

**MINUTES**  
**JAMES CITY COUNTY PLANNING COMMISSION**  
**REGULAR MEETING**  
**County Government Center Board Room**  
**101 Mounts Bay Road, Williamsburg VA 23185**  
**January 6, 2021**  
**6:00 PM**

**A. CALL TO ORDER**

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

**B. ROLL CALL**

**Planning Commissioners Present:**

Jack Haldeman  
Rich Krapf  
Tim O'Connor  
Frank Polster

**Planning Commissioners Participating Remotely:**

Julia Leverenz  
Rob Rose

**Staff Present:**

Paul Holt, Director of Community Development and Planning  
Max Hlavin, Deputy County Attorney  
Tori Haynes, Senior Planner  
Tom Leininger, Senior Planner

Mr. Holt noted that in accordance with the Planning Commission's adopted Policy, Mr. Rose is participating remotely from his home this evening due to a medical condition that prevents physical attendance.

Mr. Holt noted that In accordance with the Planning Commission's adopted Policy, Ms. Leverenz is also participating remotely from her home this evening due to a medical condition that prevents physical attendance.

**C. PUBLIC COMMENT**

Mr. Krapf opened Public Comment.

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

**D. REPORTS OF THE COMMISSION**

Mr. Jack Haldeman stated that the Development Review Committee (DRC) met on October 21, 2020, to review C-20-0079. Forest Heights Phase III. Mr. Haldeman

stated that the submitted plan includes several changes which differ from the approved Master Plan including changes to the location of parking, the location of several townhouses, and the size and scale of stormwater management facilities. Mr. Haldeman stated that overall staff does not find the proposal consistent with the Master Plan. Mr. Haldeman further stated that the applicant has appealed the staff determination to the DRC to determine Master Plan consistency. Mr. Haldeman stated that the applicant showed that the changes were necessary to avoid construction of a large and potentially expensive retaining wall. The Committee unanimously found the application to be consistent with the Master Plan with the condition that the applicant would work with staff to replace 50% of the lost parking spaces.

Mr. Frank Polster stated that the Policy Committee met on December 10, 2020, to review ORD-20-0017, Consideration of Amendments to the Zoning Ordinance to Consider Contractors' Offices and Storage in Planned Unit Development District - Commercial. Mr. Polster stated that at its November 10, 2020 meeting, the Board of Supervisors adopted an Initiating Resolution to consider the addition of contractor offices and storage as a use in the Planned Unit Development - Commercial (PUD-C) District. Mr. Polster further stated that prior to approval of the resolution, the Board encouraged staff to evaluate the outdoor operation element of the use to ensure minimal visual impacts in the district.

Mr. Polster stated that staff presented three options addressing the outdoor operation element. Mr. Polster further stated that the Committee came to a consensus on Option Three and requested that staff develop language that addressed proximity to residential areas and roadways, requirements for a landscape buffer, and potential performance standard for the Committee to review at its January 2021 meeting.

#### **E. CONSENT AGENDA**

1. Minutes of the October 7, 2020, Regular Meeting
2. Minutes of the October 27, 2020, Joint Work Session with the Board of Supervisors
3. Development Review Committee Action Item: C-20-0079 Forest Heights Phase III

Ms. Barbara Null made a motion to approve the Consent Agenda.

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

#### **F. PUBLIC HEARINGS**

1. **Z-19-0013/MP-19-0011. Colonial Heritage Deer Lake Rezoning and Master Plan Amendment**

Mr. Krapf called for disclosures from the Commission.

Ms. Barbara Null stated that due to her ownership of property at 6419 Isabella Drive, she has a personal interest in Z-19-0013/MP-19-0011. Ms. Null stated that her personal interest is the same as other property owners in the Colonial Heritage neighborhood and Mixed-Use Zoning District where all are similarly affected. Ms. Null stated that she is able to participate in the consideration of these cases fairly, objectively, and in the public interest.

Mr. Haldeman and Mr. Krapf noted that they had conversations with Mr. Davis, Attorney for the applicant.

Mr. O'Conner stated that he spoke with the applicant.

Ms. Leverenz stated that she exchanged email with Mr. Davis.

