

**MINUTES**  
**JAMES CITY COUNTY PLANNING COMMISSION**  
**REGULAR MEETING**  
**County Government Center Board Room**  
**101 Mounts Bay Road, Williamsburg VA 23185**  
**March 2, 2022**  
**6:00 PM**

**A. CALL TO ORDER**

Mr. Tim O'Connor called the meeting to order at 6:00 p.m.

Mr. O'Connor welcomed Mr. Stephen Rodgers to the Commission.

**B. ROLL CALL**

**Planning Commissioners Present:**

Tim O'Connor  
Rich Krapf  
Jack Haldeman  
Frank Polster  
Rob Rose  
Barbara Null  
Stephen Rodgers

**Staff Present:**

Paul Holt, Director of Community Development and Planning  
Adam Kinsman, County Attorney  
John Risinger, Planner

**C. PUBLIC COMMENT**

Mr. O'Connor opened Public Comment.

As no one wished to speak, Mr. O'Connor closed Public Comment.

**D. REPORTS OF THE COMMISSION**

Mr. Polster stated that the Policy Committee met on February 17, 2022. Mr. Polster further stated that this was the second meeting for the Fiscal Year (FY) 2023-2027 Capital Improvements Program Review (CIP). Mr. Polster stated that the purpose of this meeting was for the Committee to discuss CIP applications with Planning and Financial Management Services staff and provide feedback regarding questions on specific CIP projects with representatives from General Services, Social Services, Stormwater, and Williamsburg Regional Library (WRL).

- **Project E General Services Administration Building and Project Y Covered Parking for Specialty Vehicles & Trailers**

Mr. Polster stated that ms. Joanna Ripley, Assistant Director of General Services and Mr. Shawn Gordon, Chief Civil Engineer General Services provided answers to

Committee members question on future telecommuting of employees, potential impact on currently projected office space requirements, rationale for requirements for the number of proposed waiting areas, conference rooms and training rooms, and updates on solar applications for County facilities. Staff noted that General Services has only 11 that are eligible for intermittent telework, so they did not see space savings. Mr. Polster stated that on the proposed waiting areas and training rooms, the revised space need has combined both staff and field so some of these spaces are both warm up rooms and training rooms that can also be cordoned off for emergencies where they may be used for sleeping quarters for emergency response events. Mr. Polster stated that staff also discussed the proposed installation of solar panels application to both the General Services and Covered Parking projects. Mr. Polster stated that staff is in the process of releasing a Request for Information (RFI) to examine solar applications across County facilities. Mr. Polster noted that solar panel application for the Covered Parking had a 12-year return on investment by reducing the Law Enforcement Center's electric bill the cost of the covered facility was about \$280,000 while the solar application had an estimated cost of \$320,000 Mr. Polster noted that staff wants to look at other options and has included it as part of the RFI.

- **Project ID: Z Human Services Center Renovations**

Mr. Polster stated that the telecommuting issue was raised with this project also. Mr. Polster further stated that because of its team approach, Human Services does not see a large number of their staff telecommuting. Mr. Polster stated that there was some discussion on the consolidation of Human Services, the facilities survey needs to accommodate the projected 2040 workforce, and the extent of the renovation which is mainly driven by the removal of the Old Towne Medical and Dental Center portion of the facility.

- **Project ID F Stormwater CIP**

Mr. Polster stated that the College/Skiffes Watershed Management Plans (WSMP) and the College/Skiffes WSMP Retrofits are the last watersheds to have a WSMP as required by the Comprehensive Plan. Mr. Polster noted that portions of both watershed that are on the Department of Environmental Quality's (DEQ) impaired waters list and the watershed plan will assist in identifying mitigation strategies.

