

MINUTES
JAMES CITY COUNTY PLANNING COMMISSION
REGULAR MEETING
County Government Center Board Room
101 Mounts Bay Road, Williamsburg, VA 23185
March 2, 2016
7:00 PM

1. ROLL CALL

Planning Commissioners Present:

Robin Bledsoe
Rich Krapf
Tim O'Connor
Chris Basic
Heath Richardson
John Wright
Danny Schmidt

Staff Present:

Paul Holt, Planning Director
Leanne Pollock, Senior Planner II
Jose Ribeiro, Senior Planner II
Ellen Cook, Senior Planner II
Savannah Pietrowski, Planner
Maxwell Hlavin, Assistant County Attorney

Ms. Robin Bledsoe called the meeting to order at 7 p.m.

Ms. Bledsoe stated that before beginning the official agenda, the Commission would like to recognize Mr. George F. Drummond for his service on the Planning Commission. Ms. Bledsoe presented Mr. Drummond with a resolution and Certificate of Appreciation.

Mr. Drummond stated that it was a privilege to serve the community and to work with the Commission members.

Mr. John Wright moved to approve the Resolution of Appreciation.

On a roll call vote the Resolution of Appreciation was approved (7-0).

2. PUBLIC COMMENT

Ms. Bledsoe opened the Public Comment.

As no one wished to speak, Ms. Bledsoe closed the Public Comment.

3. CONSENT AGENDA

a. Minutes from the February 3, 2016, Regular Meeting

b. Development Review Committee

1. Case No. C-0013-2016. Williamsburg Indoor Sports Complex (WISC) Aquatic Center (DRC Recommendation: Preliminary Approval, 4-0)

Mr. Wright moved to approve the Consent Agenda.

The Consent Agenda was approved by voice vote (7-0).

4. **REPORTS OF THE COMMISSION**

a. **Policy Committee**

Mr. John Wright stated that the Policy Committee met on February 11, 2016, to consider Capital Improvements Program (CIP) Project applications for FY 17 - FY 21. Mr. Wright stated that applications were submitted for 15 projects with an aggregate cost of \$7 million in FY 17 and \$35.3 million for the entire five-year period. Mr. Wright noted that the projects included match funds for transportation improvement projects, three Parks & Recreation projects, Stormwater abatement projects and ten projects from the Williamsburg-James City County Schools. Mr. Wright stated that members from the various divisions were on hand to make presentations on their requests and to answer questions. Mr. Wright stated that the Committee members have individually considered the projects and ranked them based on weighted criteria. Mr. Wright stated that the Committee will meet on March 3, 2016, to discuss the rankings and forward a recommendation to the Planning Commission.

5. **PUBLIC HEARINGS**

a. **Case No. SUP-0001-2016. Columbia Gas Equipment Upgrade**

Mr. José Ribeiro, Senior Planner II, stated that Mr. Clarence Clark of Columbia Gas has applied for a Special Use Permit (SUP) to replace and upgrade the technology and existing equipment necessary for the operation of the gas flow measuring and pressure regulating facility at 8955 Pocahontas Trail. Mr. Ribeiro further stated that the property is zoned M-2, General Industrial and is located near the James River, Commerce Center, the BASF property and the Greenmount Industrial Park. Mr. Ribeiro stated that the facility, which was built in 1960, measures gas flow and regulates gas pressure and supplies natural gas to the local distribution company, Virginia Natural Gas. Mr. Ribeiro stated that transmission pipelines, including pumping stations and accessory storage for natural gas require a SUP in the M-2 District. Mr. Ribeiro stated that, if approved, this request will bring the use into compliance with the zoning ordinance.

Mr. Ribeiro noted that a temporary staging area of approximately 11,000 square feet will be necessary to support the construction, will be located on adjacent property and approximately 6,295 square feet of clearing is proposed to accommodate the new equipment. Mr. Ribeiro stated that the property is accessed by a private road off the intersection of Pocahontas Trail and BASF Drive. Mr. Ribeiro stated that staff anticipates that there will be no impacts on public facilities and services. Mr. Ribeiro further stated that the station is unmanned and is only accessed by Columbia Gas employees to perform maintenance as needed. Mr. Ribeiro further stated that the temporary staging area will be returned to its natural state once construction is complete. Mr. Ribeiro stated that the property is surrounded by a forest buffer and there are no residential properties in the vicinity. Mr. Ribeiro stated that during the site visit no noise or odor was apparent.

Mr. Ribeiro further stated that staff finds the proposal compatible with surrounding zoning and development and consistent with the 2035 Comprehensive Plan. Mr. Ribeiro stated that staff recommends that the Planning Commission recommend approval of the application to the Board of Supervisors, subject to the recommended conditions.