Ms. Tori Haynes, Senior Planner, stated that Mr. Greg Davis of Kaufman and Canoles, P.C. has submitted an application on behalf of Lennar to rezone approximately 220 acres from A-1, with Proffers and Rural Cluster Special Use Permit (SUP), to Mixed Use, with Proffers. Ms. Haynes stated that the rezoning request proposes 150 single-family age-restricted units which would become part of the Colonial Heritage Homeowners Association (HOA). Ms. Haynes stated that the area is currently located within the Primary Service Area (PSA) and is designated Low Density Residential on the 2035 Comprehensive Plan Land Use Map.

Ms. Haynes stated that the 220 acres proposed to be rezoned is currently known as Deer Lake Estates and is approved as a specially permitted rural cluster consisting of 50 single-family lots. Ms. Haynes further stated that as currently approved, Deer Lake Estates is associated with Colonial Heritage, but would function as its own distinct neighborhood, with its own HOA and a dedicated access point from Jolly Pond Road. Ms. Haynes stated that in its current form, Deer Lake Estates is not age-restricted and has no internal connections to Colonial Heritage proper.

Ms. Haynes stated that of the 220 acres proposed to be rezoned, approximately 100 acres on the northern side of the property would be placed under conservation easement. Ms. Haynes further stated that the proposal also includes an 8-acre parcel to be dedicated to the Colonial Heritage HOA for recreational purposes. Ms. Haynes stated that access to the 150 units would be through the internal private road system, and there would be no permanent direct access to Jolly Pond Road.

Ms. Haynes stated that associated amendments to the existing Colonial Heritage Master Plan and proffers are also proposed as part of this rezoning request. Ms. Haynes stated that the amendments will incorporate the Deer Lake Estates property into the Colonial Heritage Master Plan as a new land bay. Ms. Haynes stated that the amendments will bring the Master Plan into conformance with current Ordinance requirements which did not exist at the time of the previous approval in 2004. Ms. Haynes further stated that the

overall caps of 2,000 residential units and 425,000 SF of commercial building area will remain the same.

Ms. Haynes stated that the applicant has proposed to amend and restate the existing 2004 proffers such that they will apply to both existing Colonial Heritage, as well as the proposed Deer Lake Estates property. Ms. Haynes stated that the applicant has also proffered new conditions to ensure: additional traffic improvements along Richmond Road to mitigate impacts identified in the updated traffic study related to the commercial development, conveyance of the 8-acre parcel to the HOA for additional amenities, conveyance of the 100-acre conservation easement to the County, an overall maximum residential cap of 2,000 units, and assurances for the construction phasing plan as required in the Mixed Use District Ordinance.

Ms. Haynes stated that staff notes that the construction phasing plan proposed is not completely consistent with the current construction phasing policy; however, staff also takes into account that the current development pattern is in accordance with existing approvals, which did not have a phasing component. Ms. Haynes stated that because the original traffic study is over five years old, current policies required an updated traffic study as part of this application, which was submitted and reviewed by the Virginia Department of Transportation (VDOT) and a third party traffic consultant. Ms. Haynes stated that it was found that the residential units proposed for Deer Lake Estates would not produce impacts that require additional mitigation on public rights-of-way; however, additional traffic improvements were recommended at the intersection entering the commercial land bay, which is Land Bay VI, from Richmond Road. Ms. Haynes stated that this intersection is currently signalized and also serves as an entrance into Williamsburg Pottery. Ms. Haynes stated that items recommended for improvement include: extension of the inbound merge lane entering Land Bay VI, temporary discontinued use of a westbound left-turn-lane on Richmond Road, with reinstallation when warranted, and extension of the existing westbound turn lanes on Richmond Road if commercial development in Land Bay VI exceeds a certain amount of trips or roughly 350,000 SF of commercial area.

Ms. Haynes stated that the applicant has proposed proffers for traffic improvements at this intersection which were reviewed by the traffic consultant, and found them to adequately address these items.

Ms. Haynes stated that because the overall 2,000 unit cap will not change, and the 2004 proffers will continue to apply, staff finds that the proposed rezoning for 150 residential age-restricted units will not generate additional public impacts requiring mitigation and is consistent with the 2035 Comprehensive Plan. Ms. Haynes further stated that traffic impacts related to the commercial land bay per the updated traffic study have been adequately mitigated through the proposed proffers. Ms. Haynes stated that staff also finds that the amendments to the Master Plan result in a more conforming development overall.