- Mr. Polster stated that the Total Maximum Daily Load (TMDL) Action Plan Updates/Upgrades/Retrofits is part of the renewal of the County's MS4 permit for the next 5-year cycle.
- Mr. Polster stated that the Stream Restoration Project Maintenance/Repairs is requested because each of the past stream restorations require monitoring and some of these facilities are older and will require maintenance.
- Mr. Polster stated that the name of the Route 5 Flood Mitigation Study should be The Flood Study for the Powhatan Creek Watershed since with increasing precipitation there are known flooding issue at Route. 5, News Road, and Longhill Road.
- Mr. Polster stated that the James City County (JCC) Best Management Practice (BMP) Retrofits project is looking at County BMPs that were developed with older standards. Mr. Polster noted that this is a great opportunity for matching funds from the state's Stormwater Local Assistance Fund (SLAF) program to retrofit these older facilities.

- **Project IDs:**

**AA New James City County Library Branch/Alternate New Jointly Funded**

**Library, Project ID**  
**BB James City County Library Playground (Friends of WRL Funded)**  
**C New Grove Library**

Mr. Poster stated that Ms. Betsey Fowler, Director of the WRL responded to the "What is the position of both the City Manager and County Administration on the location of the new James City County Library Branch or Alternate?" Mr. Polster stated that the County was clear that it is not interested in investing in the current library for a fourth renovation and the City of Williamsburg is not interested in participating in a joint facility other than the existing location and held the view that the library is a major economic driver. Mr. Polster noted that the City Manager wants a new library built on the current site and has already put \$8 million the City's CIP fund. Ms. Polster s stated that the County Administrator has had some discussions with the Board of Supervisors members, and is deferring to the Board to explore this option further. Mr. Polster noted that the Library Board voted at its January 2022 meeting that the preferred site is the existing site based on a recent survey of library users. Mr. Polster further noted that the survey highlighted the issue for the need for adequate parking in this location.

Mr. Polster stated that the New Grove Library at 10,000 square feet was discussed and envisioned as a neighborhood library with children's material and popular high-demand items. Mr. Polster stated that the neighborhood library is specifically designed to meet the specific need of that area of several populations. Mr. Polster noted that The Friends of the Library have underwritten a lot of programming in this area like enrichment programs for children and parents; however, even with partnering with the Abram Frink, Jr Community Center and the James River Elementary School. The space is not adequate and there is a need to intensify their outreach but it is limited without additional space. Mr. Polster stated that have been some discussions with the County Administrator and Mr. John Carnifax Director of Parks & Recreation about the idea of co-location of the library with the proposed new Lower County Park. Mr. Polster noted that the James City County Library Playground is an all donor-funded and that the cost to the County was for staff time for the projects since it is on County property.

Mr. Polster stated that the Policy Committee met. on February 24, 2022 for the third meeting on the FY 2023-2027 CIP. Mr. Polster stated that the purpose of this meeting was to allow the Policy Committee to discuss CIP applications with Planning and Financial Management Services staff and provide feedback regarding questions on specific CIP projects with representatives from x Parks and Recreation, Economic Development, and the Williamsburg-James City County Schools (WJCC Schools).

- **Project IDs:**

- M Chickahominy Riverfront Park Campground**

- S Jamestown Beach Event Park Improvements**

- D JCC Marina Phase 2**

- X Warhill Sports Complex Connector Road**

- O Baseball Field Expansion (Warhill Sports Complex)**

Mr. Polster stated that Parks and Recreation Staff addressed a series of questions on the Chickahominy Riverfront Park Campground, Jamestown Beach Event Park Improvements, and JCC Marina Ph 2, Warhill Sports Complex Connector Road, and Baseball Field Expansion (Warhill Sports Complex) that revolved around the improvements, estimated revenue and the possibility of combing projects to realize the reduced cost. Mr. Polster stated that staff outlined the current and expected revenues for these projects. Mr. Polster stated that staff clarified that there are separate projects

for Chickahominy Riverfront Park that required asphalt paving and savings could be realized by consolidating those separate requirements. Mr. Polster noted that staff discussed return on investment and highlighted that the most striking example of return on investment was the relocation and upgrade of the RV Park and Storage at the Chickahominy Riverfront Park. Mr. Polster stated that in FY 21 the Park generated \$670 in revenue of which \$470,000 were camping fees. Mr. Polster noted that the RV Park improvement project is estimated to generate an additional \$75-\$100K. Mr. Polster further noted that over 50% of the Parks & Recreation budget is supported by these types of fees.