Ms. Bledsoe opened the Public Hearing.

As no one wished to speak, Ms. Bledsoe closed the Public Hearing.

Ms. Bledsoe opened the floor for discussion.

Mr. Heath Richardson moved to recommend approval.

On a roll call vote the Commission voted to recommend approval of SUP-0001-2016, Columbia Gas Equipment Upgrade (7-0).

b. Case No. AFD-09-86-01-2016. Gordon Creek Agricultural and Forestal District – 3703 Brick Bat Road Withdrawal

Ms. Ellen Cook, Senior Planner II, stated that Mr. Will Holt, Kaufman & Canoles, has applied, on behalf of the Carol Sansone Jamison Marital Trust Two and the Carol Sansone Jamison Family Trust, to withdraw 1.45 acres of a +/- 58 acre property from the Gordon Creek Agricultural and Forestal District (AFD), in conjunction with a SUP application for operation of a Tourist Home.

Ms. Cook stated that on September 28, 2010, the Board of Supervisors adopted a policy governing withdrawal of property from AFDs. Ms. Cook noted that the policy states that it is the policy of the Board to discourage the withdrawal of properties from AFDs during the terms of those districts unless four criteria which, if met, would establish good and reasonable cause for a property owner to withdraw.

Ms. Cook stated that staff does not find that this request fully meets all four criteria; primarily the request does not fully meet Criteria "B" as it is not explicitly for a public purpose. Ms. Cook stated that staff does recognize that the proposed use of the property is consistent with broader community goals. Ms. Cook stated that with regard to Criteria "A" the property was in trust ownership prior to the last AFD renewal in 2014. Ms. Cook stated that the applicant has indicated that a change in circumstances occurred when a family member passed away in 2015. Ms. Cook stated that the request fully meets Criteria "C" and "D" by not causing damage or disruption to the existing district and by being submitted with a use that staff finds to be in conformance with the Comprehensive Plan.

Ms. Cook stated that the AFD Committee did recommend approval of the application. Ms. Cook further stated that because the request does not fully meet all four criteria in the Board of Supervisor's policy, staff cannot support the request and recommends that the Planning Commission recommend denial of this application to the Board of Supervisors.

Mr. Heath Richardson inquired if the property owner would have the option to remove this portion of the property from the AFD at the next renewal in 2018.

Ms. Cook stated that the property owner would be able to remove the property at the next renewal.

Mr. Richardson inquired whether the question about the death of a property owner qualifying as change in circumstances under State Code to permit a by right withdrawal had been resolved.

Ms. Cook stated that it was not resolved at the time of the AFD Committee meeting; however, it was resolved shortly thereafter by an opinion from the County Attorney's office. Ms. Cook stated that because the property was held in trust it would not qualify.

Mr. Richardson inquired whether this circumstance was something the AFD Committee considered in making the recommendation.

Ms. Cook stated that one of the factors the AFD Committee took into consideration was that there had been a death in the family.

Mr. O'Connor inquired whether the AFD Committee used the same four criteria to evaluate a withdrawal request.

Ms. Cook confirmed.

Mr. Krapf requested that Ms. Cook elaborate on the staff perspective on whether the proposed withdrawal meets a public purpose by generating tourism and meeting the objectives of the Rural Economic Development Committee by providing an economic value for rural lands.

Ms. Cook stated that staff agrees that the proposed use meets the broader community goals and is consistent with the goals of the Comprehensive Plan; however, it is not explicitly for a public purpose such as a school.

Mr. Wright requested confirmation that the 1.45 acres in question are not currently receiving land use valuation.

Ms. Cook confirmed and stated that while the entire parcel is enrolled in the AFD, the Commissioner of the Revenue generally excludes the home site and access from the land use valuation. Ms. Cook further stated that for this property, the house is being taxed at normal rates.

Mr. O'Connor inquired about the development potential for the almost 60-acre parcel should the owner choose not to renew the property at the next cycle.

Ms. Cook stated that it would be one unit per three acres.

Ms. Bledsoe opened the Public Hearing.

Mr. Will Holt, Kaufman & Canoles, 4801 Courthouse Street, stated that the AFD withdrawal is part of a two phase application and withdrawing the property from the AFD is necessary to be able to proceed with the application for the SUP. Mr. Will Holt stated that the Board policy should be interpreted broadly and the criteria evaluated individually. Mr. Will Holt further stated that if the criteria related to public purpose was construed narrowly to be a school or similar public building and all criteria had to be met, then that criteria would override the others.

Mr. O'Connor inquired if the property owners have operated other bed and breakfasts.

Mr. Will Holt stated that the property owners have operated other bed and breakfasts.

Ms. Bledsoe inquired if the barn was included in the property being withdrawn.