Ms. Haynes stated that with these considerations in mind, staff recommends that the Planning Commission recommend approval of the application and acceptance of the voluntary proffers to the Board of Supervisors.

Mr. Krapf opened the Public Hearing.

Mr. Greg Davis, Kaufman & Canoles, P.C., representing the applicant made a presentation to the Commission in favor of the application.

Ms. Null stated that her concern about the application is that there is only one access point for the entire development.

Mr. Davis stated that the applicant is not opposed to an access point on Jolly Pond Road. Mr. Davis noted that the entrance remaining is a construction and emergency access easement which will be paved and available for use in an emergency. Mr. Davis further noted that the applicant would be agreeable to an entrance if the Commission were to make it part of the recommendation to the Board of Supervisors.

Ms. Null stated that it would need to be a secure entrance accessed with a key card.

Mr. Haldeman inquired if the anticipated build-out was feasible.

Mr. Davis stated that there is a cap of 2,000 units. Mr. Davis stated that this is achievable. Mr. Davis stated that there is sufficient land and housing product. Mr. Davis further stated that the demand in Colonial Heritage is still for a single-family product but a much smaller product. Mr. Davis noted that if the applicant stayed with the current single-family product, the build-out would be closer to 1,700 units.

Mr. Haldeman inquired if the applicant would consider lowering the unit cap.

Mr. Davis stated he does not believe that the development will reach the unit cap; a change in density is not something that can be done without careful cost analysis.

Ms. Leverenz inquired if there would be an opportunity to revise the Master Plan for the villa product if this application is not approved.

Mr. Davis stated that it would be possible to adjust the Master Plan; however, the development would not reach the same unit count by simply making the homes smaller as it would with Deer Lake Estates being annexed to Colonial Heritage.

Ms. Leverenz stated that with the 2035 Land Use Applications, the applicant was questioned specifically about whether incorporating the Deer Lake Estates

area in the PSA could result in an increase in density or additional rezonings. Ms. Leverenz stated that the applicant indicated that there would be no further rezonings or increase in density. Ms. Leverenz inquired what had changed for this application to come forward.

Mr. Davis stated that by extending the PSA to the Deer Lake Estates parcel, it allowed the applicant to eliminate the central well and septic requirements since public water and sewer service exists in that area. Mr. Davis further stated that even without the age restrictions, large lot homes have become difficult to market, and this change would benefit the County and the applicant.

Ms. Leverenz inquired about the proposal's impact on HOA dues.

Mr. Davis stated if the 2,000 units were built out without the annexation of Deer Lake Estates, there would be additional homeowners and additional dues. Mr. Davis noted that, as previously mentioned, it is unlikely that the development will reach number of units, particularly without Deer Lake Estates.

Mr. O'Connor inquired if the applicant would move forward with developing the 50 single-family homes.

Mr. Davis confirmed that it would be developed.

Mr. O'Connor requested that Mr. Davis address some of the citizen concerns about the adequacy of the internal road network.

Mr. Davis stated that based on the results of a traffic engineering review, residents on Isaac Circle would not be impacted by build-out of additional units including Deer Lake Estates.

Dr. Rose requested further clarification on the HOA dues.

Mr. Davis stated that the HOA budget should not increase since there are few additional amenities required. Mr. Davis further stated that dues could potentially be reduced since there would be additional dues coming in without corresponding expenditures.

Dr. Rose inquired if the projected positive fiscal impact was an assumption that all the units would be purchased by individuals who do not already reside in the County.

Mr. Davis stated that the figures are based on the taxes paid on these residences that would more than offset the costs associated with providing services such as EMS, Police, Fire, Parks & Recreation, etc.

Mr. Krapf requested clarification on the number of opportunities available for Colonial Heritage residents meet with Lennar regarding the project and if citizen comments were prohibited because the microphones were muted.

Mr. Wes Dollins, Director of Operations, Lennar Homes, stated that in October 2019, he wrote a detailed letter to the residents, along with communication via the Neighbor to Neighbor handout. Mr. Dollins stated that approximately eight responses were received from that initial effort. Mr. Dollins further stated that five HOA Board meetings were held which had a dedicated time for developer updates. Mr. Dollins noted that one of those meetings took place in January 2020 in person. Mr. Dollins stated that there is a public comment agenda item where residents are encouraged to participate. Mr. Dollins stated that microphones are not muted for that agenda item; however, they are muted for the remainder of the meeting.

