

MINUTES
YORK COUNTY PLANNING COMMISSION
Regular Meeting
York Hall, 301 Main Street
June 12, 2013

MEMBERS

Christopher A. Abel
Alexander T. Hamilton
Melissa S. Magowan
Todd H. Mathes
Timothy D. McCulloch
Richard M. Myer, Jr.
Mark B. Suiter

CALL TO ORDER

Chair Richard M. Myer, Jr. called the meeting to order at 7:00 PM.

ROLL CALL

The roll was called and all members were present with the exception of Mr. Suiter.

PLEDGE OF ALLEGIANCE TO THE FLAG OF THE UNITED STATES OF AMERICA

Chair Myer led the Pledge of Allegiance.

APPROVAL OF MINUTES

Mr. Hamilton moved to adopt the minutes of the work session of April 24, 2013, and the motion was approved (6:0).

Mr. Hamilton moved to adopt the minutes of the regular meeting of May 8, 2013, and the motion was approved (6:0).

REMARKS

Chair Myer stated that the Code of Virginia requires local governments to have a Planning Commission, the purpose of which is to advise the Board of Supervisors on land use and planning issues affecting the County. The responsibility is exercised through recommendations conveyed by resolutions or other official means and all are matters of public record. He indicated that the Commission is comprised of citizen volunteers, appointed by the Board, representing each voting district and two at-large members.

PRESENTATION

Chair Myer said the Commission would like to honor two Commissioners whose second complete terms will expire at the end of June.

Timothy Cross, AICP, Principal Planner, presented a tribute to Commissioners Chris Abel and A. T. Hamilton highlighting their accomplishments during their tenure on the Planning Commission.

Chair Myer presented Mr. Abel and Mr. Hamilton with plaques of recognition for their hard work and contributions to the County.

CITIZEN COMMENTS

Captain Lowell Crow, 904 St. Michaels Court, Chesapeake, Commanding Officer, Naval Weapons Station Yorktown, said he would like to comment on the draft Comprehensive Plan, specifically the existing and proposed Mixed Use overlay designation in the area of Jones Pond training area of Cheatham Annex. He stated that commercial and particularly residential development would not be compatible with critical ongoing training activities taking place in this area. Specifically, he expressed concern about light intrusion and electromagnetic interference. In addition, Captain Crow stated that development in some areas on the south side of Route 199 could be affected by noise and occasional shockwaves associated with Naval Weapons Station's explosive ordnance disposal range. He asked the Commission to support Alternative D, which would limit the opportunity for mixed-use development to the southeast quadrant of the I-64/Route 199 interchange.

Drew Robins, 16 Spring Road, Yorktown, Deputy Public Works Officer, Naval Weapons Station Yorktown, said he would like comment on the draft Comprehensive Plan. He said incompatible development of the property surrounding both the Naval Weapons Station and Cheatham Annex would be damaging to the United States Navy's mission and deployment ability. He stated that the activity in the Jones Pond training area needs a 2,500-foot undeveloped buffer, beyond which the Navy would prefer light industrial use only. He stated that Jones Pond is a unique Navy property in the Mid-Atlantic Region that is isolated in many ways but is still very easily accessible by the training component. Mr. Robins stated the Navy has no concerns about the existing light industrial park but that incompatible development would cause training in this area to stop and the component to go somewhere else. He stated that the Navy would like to continue to use this area for the long term and is actively seeking partner agreements with the property owners in this area. In addition, he noted with regard to future development in the area on the south side of Route 199 that this area borders an active Navy weapons area where the Navy regularly detonates ordnance, causing loud noises and shock waves. He stated that the Navy would like to continue to provide quality employment, emergency services support, and all of the things that are mutually enjoyed by the County and the Navy. Mr. Robins encouraged the County to synchronize the Comprehensive Plan with the needs of the County's largest employer by not including the Mixed Use overlay designation in the area west of Jones Pond. He further encouraged the County to carefully consider any future development plans from Kings Creek Plantation to the Colonial Parkway along Kings Creek. He said the Navy supports Alternative D.