Mr. Will Holt stated that the barn is not included. Mr. Will Holt stated that the facilities included in the withdrawal are the house, the pool house and the driveway/parking area.

Mr. Richardson inquired whether the property would have qualified for withdrawal prior to the renewal date if the property had not been held in trust.

Mr. Will Holt confirmed.

Mr. Wright inquired if the owner is the only remaining member of the trust.

Mr. Will Holt confirmed that the owner is the only beneficiary.

Mr. Wright noted that he had discussed the application with Mr. Will Holt prior to the meeting.

As no one else wished to speak, Ms. Bledsoe closed the Public Hearing.

Ms. Bledsoe stated that she also had a discussion with Mr. Will Holt and called for disclosures from the other Commissioners.

Mr. Richardson stated that he also had spoken with Mr. Will Holt.

Ms. Bledsoe opened the floor for discussion by the Commission.

Mr. Basic requested that Mr. Max Hlavin explain the difference between a trust and outright ownership and how that affected the ability to use the State Code statute allowing by-right withdrawal of a property within two years of the death of a property owner.

Mr. Hlavin stated the State Code language limits the provision for a by-right withdrawal to any heir at law, devisee, surviving cotenant or personal representative of a sole owner of any fee simple interest. Mr. Hlavin stated that by being in a trust the ownership does not fall under any of those categories.

Ms. Bledsoe stated that by placing the property in trust, the family was being prudent in estate planning. Ms. Bledsoe further stated that she believes the proposed use of the property does fulfill the public purpose criteria. Ms. Bledsoe stated that she supports the request.

Mr. Basic moved to recommend approval of the application.

Mr. Richardson stated that he understands the intent of the Board of Supervisors policy regarding withdrawal of property from an AFD. Mr. Richardson further stated that he believes the criteria for public purpose is not met by the proposed use. Mr. Richardson further stated that he understands the need to remove the property outside the normal renewal cycle.

Mr. Krapf stated that staff is required to look at the Board policy in its totality and interpret it narrowly, while the Planning Commission and Board have more latitude. Mr. Krapf stated that he can support the application because the area being withdrawn is only a small part of the property and because even though the request does not meet strict interpretation of the Board Policy, it does support the strategic initiative of encouraging rural economic development.

Mr. Basic noted that the strength of an AFD is in the contiguous acreage and that this represents a minute portion of the entire district.

Mr. O'Connor inquired if Mr. Hlavin concurred with Mr. Will Holt's comments regarding the narrow interpretation of Criteria B.

Mr. Hlavin stated that the Commission has more latitude than staff in interpreting the policy. Mr. Hlavin further stated that there is a catch all phrase in the policy that allows the Commission and the Board to consider other factors as they deem prudent.

Mr. O'Connor stated that he believes the proposed use will serve the public good and the amount of property being withdrawn would not be detrimental to the integrity if the AFD. Mr. O'Connor also stated that he believes this is a good use of the property to bring revenue to the County. Mr. O'Connor stated that he would support the application.

Mr. Danny Schmidt stated that one factor he finds particularly favorable is that the existing structure will not be changed or expanded.

On a roll call vote the Commission voted to recommend approval of AFD-09-86-01-2016, Gordon Creek Agricultural and Forestal District – 3703 Brick Bat Road Withdrawal (7-0).

c. Case No. SUP-0002-2016. 3703 Brick Bat Road Tourist Home

Ms. Ellen Cook, Senior Planner II, stated that Mr. Will Holt, Kaufman & Canoles, on behalf of the Carol Sansone Jamison Marital Trust Two and the Carol Sansone Jamison Family Trust, has applied for an SUP to operate a Tourist Home at 3703 Brick Bat Road. Ms. Cook stated that the Tourist Home will have rental of up to five rooms with no changes in the size of the house or other buildings. Ms. Cook stated that the property has an existing driveway and an existing parking area sufficient to accommodate guests.

Ms. Cook stated that the property is designated rural lands on the 2035 Land Use Map, as are all the surrounding parcels. Ms. Cook further stated that the use is consistent with the recommended uses in the Comprehensive Plan and meets rural lands development standards, given that the use would take place within existing structures and the forested and agricultural aspects of the property will be maintained. Ms. Cook stated that staff further finds the use to be consistent with the Comprehensive Plan goals for supporting implementation of the County's Strategy for Rural Economic Development.

Ms. Cook stated that staff finds the proposal to be consistent with surrounding development and the 2035 Comprehensive Plan. Ms. Cook stated that staff recommends that the Planning Commission recommend approval of the application to the Board of Supervisors subject the suggested conditions and removal of the property from the AFD.

Ms. Bledsoe opened the floor for questions from the Commission.

Mr. Richardson inquired why a separate application was required for the operation of a Tourist Home.