Ms. Leverenz inquired about the land reserved for future amenities and the impact on HOA fees if amenities were developed.

Mr. Dollins stated that the reserved area was put in place to accommodate future needs. Mr. Dollins further stated that it was difficult to assess the impact on HOA fees; however, it was unlikely that the HOA would want to increase HOA fees.

Ms. Leverenz inquired if the HOA would be financially responsible for any improvements.

Mr. Dollins confirmed that the HOA would bear the financial responsibility.

Mr. Jesse Young, Vice President of Virginia Health Services, addressed the Commission in support of the application.

Ms. Sharon Whitt, 6935 Chancery Lane, addressed the Commission in support of the application.

Ms. Jane Potter, 6815 Blakemore Terrace, addressed the Commission in support of the application.

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

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

Mr. Krapf noted that the Commission should evaluate whether it wishes to recommend approval with the addition of the Jolly Pond Road entrance or recommend approval as submitted.

Mr. Polster stated that when the plan was initially submitted to the DRC as a Conceptual Plan, he had concerns about response time for emergency vehicles. Mr. Polster stated that he was pleased to see the emergency entrance included

in this version of the plan. Mr. Polster further stated that he appreciated the acreage being put into a conservation easement around the lake to mitigate current and future impacts to the watershed. Mr. Polster stated that there was a lot of thought put into handling the terrain, stormwater, and location of the homes. Mr. Polster stated that he intends to support the application.

Ms. Null stated that she has concerns about supporting the application unless there is a resident entrance on Jolly Pond Road.

Dr. Rose inquired about the area noted for endangered plants.

Mr. Polster stated that when endangered plants are found, an area around them must be isolated and protected.

Mr. O'Connor inquired if Ms. Null was looking for an exit only on to Jolly Pond Road.

Ms. Null stated that she was looking for a controlled entrance and an exit on Jolly Pond Road.

Ms. Leverenz stated that she has concerns about the application from the standpoint that in 2015, the applicant stated that the density would not be increased. Ms. Leverenz further stated that she does not see a compelling reason for the County to approve the application. Ms. Leverenz further stated that she does like the conservation easement; however, she does not like the increased number of units, the potential impact on Centerville Road and Richmond Road, and the potential impact on the homeowners. Ms. Leverenz stated that she is not inclined to support the application.

Mr. Krapf stated that he is looking at the application as it related to the Comprehensive Plan and surrounding zoning. Mr. Krapf stated that one compelling point is that the land disturbance for 15 large lots or 150 smaller lots is the same. Mr. Krapf noted that the extra acreage going into a conservation easement is definitely a positive point. Mr. Krapf stated that he could support the application as submitted or with an entrance/exit on Jolly Pond Road.

Mr. O'Connor stated that he is not in favor of adding an entrance on Jolly Pond Road; however, he recognizes the validity of resident concerns. Mr. O'Connor noted that one benefit of the application that had not been discussed, is the eight acres set aside for amenities, since most of the amenities are currently located near the front gate. Mr. O'Connor further stated that in weighing the current application against the previous plan, the current proposal is a much better product.

Mr. O'Connor made a motion to recommend approval the application with the understanding that the applicant will amend the proffers to include an entrance/exit on Jolly Pond Road.



On a roll call vote, the Commission voted to recommend approval of Z-19-0013/MP-19-0011. Colonial Heritage Deer Lake Rezoning and Master Plan Amendment with the understanding that the applicant will amend the proffers to include an entrance/exit on Jolly Pond Road. (6-1)

**2. Z-20-0005. Powhatan Terrace Proffer Amendment**

Ms. Tori Haynes, Senior Planner, stated that Ms. Brandie Weiler of Housing Partnerships has submitted a request to amend the adopted proffers for Powhatan Terrace, located at 1676 Jamestown Road.

Ms. Haynes stated that Powhatan Terrace was originally approved by the Board of Supervisors in 2008 as a cluster development consisting of 36 townhome units. Ms. Haynes further stated that at that time all units were intended to be offered for sale. Ms. Haynes stated that a proffer amendment was approved in 2017 to allow the rental of units, and another proffer amendment was approved in 2019 to allow for inclusion in the Low Income Housing Tax Credit (or LIHTC) program.