Michael R. Taylor, St. Louis, Missouri, Vice President of Mergers and Acquisitions for Corporate Real Estate for Anheuser Busch, spoke in support of the proposed Mixed Use designation under the Comprehensive Plan as it relates to the Busch property located at Route 199 and Interstate 64. He stated that since 1969, Anheuser-Busch has been developing and investing in Williamsburg and York County, including the brewery, Busch Gardens, Water Country USA, the Marquis Center, the Kingsmill community, and Kingsmill Resort. He stated that for the past five years, Busch Properties has been marketing the property at the corner of Penniman Road and Interstate 64 for sale. Mr. Taylor stated that three years ago he spoke with Navy and expressed his firm's intent to sell the property for mixed-use development that could include some residential use and that no comments were received from the Navy. He stated that earlier this year, a sales agreement was executed with a local developer, Mid Atlantic Communities, based on the assumption that the Mixed Use overlay designation in the Comprehensive Plan would be adopted and that last month the Navy raised concerns about the proposed use without addressing those concerns to Anheuser-Busch directly. Mr. Taylor said he met with Captain Crow last week in an attempt to better understand the Navy's concerns and how they might be mitigated but that no mutually agreeable remedy presented itself. He stated that Anheuser-Busch owns 144 acres of property with a

shared border with the Navy of only 600 feet that is separated by an eight-foot fence with barbed wire at the top. He stated that Anheuser-Busch and its partner, the Mid Atlantic Group, are willing to mitigate impacts as best as they can with additional fencing, low-impact lighting, etc. He stated that Anheuser-Busch supports the military but also believes in land rights. Mr. Taylor stated that Anheuser-Busch has been a good corporate citizen in this community for over four decades and believes the Mixed Use overlay designation will be good for the citizens and will not interfere with the naval operations in any way. Mr. Taylor asked the Commission to approve the Mixed Use overlay designation for these properties.

Lamont Myers, 107 Two Turkey Run, Yorktown, spoke as Manager of Mid Atlantic Communities, which is the contract purchaser of the Anheuser-Busch property. He said he respects the Navy's position and wants to work with them to address their concerns. He said he does not understand why the Navy is concerned about residential usage and not industrial or commercial when residential can generate less noise, less light, and less impact on the entire area. Mr. Myers noted that any plans for the property would have to be reviewed by the Planning Commission for approval and then approved by the Board of Supervisors. He said the developers simply want an opportunity to present the Commission with a proposal, which they would also show to the Navy to get its input. Mr. Myers said this proposal would provide an economic benefit to the area which has been an economic development priority area for York County for some time. He stated that the Navy's requested 2,500-foot buffer would extend all the way to I-64 and prevent any development of the property whatsoever. Mr. Myers requested that the Commission approve the Mixed Use overlay designation for the Busch property to allow for a mixed-use project to be proposed.

Matt Egger, 8505 Horseshoe Lane, Potomac, Maryland, spoke as the owner of the property adjacent to the Jones Pond training area. He requested that the Commissioners reject both the staff's recommendation to reduce the portion of his family's property that is covered by the Mixed Use overlay designation and the Navy's request to completely extinguish the Mixed Use overlay designation on his property. He noted that the staff's proposal is one that has already been considered and rejected in previous meetings and nothing in the original analysis has changed. He stated that the Navy has requested elimination of the Mixed Use overlay designation because of concerns about residential encroachment but that, in fact, he does not believe there is any guarantee of residential encroachment since the Mixed Use overlay designation only gives the right to make a proposal to the Planning Commission and the Board of Supervisors. Mr. Egger referred to the Navy's request for both a 2,500-foot buffer that would encumber over half of the Egger property and for a down zoning of the property beyond the buffer from Economic Opportunity to Industrial. He stated that the Navy is seeking to use the County's land use policies to exact, with no compensation, a burdensome protective easement over his family's property. He said he is willing to work with the Navy but that he wants full fair market value for any development rights he loses and not a diminished value. Lastly, he pointed out that the existing Mixed Use overlay designation has been in effect for the past eight years whereas the Navy has been using the property for training for only the past three years.

Shaun Todd, 4401 West Way, Dallas, Texas, said he was representing the Marquis. He said York County has been great to work with since his firm acquired the Marquis property a few summers ago. He stated that he does not have a position on the controversy surrounding the Mixed Use overlay designation and that he is confident that staff and the Commission will make the best decision for this property.

Stephen Romeo, 115 Tides Run, Yorktown, said he supports the proposed Mixed Use overlay designation for the areas in question. He stated that the area needs residential development to support commercial uses and that he would like that recommendation to be forwarded to the Board of Supervisors.