Ms. Cook stated that it is a separate matter and a separate vote is required for a recommendation on the SUP.

Ms. Bledsoe opened the Public Hearing.

Mr. Will Holt, Kaufman & Canoles, 4801 Courthouse Street, stated that he represents the property owner. Mr. Will Holt noted that the proposed use will not require any changes to the existing structures; the property would be used as is with rooms rented out as a bed and breakfast.

Mr. O'Connor inquired if the property owner was comfortable with the five-room cap.

Mr. Will Holt confirmed.

As no one else wished to speak, Ms. Bledsoe closed the Public Hearing.

Ms. Bledsoe called for disclosures from the Commission.

There were no disclosures.

Ms. Bledsoe opened the floor for discussion.

Mr. Krapf moved to approve the application.

On a roll call vote the Commission voted to recommend approval of SUP-0002-2016, 3703 Brick Bat Road Tourist Home (7-0).

d. Case Nos. Z-0005-2015/MP-0002-2015/HW-0002-2015. Patriot's Colony Expansion

Ms. Leanne Pollock, Senior Planner II, stated that Mr. Todd Martin of Riverside Healthcare Associates has applied for a rezoning and master plan amendment for Land Bay M-10 of the Greensprings Plantation Master Plan. Ms. Pollock stated that this land bay contains the Patriot's Colony continuing care retirement community and is located at 3400 John Tyler Highway. Ms. Pollock stated that the land bay is adjacent to both First Colony and Green Spring National Historic Landmark. Ms. Pollock stated that the proposed amendment is to adjust unit types and unit type maximums resulting in an overall decrease in the density of the land bay. Ms. Pollock stated that Patriot's Colony is zoned R-4, Residential Planned Community with proffers and the area of the proposed expansion is designated Low Density Residential on the Comprehensive Plan Land Use Map. Ms. Pollock noted that the request includes a height limitation waiver for four hybrid apartment buildings for up to a maximum height of 70 feet above grade. Ms. Pollock stated that the height waiver will be considered by the Board of Supervisors with the rezoning and master plan amendment, but does not require a vote by the Planning Commission.

Ms. Pollock stated that the applicant has restated the original applicable proffers and has proposed additional voluntary proffers to address impacts of the development. Ms. Pollock stated that the revised proffers include a change to maximum building height with a height limitation waiver, a conservation management plan for threatened species, review of materials and design, limitations on lighting for the portions of the development that will face Greens Spring National Historic Landmark, undisturbed buffers along John Tyler Highway and adjacent to the Park Service property, development of water conservation standards and cash contributions for water. Ms. Pollock further stated that the original proffers addressed transportation improvements which have already been satisfied, archaeology, recreation, open space and prohibitions on timeshares. Ms. Pollock further stated that the proposal; however, does not meet several of the Board of Supervisors' policies and guidelines including the Housing Opportunities Policy, the Parks and Recreation Proffer Guidelines and the School Cash Proffer Policy.

Ms. Pollock stated that the application is unique due to the nature of the continuing care retirement community and similar facilities in the County have also not met all of the Board's policies. Ms. Pollock further stated that the applicant has demonstrated that age appropriate recreational facilities are provided for residents; has mechanisms in place to provide financial

assistance to residents and prohibits permanent residents under the age of 18 through their proffers and residency agreements.

Ms. Pollock stated that staff has discussed the expansion with reviewing agencies and the National Park Service. Ms. Pollock further stated that agency comments can generally be addressed at the development review stage. Ms. Pollock stated that the National Park Service concurs that the development will not adversely affect the viewshed and cultural landscape at the Historic Green Spring Landmark, but recommended that an archaeologist be on hand to monitor land disturbing.

Ms. Pollock stated that staff finds the proposal to be compatible with surrounding development and consistent with the 2035 Comprehensive Plan and Zoning Ordinance. Staff recommends the James City County Planning Commission recommend approval of these applications and acceptance of the proffers to the Board of Supervisors.

Ms. Bledsoe opened the floor for questions from the Commission.

Mr. Richardson asked for a summary of public input regarding the effect of the expansion on the viewshed.

Ms. Pollock stated that the comments center around concerns that the clearing needed for the one-story nursing facility will make the taller hybrid apartment buildings more visible. Ms. Pollock stated that a balloon test was done at the end of January and that the balloon was visible from the entrance to First Colony through the trees; however, it did not go above the tree line. Ms. Pollock further stated that staff worked with the applicant to identify areas for tree preservation along Patriot's Colony Drive to reduce that visibility.

Ms. Bledsoe inquired if the buffer areas would require time to mature.