Ms. Haynes stated that the applicant is currently proposing to amend the following proffers:

- Numbers 2, 8, and 15 to clarify property maintenance obligations and responsibilities of the property owner while in a rental situation, in lieu of or prior to the creation of an owners association. Ms. Haynes noted that these items relate to maintenance and funding of stormwater facilities, playgrounds, parking, and roads, as well as implementation of nutrient management plans.
- Number 4 to reflect the cash proffer reduction incentive as specified in the Housing Opportunities Policy (HOP), which allows for reduced expectations of cash proffers for units targeted at affordable and workforce housing. Ms. Haynes stated that specifically, this is units targeted to households meeting 30-60% Average Median Income (AMI) are eligible for a cash proffer reduction of 100% per unit. Ms. Haynes noted that these reductions apply to contributions associated with impacts to schools, water/sewer, and other capital improvements. Ms. Haynes stated that staff notes that the cash proffer for offsite stream restoration remains, as this is not covered under the HOP incentive.
- Number 13 to change the green building standard from Earth Craft to the Energy Star Program. Ms. Haynes stated that per the applicant, the currently proffered Earth Craft certification has become obsolete in Virginia, and so they are now proposing to achieve a green building standard through the Energy Star Multifamily New Construction Program, and will incorporate all items required to meet the baseline performance standards established by the Residential Energy Services Network (RESNET).

- Number 17 to clarify future monitoring and mitigation requirements related to onsite gas contamination. Ms. Haynes stated that the original proffer required the removal of underground storage tanks. Ms. Haynes stated that it is staff's understanding that the tank removal has already occurred, and it was found that gas contamination was identified in the soils onsite. Ms. Haynes stated that the Department of Environmental Quality (DEQ) was involved and they did require additional site testing and mitigation, and monitored these activities until satisfied that no further action was needed at this time. Ms. Haynes stated that the DEQ did issue a closing letter stating conditions under which further investigation would be necessary. Ms. Haynes stated that the DEQ's determination was based on the findings of the environmental consultant, Bay Environmental, who oversaw the site testing and mitigation. Ms. Haynes stated that the final report by Bay Environmental includes recommendations for mitigation of future site work. Ms. Haynes further stated that the revised proffer language now includes requirements to adhere to the conditions and recommendations outlined by DEQ's closing letter, and Bay Environmental's final report.
- And finally, Number 19 to reflect that all units will be offered for rent at the 30-60% AMI range for a period of at least 30 years in compliance with the LIHTC Program and as specified in HOP for cash proffer reduction eligibility.

Ms. Haynes stated that for proffers related to property maintenance or reserve funding for items like stormwater facilities, roads, and similar, staff finds that the proposed amendments better clarify obligations and responsibilities of the property owner while under a rental situation, but still maintains the current requirements for a future owners association, should that ever occur.

Ms. Haynes stated that for proffers related to HOP and cash contributions, staff finds that the proposed language better clarifies adherence to the HOP policy, and confirms eligibility for cash proffer reductions.

Ms. Haynes stated that for the green building standard, staff finds that the Energy Star program is an acceptable alternative to the Earth Craft program, and better clarifies triggers for submitting program specifications and certification.

Ms. Haynes stated that for the proffer addressing the removal of the underground storage tanks, staff finds that proffering compliance with the conditions and recommendations specified by DEQ and in the environmental report provides more specificity than the original proffer language for future monitoring of the site and strengthens mechanisms for enforcement.

Ms. Haynes stated that with these considerations in mind, staff finds the proposal to be compatible with surrounding development and consistent with the adopted Comprehensive Plan. Ms. Haynes stated that staff recommends

that the Planning Commission recommend approval of this application and acceptance of the amended proffers to the Board of Supervisors.

Mr. Krapf called for disclosures from the Commission.

Mr. Krapf stated that he had spoken with a member of the Housing Partnerships, Inc. Board for clarification on the application.

Ms. Leverenz stated that she had also spoken to Ms. Wertman.

Mr. Haldeman stated that he had an email exchange with Ms. Wertman.

There were no additional disclosures.

Mr. Krapf opened the Public Hearing.

Ms. Ginny Wertman, Board member, Housing Partnerships, Inc., 112 Southern Hills, addressed the Commission in support of the application.

Mr. Haldeman stated that he intended to support this application. Mr. Haldeman inquired if there was a reason the applicant did not apply to amend the cash proffers along with their 2019 application.