- **Project ID: C Business Ready Sites Program**

Mr. Polster stated that staff addressed questions on the Business Ready Site Program which contained four properties which were reviewed by the Virginia Economic Development Partnership (VDEP). Mr. Polster stated that the state reports were for two properties that are owned by James City County: Green Mount Industrial Park and Stonehouse Commerce Park; and two that are privately owned: 9200 Barhamsville Road and Hazelwood Farms. Mr. Polster stated that the report had an engineering and design cost to bring the properties to a Tier 2 level. Mr. Polster stated that based on recent events it appears that the Hazelwood Farm now has a Tier 2 rating, and the County would not invest to bring it to a Tier 3. Mr. Polster further stated that owners of the Hornsby Property have not been contacted to see if they were willing to participate in a Tier 2 effort or the project 50% cost-sharing.

- **Project IDs:**

- **DD JHS Cafeteria School Expansion**

- **EE LHS School Renovation**

- **Project ID: FF Pre-K Space**

Mr. Polster stated that WJCC Schools provided an update on both the Jamestown High School (JHS) cafeteria expansion and the Lafayette High School (LHS) renovation which would create extra capacity for both schools. Mr. Polster stated that with the completion of the Lafayette renovation, rezoning/redistricting would take place to offset the capacity issue forecast for the next six years at Jamestown. Mr. Polster stated that WJCC Schools provided an update on the current capacity of Pre-K at 395 with a dynamic waiting list of around 97. Mr. Polster noted that WJCC Schools addressed the WJCC and JCC funded Anlar report that showed an unserved population of 231 Pre-K students. Mr. Polster stated WJCC Schools also addressed the location and number of PreK buildings question by indicating that they are at the beginning stages of a feasibility study and engineering and design contract to determine the location and number of free-standing Pre-K buildings. Mr. Polster noted that two freestanding Pre-K buildings were discussed with both Boards and might result in three freestanding buildings based on the feasibility study.

Mr. Polster stated that the Policy Committee met on March 2, 2022, for the fourth meeting on the FY 2023-2027 CIP. Mr. Polster stated that the purpose of this meeting was to allow members of the Policy Committee to discuss their final rankings of the FY 23-27 CIP before submitting its recommendation to the Planning Commission for its March 14, 2022, meeting.

Mr. Polster stated that Policy Committee members were generally satisfied with the final ranking of the 31 CIP projects, with one exception being the Open Space Match which had a ranking of 14. Mr. Polster stated that the Committee discussed the application and agreed to move it to the number 10 position.

Mr. Polster stated that three other recommendations were discussed: CC New Grove Area Library, BB James City County Library Playground (Friends of WRL Funded), and AA New James City County Library Branch/Alternate.

Mr. Polster stated that the Policy Committee recommended including a note for Priority 30, the AA New James City County Library Branch/Alternate, that there was not a clear recommendation on the location of the project after attempts over the last two years to make the decision and based on that, the Planning Commission agrees that there is a need for a new library or expanded facility but that the decision on the location for it rests with the Board of Supervisors.

Mr. Polster stated that Policy Committee recommended including a note for Priority 31, BB James City County Library Playground (Friends of WRL Funded), the Committee recommends that the Friends of WRL are funding the design and construction of the project but because it is on County property it will require staff time for the design and the County will assume responsibility for the maintenance of the playground. The concept for the project is a natural playground that looks like a miniature natural landscape. They are sometimes referred to as ecological parks, play parks, or nature parks.

Mr. Polster stated that the Policy Committee recommended including a note for Priority 7, CC New Grove Area Library, that the Planning Commission does not support a stand-alone facility but does support a co-located facility with either the New Lower County Park or the current Abram Frink, Jr. Frinks Community Center and James River Elementary School to continue its outreach programs to the community.

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

1. Minutes of the February 2, 2022 Regular Meeting

Ms. Null made a motion to approve the Minutes of the February 2, 2022 Meeting.

On a voice vote, the Commission approved the Minutes of the February 2, 2022 with Mr. Krapf and Mr. Rodgers abstaining. (5-0)

2. SPLN-21-0002. Parke at Westport

Mr. Polster requested to pull SP-21-0002 from the Consent Agenda for separate discussion.