Ms. Pollock stated that the tree preservation areas were on the masterplan and pertained to existing trees. Ms. Pollock stated that the 50-foot buffer adjacent to the National Park Service property would be supplemented by additional plantings to fill in the taller more mature trees with denser low-lying vegetation.

Mr. O'Connor inquired about what archaeology has been done on the property and the substance of the discussions with the National Park Service.

Ms. Pollock stated that since Land Bay M-10 was initially part of the Greensprings Master Plan, an archaeologist had conducted a full Phase I archaeological survey of the entire Greensprings Plantation area. Ms. Pollock noted that several sites were identified on the Patriot's Colony property and several Phase II studies have been performed. Ms. Pollock stated that one concern expressed by the National Park Service was that the distance between shovel tests might have been greater than desirable. Ms. Pollock further stated that a proffer is in place that all work will stop if a resource is uncovered during construction. Ms. Pollock noted that a road trace was previously discovered and that it is primarily within the 150-foot buffer along John Tyler Highway. Ms. Pollock noted that a Phase II study will be required prior to land disturbance in that area. Ms. Pollock stated that the National Park Service has been included in the review process from the very beginning and has been provided with all materials.

Mr. Basic inquired if the methodology for the Phase I archaeological survey was approved by the State.

Ms. Pollock responded that the ultimate results of the Phase I study were approved by the Virginia Department of Historic Resources.

Mr. Schmidt inquired whether the representatives from the National Park Service were present for the balloon test.

Ms. Pollock responded that they were not able to see the balloon test due to technical difficulties with the lift; however, the applicant did fly an additional balloon during the site visit with the National Park Service and Planning Division staff provided them with photos taken during the balloon test.

Ms. Bledsoe opened the Public Hearing.

Ms. Molly Trant, 701 Town Center Drive, stated that she represents the applicant. Ms. Trant stated that Patriot's Colony is a continuing care retirement community that is available to retired and former officers of the seven uniformed services, retired and former civilian employees of the Federal government and their spouses; however, the health care facilities are open to the public. Ms. Trant noted that part of the current request focuses on providing more of those facilities to meet anticipated demand from the community.

Ms. Trant stated the height waiver is being requested to allow for parking under the four hybrid apartment buildings to minimize disturbance of greenspace. Ms. Trant further stated that there is an existing five-story apartment building with a mean height of 60 feet located on the property. Ms. Trant stated that the mean height of the proposed buildings are 65 feet. Ms. Trant further stated that the materials and colors to be used in the proposed buildings were chosen to ensure that the building would blend with the natural environment.

Mr. O'Connor asked if the proposal involved clearing for all of the project phases at this time.

Ms. Trant stated that the intent was to clear for Phase A first in order to maintain the community appeal and to maintain the integrity of the tree buffer for as long as possible.

Ms. Bledsoe inquired if a height waiver would be requested in Phase B.

Ms. Trant responded that the building in Phase B would be a traditional single floor skilled nursing facility.

Ms. Bledsoe inquired if the reason for moving forward with Phase A first was to meet current needs.

Ms. Trant stated that 335 people are currently on the waiting list for independent living facilities. Ms. Trant further stated the Phase B facility is to address the future needs of those residents.

Mr. Schmidt noted that he shares the concerns voiced by the National Park Service regarding the existence of cultural resources on the property that may have been missed during the previous archaeological survey. Mr. Schmidt stated that he would be more comfortable if an archaeological review could be done once the clearing was complete.

Ms. Trant stated that they believe the entire site was tested appropriately and do not want to set a precedent of questioning or invalidating a Phase I archaeological survey that was previously accepted by the Virginia Department of Historic Resources.

Ms. Bledsoe inquired what guidance is given on recognizing historic resources to the workmen doing land disturbance.

Ms. Trant responded that the construction manager and staff are instructed to be watchful. Ms. Trant further stated that the applicant also has a construction management division and that they would work side by side with the construction crew.

Ms. Bledsoe inquired if that process was in place during the initial Patriot's Colony development.

Ms. Trant stated that she believed those precautions were taken during the initial development.

Mr. O'Connor inquired whether the conceptual Best Management Practice (BMP) was proposed as part of Phase A or Phase B.

Ms. Trant stated that it would be part of Phase B. Ms. Trant stated that once the entire site was disturbed, the BMP would be required.

Mr. O'Connor requested confirmation that the resource protection area buffer would not be developed.

Ms. Trant confirmed. Ms. Trant further stated that the greenbelt along John Tyler Highway would remain undeveloped.

Mr. Wright inquired about the demographics for the typical resident of the proposed apartment buildings.

Ms. Trant stated that the typical resident was a former member of the armed services or civilian Federal government employee in their 70s and their spouse.

Mr. Wright asked if there were any assurances that the apartments would not be sublet to other individuals.