Mr. Steve Romeo, Board member, Housing Partnerships, Inc., 115 Tides Run, reminded the Commission that the HOP was not yet in place at the time of the last application.

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

Mr. Polster stated that he was thrilled to see the 30-60% AMI change along with this application. He stated that he intends to support the application.

Mr. Rose stated that he intends to support the application as well. Mr. Rose also stated that the audio was cutting in and out.

Ms. Leverenz stated that the audio was cutting in and out for her as well.

Mr. Holt asked that Commission members speak directly into their microphones to ensure they broadcast out.

Ms. Null made a motion to recommend approval of Z-20-0005 with an acceptance of the amended proffers.

On a roll call vote, the Commission unanimously voted to recommend approval of Z-20-0005. Powhatan Terrace Proffer Amendment. (7-0)

**3. SUP-20-0018. 8251 Richmond Road Hertzler and George Landscaping**

Mr. Tom Leininger, Senior Planner, stated that Mr. Ryan Stephenson of AES has applied on behalf of Mr. Joe Hertzler for a Special Use Permit (SUP) for a contractor's office and associated storage yard at a property located at 8251 Richmond Road. Mr. Leininger stated that the property is zoned A-1, General Agriculture, designated General Industry on the 2035 Comprehensive Plan Land Use map, and is located inside the PSA.

Mr. Leininger stated that the proposed contractor's office and storage yard would utilize 4.97 acres of the 29.72 acre parcel. Mr. Leininger further stated that this proposal would convert the existing structures on site as office space and add parking. Mr. Leininger stated that the proposal includes a gravel laydown and storage yard behind the existing structures, along with a maintenance building. Mr. Leininger noted that previously, the property was used as office space for LifePointe Christian Church.

Mr. Leininger stated that conditions have been included to reduce impacts to the adjacent residential properties. Mr. Leininger stated that these conditions include limitations on light pole heights, widened landscape buffers and increased evergreen requirements to screen the facility.

Mr. Leininger stated that staff finds this proposal to be compatible with surrounding development and consistent with the 2035 Comprehensive Plan and Zoning Ordinance. Mr. Leininger stated that staff recommends that the Planning Commission recommend approval of this application to the Board of Supervisors, subject to the proposed conditions.

Mr. Krapf called for disclosures from the Commission.

Mr. Rob Rose stated that he serves on the Board of the Historic Virginia Land Conservancy with Mr. Hertzler. Mr. Rose stated that he did not foresee this preventing him from remaining unbiased.

There were no additional disclosures.

Ms. Null asked if there was a rear entrance to the property.

Mr. Leininger stated that the rear of the property is against the CSX Railroad.

Ms. Null asked to clarify that there was no impact on the residential properties behind the railroad.

Mr. Leininger stated that was correct.

Mr. Frank Polster asked if there were any concerns from Stormwater and Resource Protection (SRP) regarding drainage with the addition of a storage area on the Master Plan.

Mr. Leininger stated that he would defer to the applicant to answer. Mr. Leininger stated that it would depend on how the area was graded and that SRP had not yet had a chance to review the latest version of the Master Plan.

Mr. Holt stated that prior to the addition of the stockpile storage area on the plan there had been a gravel laydown area in the same corner of the site.

Mr. Polster stated that he wanted to be sure that SRP was aware of this area.

Mr. Holt stated that on a previous review SRP had not identified anything out of the ordinary that would not otherwise be taken care of in the Site Plan stage.

Mr. O'Connor asked if at the Site Plan stage the applicant would also take into consideration the elevation change from the proposed roadway down to the Bicast property. He stated it seems to be a terrible drop in a narrow space.

Mr. Leininger stated that the intention was to add structures to address any additional flow onto the Bicast area. Mr. Leininger stated the applicant would be able to answer further as well.

Mr. Krapf opened the Public Hearing.

Mr. Joe Hertzler, owner of Hertzler and George Landscaping, 605 College Terrace, addressed the Commission in support of this application. He thanked the Commissioners for their consideration.

Mr. Hertzler stated that to answer Mr. Polster's previous question, in landscaping they deal with the aftereffects of bad grading frequently and that they intend to ensure the grading is done correctly.