Mr. Polster inquired if the Stormwater Division concerns over the BMP had been resolved.

Mr. Holt stated that to his knowledge the concerns have been resolved.

On a voice vote, the Commission voted to approve SP-21-0002. Parke at Westport.(7-0)

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

1. SUP-21-0023. Bush Springs Road Extension of Public Water and Sewer Facilities

A motion to Deny was made by Rich Krapf, the motion result was Passed.

AYES: 6 NAYS: 1 ABSTAIN: 0 ABSENT: 0

Ayes: Halderman, Krapf, Null, Polster, Rodgers, Rose

Nays: O'Connor

Mr. O'Connor stated that the applicant has come back to the Commission with additional information. Mr. O'Connor further stated that additional staff is on hand to answer questions regarding the James City Service Authority (JCSA) standards.

Mr. O'Connor stated that the Public Hearing was closed at the last meeting and inquired if the Commission would like to reopen the Public Hearing.

Mr. Krapf made a motion to reopen the Public Hearing.

On a voice vote, the Commission agreed to reopen the Public Hearing. (7-0)

Mr. John Risinger stated that Mr. Jay Epstein has applied for a Special Use Permit (SUP) to allow for the installation of public water and sewer facilities by extending an existing force main and water main within the Bush Springs Road right-of-way from the Bush Springs Road and Toano Woods Road intersection heading south. Mr. Risinger stated that the force main and water main would be further extended within right-of-way proposed to be located on private property owned by the applicant. Mr. Risinger stated that the existing Bush Springs Road right-of-way is zoned A-1 General Agriculture and R-1 Limited Residential and designated Low Density Residential on the 2045 Comprehensive Plan Land Use Map. Properties for the proposed future right-of-way are zoned R-1 Limited Residential and designated Low Density Residential and Rural Lands.

Mr. Risinger stated that following the discussion at the February 2, 2022, Planning Commission meeting, the applicant and County staff have provided additional information for the Planning Commission's consideration. Mr. Risinger stated that the applicant provided a revised project narrative and additional supplemental documentation regarding the project, the costs of connections to public water and sewer in comparison to well and septic systems, and how the project relates to adjacent properties. Mr. Risinger further stated that the JCSA has prepared a memorandum explaining when connections to public water and sewer are required and what the costs of connection are. Mr. Risinger stated that staff notes that the County and the JCSA do not currently have programs for assistance with the costs of connections. Mr. Risinger stated that staff received questions regarding where existing septic systems are located and what would happen if they are damaged during construction. Mr. Risinger noted that the County does not maintain records of drain fields; however, the applicant has provided documentation from the Virginia Department of Health.

Mr. Risinger stated that staff explored the possibility of adding an SUP condition to require that the applicant be responsible for remediation if a drain field was damaged during construction; however, after consultation with the County Attorney's Office, it was determined that this condition was not viable. Mr. Risinger stated that, at the applicant's suggestion, staff explored whether an SUP condition could remove the requirement for adjacent properties to connect. Mr. Risinger stated that after consultation with the County Attorney's Office, it was determined that such an SUP condition would need to explicitly prohibit connections which is not supported by staff.

Mr. Risinger stated that staff finds the proposal to be inconsistent with the recommendations of the adopted 2045 Comprehensive Plan and therefore does not recommend approval of the proposed SUP. Mr. Risinger stated that should the Planning Commission wish to recommend approval, staff has included proposed conditions for consideration.

Mr. Krapf inquired whether the water and sewer connection would convey if the property were sold to another developer.

Mr. Risinger stated that the connection would convey. Mr. Risinger further stated that there is an SUP for the installation to commence within 24 months, absent any requests to extend that timeframe.

Mr. Krapf inquired if it is possible that the end user could ultimately be different from the current applicant.

Mr. Risinger confirmed that the SUP is not tied to a specific development plan or end user.

Mr. Krapf inquired if a Traffic Impact Analysis (TIA) would be required for the property to be developed by right, should the SUP be denied.