Ms. Trant stated that there were stipulations in the residency agreement to prevent the units from being sublet. Ms. Trant further stated that there was also a strict policy on the length of visitor stays.

Mr. Wright stated that he was also looking for assurances that there would not be school-aged children in residence.

Ms. Trant confirmed that there was a strict policy prohibiting school-aged children from residing there long-term.

Mr. O'Connor requested information on the financial assistance available to residents to allow them to stay in their homes.

Ms. Trant stated that because the residents are also buying into a health care plan, it is not possible to meet the affordable housing guidelines; however, if someone encounters financial constraints while they are an active resident, there is a fund to provide financial assistance.

Mr. O'Connor inquired how this differed from an age-restricted apartment complex that was able to proffer a certain number of affordable units.

Ms. Trant stated that a continuing care retirement facility was different, because it also provides assisted living and skilled nursing in addition to the independent living so that there is a full spectrum of care available.

Ms. Bledsoe inquired about the relationship between Patriot's Colony and Riverside Hospital for continuity of care.

Ms. Trant stated that Riverside Healthcare is the parent organization for both Patriot's Colony and Riverside Doctor's Hospital. Ms. Trant further stated that medical staff from Riverside oversee the medical practice at Patriot's Colony. Ms. Trant state that the ability to share information with the hospital is an advantage to the residents.

Mr. Paul Treolo, 3017 Kitchums Close, stated that his residence is approximately a mile west from Patriot's Colony on Route 5. Mr. Treolo stated that he is a long-time James City County resident and a member of the Patriot's Colony Board of Directors. Mr. Treolo stated that the proposed expansion is well designed and is necessary to meet existing needs. Mr. Treolo stated that the project will benefit the County with an increase in job opportunities and revenue. Mr. Treolo requested that the Commission recommend approval of the application.

As no one else wished to speak, Ms. Bledsoe closed the Public Hearing.

Ms. Bledsoe called for disclosures from the Commission.

Ms. Bledsoe, Mr. Wright, Mr. Basic and Mr. O'Connor each stated that they had spoken with Ms. Trant.

Ms. Bledsoe opened the floor for discussion by the Commission.

Mr. Richardson noted that based on recent studies and reports, the County does have a need for affordable housing. Mr. Richardson further stated that Patriot's Colony is not a typical for-sale or for-rent development and by its nature it is hard to make it dovetail with the Housing Opportunities Policy and the School and Parks and Recreation Proffer Policies. Mr. Richardson stated that he could support the application.

Mr. Krapf stated that he would support the application. Mr. Krapf further stated that demographic trends support the need for this type of facility. Mr. Krapf noted that the project has several positive aspects including a reduction in the density of the development, a positive fiscal impact and that the development is environmentally friendly.

Mr. Schmidt stated that the level of inclusion of the National Park Service reassured him that measures will be taken to protect and preserve cultural resources.

Mr. Wright stated that the 2035 Comprehensive Plan data shows an increase in the number of seniors as well as a high percentage increase. Mr. Wright stated that this application addresses an unmet demand.

Mr. Basic stated that he appreciated the applicant's willingness to work with the Development Review Committee (DRC) as the application was developed. Mr. Basic noted that the application was stronger because of the DRC input.

Mr. O'Connor inquired if the reduction in density was for all of the Greensprings development or just Patriot's Colony.

Ms. Pollock stated that it was just for Land Bay M-10, Patriot's Colony. Ms. Pollock further stated that the current unit caps for Greensprings would remain in place.

Mr. O'Connor asked for clarification on how the reduction in density was achieved.

Ms. Pollock stated that part of the reduction came from skilled nursing beds and assisted living units being counted as institutional units rather than as residential dwelling units. Ms. Pollock further stated that the actual number of independent residential units is being decreased by about 38 units.

Mr. Richardson inquired if there would be more frequent site visits by an archaeologist as recommended by the National Park Service.

Ms. Pollock stated that as proposed in the proffers, an archaeologist would only be on-site if something is uncovered during the course of work.

Mr. Richardson inquired about the nature of concern with the archaeological study.

Ms. Pollock stated that the study was done in 1992 and that there was some concern over the distance between shovel tests. Ms. Pollock stated that there was no overall map showing the location of the shovel tests.

Mr. Richardson inquired if staff felt it would be wise to add a requirement for additional testing.

Ms. Pollock stated that staff is comfortable with the proffer. Ms. Pollock further stated that she was not aware of any legislative cases that required an archaeologist on-site monitoring land disturbance; however there have been a few by-right developments that have used this approach.

Mr. Richardson inquired which firm provided archaeological survey for Patriot's Colony.

Ms. Pollock stated that she believed it was Espy-Houston.

Ms. Bledsoe inquired if anything was found.