Mr. Ryan Stephenson, AES Consulting Engineer, 5248 Olde Towne Road, stated that AES has looked at the area of concern preliminarily. He stated that they would provide additional information for the Stormwater Division. Mr. Stephenson stated they would pick up every bit of impervious and displaced material shown, including from the levelling off of hills, earth moving, and storm structures placed on the property. He stated all of the material would be picked up and piped to the BMP.

Mr. Polster stated he was concerned as the destination of the piping was unclear in the drawing.

Mr. Stephenson stated the piping would come from the left side and run down towards the Best Management Practice (BMP).

Mr. O'Connor stated his question had also been answered.

Mr. O'Connor stated he is not a fan of placing limitations on businesses. Mr. O'Connor asked if Mr. Hertzler was agreeable to the condition preventing retail sales.

Mr. Hertzler stated that in his 30 years of business they had done \$0 of retail sales. Mr. Hertzler stated that he currently has no intention of tackling a business model that includes retail sales and is agreeable to that condition. Mr. Hertzler stated that he agreed with Mr. O'Connor in that the less constraints on a business the better. He stated that this location is going to open up many opportunities for his business and he would be happy to return for an amendment if plans changed in the future.

Mr. Rose asked if it was a risk for Mr. Hertzler's business that he would have to return for rezoning in the future.

Mr. Hertzler stated that under this SUP he would be able to run his business for the foreseeable future. He stated that if the rezoning is denied that he would still be able to continue running his business. He stated that it was a risk he was willing to take.

Mr. Krapf asked if there were any members of the audience who wished to address this case.

Ms. Dorothy Prowant, adjacent property owner, 8277 Richmond Road, asked what the impact to neighbors would be. She stated that she was concerned about her well and septic systems as well as the additional noise. She stated she was concerned about her privacy with the additional traffic, especially if Mr. Hertzler decided to eventually add retail sales to his business.

Mr. Krapf asked Mr. Leininger to speak to Staff's evaluation of the application regarding neighboring properties.

Mr. Leininger stated they looked at additional landscape businesses that have gone through this process previously and some of the conditions the Board of Supervisors has approved in the past. He stated they looked at the distance from neighboring properties and added an additional buffering condition on just the residential side. Mr. Leininger stated that Staff additionally added a condition for an operation mitigation plan. He stated that within this condition at the Site Plan stage the applicant has been asked to explain to Staff how they are going to be mitigating possible issues (including dust, noise, hours of operation, roadway impact, and lighting in the storage yard). Mr. Leininger stated that due to this property being zoned A-1 they will not be able to meet setbacks, so if they were to tear down the building/existing structures they would have to move them further back to where the property meets minimum lot width. He stated that if they use the existing structures as they are without any improvements or expansion they will be able to use them in their current place.

Mr. Krapf stated that it seems there are a number of conditions in place to protect the surrounding properties from noise, dust, and lighting with the added buffering.

Mr. Holt stated that Staff would be happy to spend some time with Ms. Prowant going over the conditions Staff is proposing to mitigate visual and noise impacts. He stated Staff would ensure there is adequate buffering and screening. He stated that Staff would give Ms. Prowant their contact information to discuss further.

Ms. Prowant stated she still had concerns regarding future retail sales.

Mr. Holt stated that at this time retail sales would not be allowed and if that were to ever change in the future it would need to go through another public hearing and she would receive another letter and opportunity to share her concerns.

Ms. Prowant asked if they would be prevented from planting trees.

Mr. Holt stated that on the contrary, they would actually need to plant quite a few additional trees for supplemental landscaping to create a visual screen for buffering of Ms. Prowant's property.

Mr. Krapf stated that Ms. Prowant should give her contact information to Mr. Leininger to follow up.

Mr. Hertzler stated that he was sorry to meet one of his new neighbors in this setting. He asked Ms. Prowant to give him her contact information as well to go over more of her concerns. He stated that he wanted her to feel like the business would be an addition she would welcome as her neighbor.

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

Mr. O'Connor asked if Mr. Hertzler pursued a rezoning of the property to M-1 would the conditions of the SUP disappear.

Mr. Holt stated that the SUP remains unless voided or amended by the Board of Supervisors.

Mr. O'Connor asked if Mr. Hertzler would have the opportunity to amend the conditions if he wished.

Mr. Max Hlavin clarified that if this was a by-right use in the M-1 Zoning then the SUP conditions would no longer be relevant under the A-1 Zoning.