Application No. PD-35-13, The Reserve at Williamsburg LLC: Request to amend the conditions of approval for The Reserve at Williamsburg Planned Development by eliminating the requirement for front porches as a condition of reducing the minimum front yard setback from thirty feet (30') to twenty feet (20') for townhouses, duplexes, and single-family detached dwelling units. The Reserve at Williamsburg, located at the intersection of Mooretown Road (Route 603) and Reserve Way, is a 63-acre age-restricted senior housing development with a 7.7-acre commercial center approved by the Board of Supervisors September 5, 2006 through the adoption of Ordinance No. 06-18(R). The property, further identified as Assessor's Parcel Nos. 5-18-1, 5-18-2, 5-18-3, 5-18-4, 5-18-5, 5-18-6 and 5-18-7, is zoned PD (Planned Development) and is designated Economic Opportunity in the Comprehensive Plan.

Timothy Cross, AICP, Principal Planner, summarized the staff report to the Commission dated June 5, 2013, in which staff recommends that the Commission forward the application to the Board of Supervisors with a recommendation for approval, with modifications proposed by staff, through the approval of proposed Resolution No. PC13-13.

Mr. McCulloch asked what the current residential occupancy rate is at the Verena Apartments section of The Reserve.

Mr. Cross said he would defer to the applicant on that question.

Mr. McCulloch asked how the proposed density for the townhouse section of the development compares to the density in a standard townhouse community.

Mr. Cross responded that the applicant's plans do not indicate the acreage of the townhouse section so he does not know the density. He noted that the maximum density in the RMF zoning district is ten units per acre and that the townhouse density in The Reserve would likely be under that threshold since the lots are larger than the minimum lot size allowed in the RMF district.

Mr. Hamilton asked if the staff is recommending reducing the minimum front yard setback requirement from 30 feet to 20 feet for townhouses.

Mr. Cross said that was correct, adding that the standard front yard setback for townhouses is 20 feet.

Mr. Hamilton asked if the staff's recommendation for single-family detached houses is to still require front porches but to reduce the minimum size of the porch.

Mr. Cross said that was correct but that they would retain the option to be set back 30 feet and have no front porch at all.

Ms. Magowan said that in 2006 when the Board of Supervisors approved this project it appeared to be with the caveat that there would be front porches, and she asked if front porches were required on every structure including town homes and duplexes.

Mr. Cross responded that front porches were required for single-family detached units and duplexes with a front yard setback of less than 30 feet. He noted that townhouses were not part of the original approval and were added later when the conditions were amended.

Ms. Magowan asked why the Board of Supervisors made the decision to require front porches on units with reduced setbacks.

Mr. Cross responded the Board of Supervisors had a general concern about the reduced setback since the 30-foot setback is standard for single-family detached homes in the County. He added that it also had to do with a desire to promote interaction among neighbors and the fact that the visual impact of a porch extending to within 20 feet of the property line is less than that of a house.

Chair Myer opened the public hearing.

Michael Milhaupt, 21400 Ridgetop Circle, Sterling, Virginia, Executive Vice President of First Centrum, spoke as the applicant and said the project has been under development since 2006. He stated that the developer has an agreement with Ryan Homes to sell them 47 finished single-family lots and 94 finished townhouse lots in The Reserve. In response to Mr. McCulloch's question, he stated the Verena Apartments are approximately 60% occupied and 70% leased, with an average of about 4 units leased per month. He stated that the applicant concurs with the staff recommendation. He stated that First Centrum initially had planned to build all the homes in The Reserve but that it has been difficult to secure the necessary financing, so now they are developing the lots for Ryan Homes to build on. He stated that the lot configuration has changed since 2006 when the developer proposed the 90-square foot porches. He explained that the lots are a little narrower and deeper, and that Ryan Homes wants to incorporate smaller front porches in order to accommodate screened-in porches in the rear. Mr. Milhaupt stated that some of the lots are deep enough to have 30-foot setbacks, in which case there would be no front porches, while others would have the porches and the reduced setbacks. He then introduced Mr. Jeff Ambrose to speak on behalf of Ryan Homes.

Jeff Ambrose, 109 Hurlston, Williamsburg, spoke on behalf of the builder, Ryan Homes. He stated that the current buyer profile for senior housing is that customers place a premium on first-floor and backyard living space with a screened porch or deck in the rear. He added that there is less and less demand for large front porches.

Mr. Hamilton asked if the front yard setbacks would be staggered or uniform.

Mr. Milhaupt responded that some of the lots could accommodate the deeper setback but that he had never discussed it with staff to determine if staggered or uniform setbacks are preferable.

Mr. Hamilton stated that he would prefer to see a uniform setback. He asked if buyers do not want front porches at all or if they just want smaller porches.

Mr. Milhaupt responded that the biggest change in the last seven years is that senior buyers want more first floor square footage and a rear deck or screened porch.