Mr. Risinger stated that in the R-1, Limited Residential District, the by-right density is one dwelling unit per acre. Mr. Risinger stated that for a higher density an SUP would be required and the legislative requirements would be applied. Mr. Risinger stated that for a by-right development, the Virginia Department of Transportation (VDOT) would be included in those plans but would likely not require a TIA.

Mr. Polster inquired if, since the public outreach meeting did not take place, any of the additional information assembled by staff or provided by the applicant had been shared with the residents along Bush Springs Road.

Mr. Risinger stated that the information assembled by staff was given to the residents but he would defer to the applicant on those outreach efforts.

Mr. Polster asked why the public outreach meeting was cancelled.

Mr. Risinger stated that he would defer to the applicant on that question.

Dr. Rose inquired about the \$16,000 charge in addition to the cost of connecting to the public utility.

Mr. Doug Powell, General Manager, JCSA, stated that the \$16,000 is for the cost of the grinder pump. Mr. Powell further stated that in areas where the topography is not sufficient for the wastewater to flow naturally, a grinder pump is required to move the waste into the system.

Dr. Rose inquired if the topography of Busch Springs Road was of the nature that the residents would need a grinder pump if they connect to the public utility.

Mr. Powell stated that JCSA staff has determined that most, if not all, of the properties would need a grinder pump.

Dr. Rose inquired about the total cost of connecting to the public utility.

Mr. Powell stated that it would be roughly \$26,000.

Ms. Null stated that the total for one residence to connect to the public utility would average \$28,850. Ms. Null stated that this cost would be burdensome to most property owners. Ms. Null further stated that grinder pumps are notoriously unreliable and would have added repair costs.

Mr. O'Connor inquired about the maintenance of the grinder pumps.

Mr. Powell stated that the property owner is responsible for the maintenance. Mr. Powell further stated that if the grinder pump meets JCSA standards, the property owner can

purchase a maintenance contract from the JCSA. Mr. Powell stated that the cost is approximately \$400 per year and is prorated in the customer's monthly bill.

Mr. Polster inquired about the cost of the sewer line and the central well should the SUP be denied.

Mr. Powell stated that he did not have a cost estimate for the sewer line. Mr. Powell further stated that the cost of installing the sewer line would be the responsibility of the developer. Mr. Powell stated that the cost of installing a central well is approximately \$2 - 2.5 million.

Mr. Polster inquired if the cost of the sewer line would be roughly the same.

Mr. Powell stated that he could not give an accurate answer.

Mr. O'Connor requested clarification of the JCSA limit of 49 units.

Mr. Powell stated that JCSA policy requires a central well above 49 units.

Mr. Mike Youshock, JCSA Chief Engineer, stated that over 49 units a loop system is required and in this case, there is not enough room to construct the loop. Mr. Youshock further stated that for systems over 50 units a central lift station is required.

Mr. Polster requested further clarification on the requirement for a central well.

Mr. Youshock stated that the central well is for development outside the Primary Service Area (PSA). Mr. Youshock further stated that if the waterline is not approved the development will be required to have a central well.

Mr. Youshock confirmed that the cost to install the central well is approximately \$2.5 million.

Mr. Polster inquired about the financial impact on the JCSA when taking on operation and maintenance of the central well.

Mr. Youshock stated that the operational costs create a negative financial impact on the JCSA.

Mr. Steve Rodgers requested that the JCSA summarize the requirement for the central well and the responsibility for installation and maintenance.

Mr. Powell stated that to clarify the response about the sewer line, the gravity system would be required for a development with 50 or more dwelling units. Mr. Powell stated that if there is a central well, it is the developer's responsibility to construct it; once constructed, it is turned over to the JCSA for operation and maintenance.

Mr. Rodgers inquired which was more expensive to operate - the waterline or a central well.

Mr. Powell stated that the central well was more expensive because there were no economies of scale. Mr. Powell further stated that the JCSA operates approximately eight independent systems and all of those lose money.

Dr. Rose inquired how many properties along Bush Springs road might eventually need to connect to the public water and sewer.

Mr. Risinger stated that it is approximately 40 properties; however, not all of the properties have dwelling units on them.