Mr. O'Connor stated that he thinks this is a good transitional use and would be happy to support the application.

Mr. Haldeman made a motion to recommend approval of SUP-20-0018 and the associated conditions.

On a roll call vote, the Commission unanimously voted to recommend approval of SUP-20-0018. 8251 Richmond Road Hertzler and George Landscaping. (7-0)

**4. SUP-20-0017. Williamsburg Crossing Bruster's Real Ice Cream Amendment**

Mr. Tom Leininger, Senior Planner, stated that Caroline's Creamery Inc., doing business as Bruster's Ice Cream has applied for an SUP to amend previously approved SUP conditions to allow a drive-through lane adjacent to the existing building at 5289 John Tyler Highway. Mr. Leininger stated that the property is zoned B1, General Business, is designated Mixed Use on the 2035 Comprehensive Plan Land Use Map, and is located inside the PSA. Mr. Leininger further stated that the parcel is adjacent to a section of Route 199 that is designated as an urban/suburban Community Character Corridor (CCC) in the 2035 Comprehensive Plan.

Mr. Leininger stated that staff is recommending conditions which are intended to mitigate the impacts of the use on the CCC such as providing additional screening and updating the lighting requirements for the parcel. Mr. Leininger stated that no net loss of buffer area is anticipated.

Mr. Leininger stated that staff finds the proposal to be compatible with the Comprehensive Plan, Zoning Ordinance, and surrounding development, and

recommends that the Planning Commission recommend approval of this application to the Board of Supervisors subject to the proposed conditions.

Mr. Krapf called for disclosures from the Commission.

There were none.

Mr. Krapf opened the Public Hearing.

Ms. Caroline Hamer, owner of Caroline's Creamery Inc., 3034 N. Riverside Drive, addressed the Commission in support of the application. Ms. Hamer thanked Mr. Meadows and the Commission for their time and consideration.

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

Ms. Null stated that she was in favor of helping a small business and that she intended to support the application.

Ms. Null made a motion to recommend approval of SUP-20-0017.

On a roll call vote, the Commission unanimously voted to recommend approval of SUP-20-0017. Williamsburg Crossing Bruster's Real Ice Cream Amendment. (7-0)

#### **G. PLANNING COMMISSION CONSIDERATIONS**

There were no items for consideration.

#### **H. PLANNING DIRECTOR'S REPORT**

##### **1. Planning Director's Report - January 2021**

Mr. Holt stated that he had nothing in addition to what was included in the Agenda Packet.

#### **I. PLANNING COMMISSION DISCUSSION AND REQUESTS**

Mr. Krapf stated that Mr. Polster would be the Commission's representative to the Board of Supervisors for February 2021.

Mr. O'Connor stated that although he has submitted his application for reappointment, this may be his last meeting. Mr. O'Connor expressed appreciation for his colleagues and his time serving on the Commission.

Mr. Haldeman stated that his term also expires at the end of January and that he has submitted his application for reappointment. Mr. Haldeman expressed appreciation for his fellow Commissioners and for staff.



Mr. Polster noted that the Commission should take a look at the parcels adjacent to the Hertzler parcel and determine via the Comprehensive Plan how that area should be developed going forward.

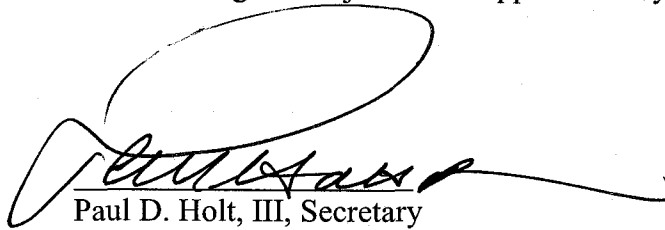
Mr. Krapf noted that this is a Planning Commission Working Group (PCWG) item and requested that Mr. Polster summarize his ideas for discussion at the upcoming PCWG meeting.

**J. ADJOURNMENT**

Mr. Krapf stated that the next meeting of the Planning Commission would be at the January 20, 2021 PCWG meeting and requested a motion to adjourn to that meeting.

Mr. Haldeman made a motion to adjourn to the January 20, 2021 PCWG meeting.

The meeting was adjourned at approximately 7:58 p.m.



Paul D. Holt, III, Secretary



Rich Krapf, Chair