mausoleum, and he has experienced no odors during visits.

Mr. P.J. McQuade, 3108 Windy Branch Drive, stated he supported the project. He stated he hopes to be buried in St Bede's mausoleum. The Catholic's communion of saints is provided by having a mausoleum right by the church, so the living can pay their respects.

Ms. Genevieve McQuade, 3108 Windy Branch Drive, stated she was in favor of the mausoleum. She stated the surrounding community does not want change, the church owns the property, any danger would be very minimal, the latest technology would be used, and construction would not be non-stop.

Ms. Peg Crews, 3112 Windy Branch Drive, stated she was a parishioner at St Bede's. She stated the church needs a place to bury its dead. Her parents are interred in a mausoleum and she has had no issues. She stated the church needs a burial site and the mausoleum will be well maintained.

Ms. Emily Armstrong, 112 Harrop's Glen, stated she had visited a mausoleum in New Jersey and noticed no odors. She stated the mausoleum would use the latest technology and have little impact on the community. She supports the project.

Mr. Mark Jacobowski, 100 Whitehall Court, stated he is a St. Bede's parishioner and supports the mausoleum project. He stated he has relatives buried at the Washington and Lee University mausoleums and has never noticed maintenance issues. The mausoleum will provide parishioners more convenient opportunities to pay their respects to the departed.

Ms. Carol Anderson stated she was in favor of the proposal. She stated religious freedom is our most important right.

Mr. David Simmons, 3744 Cherry Walk, president of The Meadows II HOA, stated the official position of the HOA is that it has no opinion.

Mr. James Theydon, 4577 The Foxes, representing The Foxes community association, stated he opposed the project due to lack of engagement from the church, it being out of character with the area, and it being too large for the site.

Ms. Veronica Hower, 2835 Castling Crossing, stated many transient local residents will choose to be buried in their place of origin. She stated the project was too large.

Mr. Gene Joseph, 161 Old Field Road, stated his house was closest to the mausoleum. He stated he was opposed to the project. He stated he was concerned with visibility, buildings being constructed sooner than projected, and potential earthquake damage.

Mr. Fraley closed the public hearing.

Mr. Fraley asked Mr. Kinsman to elaborate on the 250-yard cemetery-residential buffer in the state code as mentioned by one of the citizens.

Mr. Adam Kinsman stated there appears to be a section in the state code that no cemetery may be placed within 250 yards of a residence without the owner's permission. He stated the footnote for that section appears to exempt the current case. He stated he would have to research the case. There may be federal statutes involved as well.

Mr. Fraley asked staff to elaborate on the availability of handicapped parking spaces.

Mr. Ribeiro stated the proposal will actually add ten parking spaces to the St. Bede's site, including two handicapped spaces. He stated the master plan shows the mausoleum covering 25 parking spaces identified for future parking. Additional parking will be proposed later.

Mr. Kinsman stated the Virginia Uniform Building Code and the Americans with Disabilities Act strictly regulate all types of parking spaces. He stated the developer will have to comply with the regulations.

Mr. Ribeiro stated the Zoning Ordinance also has provisions for handicapped parking, which closely follows the Americans with Disabilities Act.

Mr. Fraley asked Mr. Kinsman to elaborate on state and county regulations for mausoleums on private property.

Mr. Kinsman stated the County has no mausoleum-specific ordinances, but the county can regulate the mausoleum just like any other use. He stated if there were flies or odors, the County could regulate it through a nuisance law. Any discharge can be prosecuted under the Stormwater Ordinance. The county could also stop issuing building permits in case of a problem. The County can also revoke the SUP if the applicant is not following the conditions.

Mr. Fraley asked Mr. Chris Johnson to elaborate on the County's notification policy.

Mr. Johnson stated the Zoning Ordinance requires staff notify adjoining properties physically touching the applicant's property and properties adjacent to the site entrance across the street. He stated staff mails letters to the property owners once the application has been advertised for public hearing, in this case that was in mid-September. Properties which do not adjoin the church property received no letters.

Mr. Fraley asked if the buffer was from the property line or house.

Mr. Johnson stated the buffer was from the property line. He stated the original SUP conditions establish a 150' community character corridor buffer along Ironbound Road and a 50' buffer for properties adjoining The Meadows, supplemented in areas by fencing where the parking lot is closer. These buffers were later included in a conservation easement to comply with stormwater requirements and the Chesapeake Bay Preservation Ordinance.