Mr. O'Connor re-opened the Public Hearing.

Mr. Vernon Geddy, Geddy, Harris, Franck & Hickman, LLP, 1177 Jamestown Road, made a presentation to the Commission regarding updates to the application.

Dr. Rose requested confirmation that the estimated cost to install a septic system appears to run between \$8-14 thousand.

Mr. Geddy confirmed.

Dr. Rose asked Mr. Geddy to clarify what the benefits would be to the community.

Mr. Geddy stated that extension of the water and sewer lines would be a benefit for someone who has an irreparable failure of a well or septic field. Mr. Geddy noted that the availability of public water and sewer may also increase property value.

Mr. Polster noted that the developer's cost for the central well is roughly \$2.5 million. Mr. Polster inquired if the cost of other work and equipment such as installation of a grinder pump.

Mr. Geddy stated that it was just the cost of the central well.

Mr. Polster inquired about the total cost of installing everything.

Mr. Epstein stated that his goal is to preserve the trees which is why he prefers not to develop the property with a central well and septic fields. Mr. Epstein confirmed the cost of the central well and further stated that density will have to increase if a central well is installed in order to equalize the cost over the number of units. Mr. Epstein further stated that the cost of a grinder pump is \$8,000. Mr. Epstein stated that the property will be developed no matter what; it can be developed with the benefits of less density and environmental protections with the extension of water and sewer or with a central well resulting in higher density and no benefit of improved property value or fire and life safety benefits with fire hydrants and more attention to the area.

Mr. Polster stated that he was looking for the total cost per lot.

Mr. Epstein stated that it would be around \$60,000 per lot.

Mr. Geddy noted that if developed by-right the number of lots would increase to approximately 90. Mr. Geddy further noted that there would be no need for the grinder pump without the public sewer. Mr. Geddy noted that there would be a cost per lot for the septic fields.

Mr. Polster inquired about the cost to install the water and sewer extension.

Mr. Epstein stated that it would be \$1.8 million.

Mr. Polster noted that the water and sewer extension would be a cost savings.

Mr. Polster stated that he has concerns about the financial impacts for the existing community where many of the wells and drain fields are older and may be at the end of useful life.

Ms. Null noted that, per Mr. Powell's email, property owners could repair failed wells or septic systems but could not drill a new well or install a new drain field.

Mr. Geddy stated that the JCSA could exercise its discretion regarding connections or there

could be an SUP condition specifically prohibiting connection.

Dr. Rose inquired what the average home cost would be for the new development.

Mr. Epstein stated that it would be a minimum of \$500,000.

Dr. Rose requested confirmation of the connection cost for the existing homes on Bush Springs Road.

Mr. Epstein stated that a repaired drain field would be approximately \$14,000 and the connection to the force main would be \$9,000 plus the cost of the tap fee of \$5,000. Other costs would be the installation of pipes to the home and the abandonment of the existing well and drain field.

Mr. Rodgers inquired about the developer's responsibility for repair of damages to existing septic systems.

Mr. Geddy stated that it would be for damage to a septic system which encroaches in the VDOT right-of-way (ROW).

Dr. Rose inquired if there has been any consideration of paying for the Bush Springs Road residents to connect to the public water and sewer.

Mr. O'Connor stated that citizen comments from the last meeting have been recorded among the Minutes for that meeting; however, if anyone who previously spoke has new information, they are welcome to speak at this meeting.

Mr. Jonathan Lemmons, 164 Bush Springs Road, addressed the Commission in opposition to the project.

Mr. Jimmy Smith, 206 Bush Springs Road, addressed the Commission with concerns about the project.

Mr. Charles Brantley, 220 Bush Springs Road, addressed the Commission with concerns about the project.

Ms. Deanna Kubik, 168 Bush Springs Road, addressed the Commission with concerns about the project.

Mr. Clovis Braxton, 230 Bush Springs Road, addressed the Commission with concerns about the project.

As no one else wished to speak, Mr. O'Connor closed the Public Hearing.