Ms. Pollock stated that several sites were found on the Patriot's Colony property – Land Bay M-10 – and a couple of sites were found across the broader Greensprings Plantation.

Ms. Bledsoe inquired if those sites were addressed at the time they were found.

Ms. Pollock stated that they are addressed as land disturbance takes place. Ms. Pollock stated that when the 24 independent living units were built, a Phase II study was conducted for the two sites identified in that area.

Ms. Bledsoe requested confirmation that a Phase II study would be done if any sites were identified.

Ms. Pollock confirmed.

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

On a roll call vote the Commission voted to recommend approval of Z-0005-2015/MP-0002-2015, Patriot's Colony Expansion (7-0).

The Planning Commission was not required to vote on the height limitation waiver, which will be acted on by the Board of Supervisors.

6. PLANNING COMMISSION CONSIDERATION

a. Case No. Z-0001-2016, Promenade Proffer Amendment

Ms. Savannah Pietrowski, Planner I, stated that Mr. Gary Werner of Franciscus Homes has submitted a request to amend Condition No. 2 of the adopted Proffers for the Promenade at John Tyler Highway. Ms. Pietrowski stated that the development consists of up to 204 dwelling units and commercial space. Ms. Pietrowski stated that during the course of site plan review, staff and the developer realized the proffer language was, in certain respects, inconsistent with the requirements of the Housing Opportunities Policy. Ms. Pietrowski stated that the proposed proffer amendment would align the Proffers with the Housing Opportunities Policy by removing the full narrative of the existing proffers and simply providing that the units shall be provided in accordance with the Housing Opportunities Policy. Ms. Pietrowski noted that there is no proposed change in the number of affordable/workforce units that will be provided and no other proposed changes to the adopted proffers or master plan.

Ms. Pietrowski stated that staff finds that the proposed amendment would not negatively impact the development and would ensure consistency with the Board's policy on affordable housing. Ms. Pietrowski stated that staff recommends that the Planning Commission recommend approval of the proffer amendment to the Board of Supervisors.

Ms. Bledsoe opened the floor for questions from the Commission.

Mr. Richardson inquired whether the percentages have changed.

Ms. Pietrowski responded that the percentages have not changed.

Mr. Richardson inquired whether the price point would continue to adjust each year.

Ms. Pietrowski responded that the price point would still be updated every year.

Mr. Wright requested clarification on whether the Housing Opportunities policy was revised every year.

Ms. Pietrowski stated that each year the Office of Housing & Community Development reviews the price points that are set for affordable housing units to ensure that they are on par with the current economy.

Mr. Wright inquired whether the percentages of units allocated to those price points would change.

Ms. Pietrowski stated that the percentage of units that should be allocated to those price points does not change.

Ms. Bledsoe clarified that the reason for the amendment was to simplify the process by amending how the proffer language relates to the Housing Opportunities Policy.

Mr. Richardson requested that Mr. Vernon Geddy provide background on the genesis of the proffer amendment.

Mr. Vernon Geddy, Geddy, Harris, Franck & Hickman, stated that 100% of the units were proffered at affordable housing price points. Mr. Geddy stated that while reviewing the project during site plan development, it was found that certain proffer language was inconsistent with the Housing Opportunities Policy and it was necessary to bring the language into conformity with the Board's policy.

Mr. Richardson moved to recommend approval of the proffer amendment.

On a roll call vote the Commission voted to recommend approval of Z-0001-2016, Promenade Proffer Amendment (7-0).

b. Case No. Z-0002-2016, The Village at Candle Station Proffer Amendment

Mr. José Ribeiro, Senior Planner II, stated that Tim Trant, of Kaufman & Canoles, has submitted a request to amend Proffer No. 4 of the adopted Proffers for the Village at Candle Station. Mr. Ribeiro stated that the Village at Candle Station was approved for construction for up to 208 dwelling units and self-storage units. Mr. Ribeiro stated that during the course of site plan review, staff and the developer realized the proffer language was, in certain respects, inconsistent with the requirements of the Housing Opportunities Policy. Mr. Ribeiro stated that the proposed proffer amendment would align the Proffers with the Housing Opportunities Policy by removing the full narrative of the existing proffers and simply providing that the units shall be provided consistent with the Housing Opportunities Policy as adopted by the Board of Supervisors. Mr. Ribeiro stated that there will be no change in the number of affordable/workforce units that will be provided and no other proposed changes to the adopted proffers or master plan.

Mr. Ribeiro stated that staff finds that the proposed amendment would not negatively impact the development and would ensure consistency with the Board's policy on affordable housing. Mr. Ribeiro stated that staff recommends that the Planning Commission recommend approval of the proffer amendment to the Board of Supervisors.