Mr. Fraley asked staff to comment on existing Meadows drainage issues and how the mausoleum may affect that.

Mr. Scott Thomas stated the church property, including the mausoleum area, drains to the south, away from the Meadows and towards a farm pond near The Foxes, the Digges property, and the east.

Mr. Woods asked Mr. Johnson if the zoning usage was peculiar to that particular property, if the mausoleum was a permitted use, and what conditions triggered the SUP.

Mr. Johnson stated a house of worship is a specially permitted use in the R-8 district. He stated any master plan amendment deemed inconsistent by the DRC would have to seek legislative approval of amendment to the SUP and Master Plan. Cemeteries are considered an accessory use to a house of worship in the R-8 zoning districts.

Mr. Woods asked Mr. Johnson to clarify the project's construction access.

Mr. Johnson stated the construction access would be through an existing parking lot onsite near the sites for Buildings 1 and 2.

Mr. Woods asked if the usage entrance and the construction entrance would be common.

Mr. Johnson stated yes.

Mr. Woods asked if the construction would disturb the buffer.

Mr. Johnson stated an open space easement protects the buffer. He stated disturbance is not permitted. This issue is typically reviewed by staff during site plan review.

Mr. O'Connor asked staff to comment on the open space easement and whether it would be permissible to have the church maintain it.

Mr. Thomas stated the stormwater master plan consists of several BMPs, including dedicated natural open space all around the property. He stated staff would support

supplemental planting to replace lost trees.

Mr. Maddocks asked Mr. Kinsman if he would require additional study before he knows whether the project is compliant with the state's 250-yard cemetery buffer.

Mr. Kinsman stated yes. He stated the state code language is from the 1920s and is difficult to interpret. He would not be able to give a 'yes' or 'no' answer on applicability tonight.

Mr. Maddocks asked if the state code does apply, does it make sense for the Commission to proceed.

Mr. Fraley stated the Commission can defer or make a recommendation contingent on Mr. Kinsman's legal opinion of the matter. He asked Mr. Kinsman if he had any advice on the matter.

Mr. Kinsman stated it was totally up the Commission.

Mr. Fraley asked Mr. Murphy if he had any advice on the matter.

Mr. Murphy stated the Commission should consider the potential legal requirement.

Mr. Woods asked if there is a potential conflict, might the application revisit the layout of the proposal.

Mr. Fraley stated a deferral would be difficult with all of the citizens coming to speak again. He asked the applicant's opinion.

Mr. Davis stated he agrees that the state code may not apply. He stated the federal statute, the Religious Land Use and Institutionalized Persons Act (RLUIPA), was passed after the state statute in question. Congress limited the ability of states and counties to restrict religious organizations. This process has been daunting and expensive for his client. He asked the Commission to make a recommendation pending resolution of the legal issue.

Mr. Krapf stated if there was a legal problem, the case would come back to the Commission. He stated the Commission should proceed.

Mr. Basic stated he agreed.

Mr. Poole stated he recommended approval of the original master plan while on the Commission in 2000. He stated the development plan matched the physical characteristics of the property. The size of the proposal, nearly twice that of the sanctuary, gives pause. The lack of parking is also a concern. The Ironbound Road sidewalk has not yet been built. Rural Residential zoning and Low-Density designations do not lend themselves to this type of use. He is not prepared to support the proposal given the square footage.

Mr. Krapf stated he did research to determine whether biohazards are a real issue. He stated in-ground burials pose more of a potential leakage risk than mausoleums. State laws do not require crypts for in-ground burial. The mausoleum could be a healthier alternative to in-ground

internment. The use is permitted. While he would personally prefer a smaller scale project, the applicant has taken adequate consideration to mitigate impacts on the surrounding community with enhanced landscaping and maintaining the buffer. Three or four lots are directly opposite the site. He would support the project.

Mr. Basic stated he agreed with Mr. Krapf on the land use position. He stated a great majority of comments focused on whether there was need and there being too many crypts. If buildings are built as only as they are needed, that solves the 'too many' issue. If the church does not properly maintain the facilities, it will not be able to move forward on construction.