Mr. O'Connor opened the floor for discussion by the Commission,

Mr. Krapf stated that he has concerns about the application. Mr. Krapf stated that if this were only a small portion of property outside the PSA, he would not be concerned; however, this parcel is significantly large. Mr. Krapf stated that prior requests to extend the PSA to the property have been denied. Mr. Krapf stated that he has concerns about setting precedents to extending water and sewer outside the PSA based on the environmental benefits of the project. Mr. Krapf stated that if an applicant intends to develop a parcel outside the PSA by-right, then the County must rely on the Comprehensive Plan to have those parameters appropriately established. Mr. Krapf further stated that if this SUP is approved, it runs with the land and could potentially create an extension to the 81 acres should the property be sold to

someone with different development intentions. Mr. Krapf also expressed concern over the existing road infrastructure. Mr. Krapf stated that he is not inclined to support the application.

Mr. Polster stated that the Commission considered a Land Use application for this property during the Comprehensive Plan review and denied the application. Mr. Polster stated that he feels strongly that there was insufficient dialog with the community. Mr. Polster noted that the concerns voiced by the community still have not been addressed. Mr. Polster stated that another concern is the road infrastructure. Mr. Polster stated that the developer is relying on VDOT to prioritize and implement road improvement. Mr. Polster further stated that he is concerned about the financial impact to the community if required due to failure of a well or drainfield, to connect to the water and sewer line. Mr. Polster stated that there is still no clarity on the costs to the citizens. Mr. Polster stated that he is not supportive of the application due to the potential impact on the community.

Ms. Null stated that she is very concerned about the impact of constructing the water and sewer line because the road is so narrow. Ms. Null further stated that it is not in keeping with the Comprehensive Plan to extend water and sewer outside the PSA. Ms. Null stated that she is hesitant to disrupt and inconvenience the community with possible financial burdens and limited use of the road during installation of the water and sewer lines. Ms. Null stated that she will not support the application.

Dr. Rose stated that what has been impressed on him is the difficulty in determining what is right for the property without considering the broader issues. Dr. Rose stated that he realizes the property will be developed; however, it seems to be a poorly considered plan to develop it without making plans to improve Bush Springs Road. Dr. Rose stated that, he also, is unwilling to see the existing community. Dr. Rose stated that he is supportive of building low carbon foot print development; however, he is unable to support this application.

Mr. Rodgers stated that he did review the video of the previous meeting. Mr. Rodgers stated that he concurs with everything stated that other Commissioner have mentioned. Mr. Rodgers stated that by enforcing the PSA, it focuses development in correct area and preserves the character of the County. Mr. Rodgers stated that this would not be just a small encroachment in the PSA. Mr. Rodgers stated that he is not able to support the application.

Dr. Rose noted that by building at the end of Bush Springs Road, it is not just disrupting the neighborhood but making it a pass through.

Mr. Haldeman stated that building homes does not appear to be in the best interest of the entire County, not just the existing neighborhood. Mr. Haldeman stated that it impacts the design standards of Toano and will add to the growing traffic budens. Mr. Haldeman stated that this is a parcel outside the PSA is zoned to accommodate residential development. Mr. Haldeman stated that there will be these contradictory cases until the Zoning Ordinance is updated to address such situations. Mr. Haldeman stated that he is not supportive of the application.

Mr. O'Connor stated that he stated that he agrees that the road is a challenge and there is no requirement for the applicant to make improvements. Mr. O'Connor stated that he struggles with the thought that with the SUP, there would be half the number of homes impacting traffic on the road. Mr. O'Connor stated that the only reason he is somewhat supportive is because of that aspect. Mr. O'Connor stated that he does have concerns about what would happen if the property changed hands and even more homes were developed. Mr. O'Connor inquired if an SUP condition could be developed to limit t he number of homes. Mr. O'Connor stated that for him it is the choice of what will be the lesser impacts.

Mr. Polster and mr. Krapf stated that they spoke with Mr. Geddy prior to the meeting.

There were no other disclosures for this meeting.

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

On a roll call vote, the Commission voted to recommend denial of SUP-21-0023. Bush Springs Road Extension of Water and Sewer Facilities. (6-1)

## **G. PLANNING COMMISSION CONSIDERATIONS**

### **1. Planning Commission and Board of Zoning Appeals 2021 Annual Report**

Mr. Holt stated that the Planning and Board of Zoning Appeals (BZA) Annual Report for 2021, which summarizes the work of the Commission and the BZA has been included in the Agenda materials for the Commission's consideration.