Ms. Bledsoe requested confirmation that this amendment is identical to the previous case.

Mr. Ribeiro confirmed.

Mr. Richardson inquired whether the language in the proffers was too specific and the amendment would allow for more flexibility to conform to the Housing Opportunities Policy.

Mr. Ribeiro confirmed that the proffer language was much more specific than the Board's policy.

Mr. Wright moved to recommend approval of the proffer amendment.

On a roll call vote the Commission voted to recommend approval of Z-0002-2016, The Village at Candle Station Proffer Amendment (7-0).

7. **PLANNING DIRECTOR'S REPORT**

Mr. Paul Holt stated that in addition to the information provided in the Planning Commission packet he wanted to provide updates on two items.

Mr. Paul Holt stated that the Commission should have noted a change to the format of the staff report. Mr. Paul Holt stated that this was an effort to make the staff report a more effective communication tool for the Commission and the Board and to align the staff report with available technology. Mr. Paul Holt requested that the Commission provide feedback on the new format.

Mr. Paul Holt stated that the Commission had been provided with the tentative calendars for 2016 and 2017. Mr. Paul Holt noted that the Regular meetings remained on the first Wednesday of each month at 7 p.m. and that the Special Meeting would be the third Monday in March at 6 p.m. Mr. Paul Holt stated that the Special Meeting serves as the Organizational Meeting and the public hearing on the CIP projects. Mr. Paul Holt further stated that the calendars for the Policy Committee and the DRC remain on the same cycle. Mr. Paul Holt requested that the Commission consider whether any changes to the calendar might be necessary and noted that the calendar would be adopted at the Organizational Meeting. Mr. Paul Holt noted that the calendar would be adopted for one year out and that the second year was for placeholder and planning purposes.

Ms. Bledsoe inquired about the date for the upcoming Special Meeting.

Mr. Paul Holt stated that it was March 21 at 6 p.m.

Mr. O'Connor stated that he had the opportunity to address a class at the law school and they had inquired how the County views the tiny house movement. Mr. O'Connor noted that many of the tiny houses are on wheels and do not have fixed plumbing similar to recreational vehicles.

Mr. Paul Holt noted that there are two versions and it depends on how they are manufactured.

Mr. O'Connor stated that he wanted to bring the question to the attention of staff and the Policy Committee since it might be a subject worthy of further discussion.

Mr. Paul Holt stated that there are several variations for tiny homes. Mr. Paul Holt stated that the stick built homes are an easy determination since there is no minimum square footage requirement. Mr. Paul Holt stated that those that are manufactured as a recreational vehicle (RV) are more problematic because the zoning ordinance does not permit an RV to be used as a residence. Mr. Paul Holt further noted that there are also individuals who are interested in retrofitting steel shipping containers as homes as well as for creative storage solutions and even for farming. Mr. Paul Holt stated that these new to market ideas are moving across the nation and it will not be long before they come to James City County.

Mr. O'Connor stated that it might be helpful to consider adding the subject to upcoming work plans.

Ms. Bledsoe stated that this would be considered as a request for future discussion on the matter.

8. **COMMISSION DISCUSSION AND REQUESTS**

Ms. Bledsoe officially welcomed Mr. Danny Schmidt to the Commission.

Ms. Bledsoe stated that the next Strategic Plan Advisory Group would meet on March 7 at 4 p.m.

Ms. Bledsoe stated that Mr. Wright would be the representative to the Board of Supervisors in March and Mr. Basic in April.

Ms. Bledsoe remind the Commission that the Special Meeting would be March 21 at 6 p.m.

Mr. Wright stated that in light of the General Assembly legislation regarding short-term home rental, he believed that the County should be prepared to consider this matter quickly.

Mr. Krapf inquired about time being advertised for the CIP public hearing.

Mr. Paul Holt stated that the advertisements would run on the same schedule as the regular Planning Commission meeting and that the meeting would begin at 6 p.m. Mr. Paul Holt stated that the public hearing would immediately follow the Organizational Meeting.

Ms. Bledsoe stated that the CIP timeline seems to be working well, especially in relation to the project applications form the WJCC School System.

Mr. O'Connor recommended that the Commissioners look at the rehabilitation of the old motel on Richmond Road as it is being repurposed to become part of Cretney Classic Car Care. Mr. O'Connor stated that he likes to see rehabilitation and repurposing of older or dilapidated buildings.


Mr. Paul Holt reminded the Policy Committee that there would be a meeting on March 3 at 4 p.m.


9. **ADJOURNMENT**

Ms. Bledsoe called for a motion to adjourn.

Mr. Wright moved to adjourn.

The meeting was adjourned at approximately 8:49 p.m.


Robin Bledsoe, Chairwoman


Paul D. Holt, III, Secretary