Mr. Maddocks stated he is confident staff has thoroughly reviewed the proposal in every respect. He stated the structures are attractive. As a land use question, he will support it.

Mr. Woods stated the case was a land use and master plan amendment decision. He stated his research showed mausoleums were more favorable alternatives. The scale of the project is inconsistent with the original master plan and its design characteristics, including compatibility with the surrounding community. He was not prepared to support the project.

Mr. O'Connor stated the size of the project gives him pause. He stated the master plan shows plans for on-site internment. There is already a columbarium on-site. He would support the proposal.

Mr. Fraley stated as a DRC member in 2007, he voted the mausoleum inconsistent with the master plan to require a public hearing. He stated the DRC gave additional input to the applicant for this year's conceptual plan. The case is a clash of property owner's rights versus impacts on adjacent property owners. A smaller mausoleum would be preferable. The applicant was asked to remove Building 6, but that is not the plan before the Commission. The use is permitted, the applicant has buffered the site, and there are lots of SUP conditions. He would support the proposal.

Mr. Poole stated one of the DRC's key recommendations for the church's 2011 conceptual plan was to hold a community meeting. He stated he was disappointed the applicant did not hold a public meeting.

Mr. O'Connor asked Mr. Kinsman if he was okay with a buffer maintenance SUP condition.

Mr. Kinsman stated he would draft the language before the Board's public hearing.

Mr. O'Connor moved to recommend approval with the buffer maintenance and resolution of the state statute matter.

In a roll call vote, the Commission recommended approval with the conditions above (5-2; Yes: Basic, O'Connor, Maddocks, Krapf, Fraley; No: Woods, Poole).

D. ZO-0006-2011, Development Standards/ZO-0014-2011, External Signs

Ms. Tammy Rosario stated staff has developed ordinance language, guidelines, and policies for sound walls, exterior signs, outdoor lighting, landscaping, parking standards, private streets,

timbering, pedestrian accommodations and floodplains. She stated this language includes changes from the July Board work session. Staff also drafted a late item for the sign ordinance based on an outside request.

Mr. Poole asked if that was the document emailed to the Commission.

Ms. Rosario stated yes. She stated staff recommends approval of the development standards ordinance language, sound wall guidelines, outstanding specimen tree guidelines, streetscape policy, and pedestrian accommodations master plan.

Mr. Poole stated the County's first effort should be to avoid sound walls. He stated if they are used, the wall at the Midlands represents the gold standard. He asked staff to elaborate on the sound wall recommendations.

Mr. Rosario stated the County's first priority is to avoid sound walls, and the revised introduction to the guidelines includes this statement. She stated if walls cannot be avoided, the guidelines lay out design standards. Staff will work with VDOT to accomplish the guidelines.

Mr. Poole asked if plant material was a big part of that.

Ms. Rosario stated yes. She stated the guidelines covered the structure, building materials, and plant materials.

Mr. Poole stated one of the images on page 65 shows a sound wall with graphics on it. He stated he does not want to see that in the County.

Ms. Rosario stated the picture was not intended to promote graphics as a part of design guidelines but was a general illustration of texture. She stated staff would remove that image to be clear.

Mr. Poole stated he would rather see plant-covered walls rather than be able to see any sound walls.

Mr. Woods asked if he recalled correctly from a Policy Committee meeting that while the County can attempt to influence them, VDOT can move forward with its own criteria.

Ms. Rosario stated yes. She stated the policy does not bind VDOT, but gives staff a platform to work with the State.

Mr. Woods asked if the County can choose to upgrade from VDOT's baseline.

Ms. Rosario stated yes.

Mr. Woods asked if the County had taken advantage of the upgrades.

Mr. Murphy stated not until now. He stated the draft guidelines will give staff a platform to dialogue with VDOT. Staff intends to take advantage of VDOT's flexibility.

Ms. Rosario stated as an example, staff can seek additional plantings, which it has pursued in various existing locations along sound walls in the County.

Mr. Poole stated the wall should not be used for decorative statements, but covered with plant material.

Mr. Basic stated he wants to err on the side of having as many plantings as possible. He stated he would prefer staff remove images showing graphics from the guidelines.

Ms. Rosario stated staff would remove pictures depicting graphics on the walls and any references to graphics on the walls before the Board meeting.