Mr. Holt requested a motion to accept the Annual Report for 2021. Mr. Holt noted that once the BZA considers the Annual Report, it will be forwarded to the Board of Supervisors.

Mr. Haldeman made a motion to accept the Annual Report for 2021.

On a voice vote, the Commission voted to accept the Planning and Board of Zoning Appeals (BZA) Annual Report for 2021. (7-0)

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

### **1. Planning Director's Report - March 2022**

Mr. Holt stated that a draft calendar for 2022-2023 has been provided for the Commission's review. Mr. Holt stated that there might be some small changes to deadlines depending on how those deadlines fall in relation to holidays. Mr. Holt requested that the Commission let him know if there are any questions or concerns about the proposed calendar. Mr. Holt stated that the 2022-2023 calendar would be presented for adoption at the Organizational Meeting on March 14, 2022.

Mr. Holt stated that, as most of the Commission knows, the County is developing a Natural and Cultural Assets Plan that will help identify, evaluate, and prioritize the County's highest value natural resources and cultural assets, and identify opportunities to protect and restore them. Mr. Holt stated that as part of that effort, the County is asking the Community to help review the draft maps of the County's natural and Cultural assets. Mr. Holt noted that the maps include habitat cores, agriculture, forestry, water, recreation, and heritage and cultural resources. Mr. Holt noted that this outreach may also capture resources that are not already on the maps. Mr. Holt stated that the Community is encouraged to participate in the survey either online or via paper copies at the James City County Library.

Mr. Polster noted that there are several short-term rental Conceptual Plans listed on the New Cases Spreadsheet. Mr. Polster inquired if the County Attorney would address the potential for having a sunset clause on short-term rental SUPs.

Mr. Adam Kinsman, County Attorney, stated that it is his opinion that SUPs run with the property and cannot be tied to a particular property owner except in exceptional circumstances where you have a truly temporary use such as a borrow pit.

Mr. Polster stated that his understanding from Mr. Max Hlavin is that it might be possible.

Mr. Kinsman stated that there is a split opinion among local government attorneys on whether sunset clauses are acceptable. Mr. Kinsman stated that legislation brought before the General Assembly specifically seeking to permit sunset clauses has failed which would indicate that the General Assembly does not support the option.

Mr. Kinsman stated that while a BZA can issue an SUP with a sunset clause, the Board of Supervisors cannot. Mr. Kinsman stated that this may be because a BZA is a quasi-judicial body while the Board of Supervisors is not.

Mr. O'Connor inquired if there was a Development Review Committee meeting prior to the March 14, 2022 meeting.

Staff determined that the DRC would not meet prior to the Organizational Meeting.

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

Dr. Rose commented that it would have been prudent for the developer to put funds aside in trust to be used when a resident on Bush Springs Road was required to connect to public water and sewer and raise the price of each home sold to cover it.

Mr. Kinsman stated that he would not recommend that the Planning Commission or the Board of Supervisors make that a condition of approval; however, there would be no difficulty if the developer chose on his own to do so.

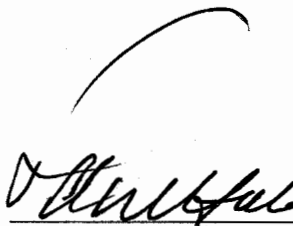
The Commission discussed thoughts on whether the project would be successful without the extension of water and sewer and what the project might look like if the area were developed by-right.

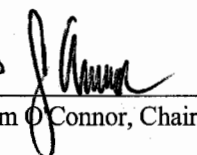
Mr. O'Connor stated that he had coverage of the Board of Supervisors meeting for March.

#### **J. ADJOURNMENT**

Mr. Krapf made a motion to adjourn to March 14, 2022 at 6 p.m.

The meeting was adjourned at approximately 8:14 p.m.

  
Paul D. Holt, III, Secretary

  
Tim O'Connor, Chair