Mr. Krapf stated he was concerned with the lack of timbering setbacks in A-1 outside the Primary Service Area (PSA) described on page 144. He stated this goes against the Comprehensive Plan. Community Character Corridors (CCC) are designated for specific reasons. He stated he was against not applying the CCC standards outside of the PSA. Timbering operations without buffers along Little Creek Dam Road look terrible. He stated he was in favor of extending the CCC buffers for timbering operations outside the PSA, but allowing selective harvests within the buffer to collect the weaker trees. He would not support that change to the proposed ordinance.

Ms. Rosario stated staff drafted three options dealing with buffers. She stated the Board directed staff at the work session to solicit citizen input from affected property owners outside of the PSA. Based on that feedback and direction from the Board, staff is presenting this option (Option 1) to the Commission this evening.

Mr. Poole stated he agreed with Mr. Krapf.

Mr. Fraley stated the Board rejected the Commission's original timbering setback recommendation for outside the PSA.

Mr. Woods stated the Commission should attach its own timbering recommendation to the vote. He stated that the Commission should not move from its original recommendation if it believes it is correct.

Mr. Basic stated Mr. Krapf's comments made sense and he would support them.

Mr. Krapf stated the Commission recommended timbering Option 3.

Mr. Basic stated the phrase "promote public health, safety, and welfare of the public" was stricken from the landscaping ordinance's statement of intent. He stated his profession relies on that phrase for developing performance standards. He asked staff to rework the phrase.

Ms. Rosario stated the County Attorney's office recommended striking the language.

Mr. Kinsman stated he was fine with reinserting the phrase.

Mr. Krapf moved to recommend approval of development standards with the following conditions: removal of the specified sound wall images from the guidelines; the addition of CCC timbering buffers outside of the PSA while allowing selective harvesting in the buffer for weak and diseased trees; and reinstatement of the language “promote public health, safety, and welfare of the public” in the landscape ordinance’s statement of intent.

In a roll call vote, the Commission recommended approval (6-1: Yes: Basic, Maddocks, Woods, Krapf, Poole, Fraley; No: O’Connor). Mr. O’Connor noted that his vote was in regard to not supporting the extension of CCC buffer requirements for timbering outside the PSA.

Ms. Melissa Brown stated staff received an amendment request from Mr. Vernon Geddy to permit additional language on shopping center signs. She stated this would not increase signage size or type. Signs would become more flexible.

Mr. Fraley stated the Commission may not be able to deal with that request due to inadequate public advertising.

Mr. Murphy stated the Commission will not take action on that item.

Mr. O’Connor stated the Committee discussed how many monument signs the County would allow, including at the Norge Food Lion site. He asked if staff drafted a resolution.

Ms. Brown stated the update would allow the Norge Food Lion to use the primary monument, so it would not need to apply for a secondary monument. She stated staff opted to limit the height and structure of signs within a development, but not the number. Staff retains flexibility to consider those signs on a case-by-case basis.

Mr. Basic asked if staff could include a graphic showing how different sized fonts appear from the road on a 32 square foot sign.

Ms. Brown stated she would forward that to the Board.

Mr. Fraley opened the public hearing. Hearing none, Mr. Fraley closed the public hearing.

Mr. Fraley stated the Commission would have to re-vote on development standards due to having not opened the public hearing.

Mr. Krapf moved to recommend approval of development standards with the following conditions: removal of the specified sound wall images from the guidelines; the addition of CCC timbering buffers outside of the PSA while allowing selective harvesting in the buffer for weak and diseased trees; and reinstatement of the language “promote public health, safety, and welfare of the public” in the landscape ordinance’s statement of intent. He also moved to recommend approval of the sign ordinance.

In a roll call vote, the Commission recommended approval (6-1: Yes: Basic, Maddocks, Woods, Krapf, Poole, Fraley; No: O'Connor).

7. PLANNING DIRECTOR'S REPORT

Mr. Murphy had no additional comments.

8. COMMISSION DISCUSSIONS AND REQUESTS

Mr. Fraley stated Mr. O'Connor was the October Board representative.

9. ADJOURNMENT

Mr. Poole moved to adjourn.

The meeting was adjourned at 12:30.



Jack Fraley, Chairman



Allen J. Murphy, Secretary