Ms. Magowan said she believes the Board of Supervisors' intent in requiring porches was to promote interaction between the homeowners. She said the residents of the community are better served by having a deck or screened porch off the back of the residence. Ms. Magowan asked what the builder's intent is for duplexes and townhouses and whether they would include decks and screened porches.

Mr. Ambrose said townhouses would have patios in the back of the home, which would not leave enough space for a front porch.

Chair Myer closed the public hearing.

Mr. Mathes said he felt he could support the request.

Mr. McCulloch said he had no concerns about this particular application but that he had a general concern about the mixed-use provisions and whether or not they are used as a way to develop residential dwellings in commercially zoned areas.

Mr. Abel said he had no concerns about the application and is glad this project is moving forward. He also said he prefers staggered setbacks rather than uniform setbacks.

Mr. Hamilton said he prefers uniform setbacks and supports the request.

Ms. Magowan stated that age-restricted communities should not look like communities that are not age-restricted. She said she could support the request as long as the townhouses have decks or screened porches in the rear to help promote interaction among the community.

Chair Myer said he understands the need to maximize the first-floor space for seniors and expressed a general concern about subsequent changes to approved Planned Developments that can give the appearance that the initial plans were not very well thought out in the beginning.

Mr. Hamilton moved adoption of Resolution No. PC13-13.

A RESOLUTION TO RECOMMEND APPROVAL OF AN APPLICATION TO AMEND THE CONDITIONS OF APPROVAL FOR A PREVIOUSLY APPROVED PLANNED DEVELOPMENT (THE RESERVE AT WILLIAMSBURG ON MOORETOWN ROAD) TO MODIFY THE FRONT YARD SETBACK REQUIREMENTS

WHEREAS, the York County Board of Supervisors on September 5, 2006 approved Application No. PD-17-06 to authorize the establishment of a Planned Development consisting of a 63-acre independent living senior housing development with a 7.7-acre commercial center on property located on the east side of Mooretown Road approximately 2,030 feet west of the intersection of Mooretown Road (Route 603) and Waller Mill Road (Route 713) and further identified as Assessor's Parcel Nos. 5-18-1 (GPIN D16c-0176-0313), 5-18-2 (GPIN D16c-0531-0677), 5-18-3 (GPIN D16c-1123-1278), and 5-18-5 (GPIN D16c-1552-0671); and

WHEREAS, The Reserve at Williamsburg LLC and Centrum-Williamsburg Limited Partnership, have submitted Application No. PD-32-12 to amend the conditions of approval for the above-referenced Planned Development, set forth in Ordinance No. 06-18(R) and revised by Ordinance No. 09-20, by eliminating the requirement for front porches as a condition of reducing the minimum front yard setback requirement from thirty feet (30') to twenty feet (20') for townhouses, duplexes, and single-family detached dwelling units; and

WHEREAS, said application has been forwarded to the York County Planning Commission in accordance with applicable procedure; and

WHEREAS, the Planning Commission has conducted a duly advertised public hearing on this application; and

WHEREAS, the Commission has carefully considered the public comments with respect to this application;

NOW, THEREFORE, BE IT RESOLVED by the York County Planning Commission this the 12th day of June, 2013, that Application No. PD-35-13 be, and it is hereby, transmitted to the York County Board of Supervisors with a recommendation to amend the conditions of approval set forth in

Ordinance No. 06-18(R), as amended by Ordinance Nos. 09-20 and 12-9 for The Reserve at Williamsburg Planned Development located on the east side of Mooretown Road (Route 603) approximately 2,030 feet west of its intersection with Waller Mill Road (Route 713) and further identified as Assessor's Parcel Nos. 5-18-1 (GPIN D16c-0176-0313), 5-18-2 (GPIN D16c-0531-0677), 5-18-3 (GPIN D16c-1123-1278), and 5-18-5 (GPIN D16c-1552-0671), as set forth below:

1. Age Restriction

The residential component of this Planned Development shall be developed and operated as age-restricted senior housing in accordance with the definitions of Senior Housing-Independent Living Facility and, as applicable, Senior Housing-Assisted Living Facility set forth in Section 24.1-104 of the York County Zoning Ordinance. Furthermore, no resident of any of the units in the development shall be under the age of nineteen (19).

2. General Layout, Design, and Density

- a) A site plan, prepared in accordance with the provisions of Article V of the Zoning Ordinance, shall be submitted to and approved by the Department of Environmental and Development Services, Division of Development and Compliance prior to the commencement of any land clearing or construction activities on the site. Said site plan shall be in substantial conformance with the conceptual plans titled "Master Plan Amendment for The Reserve at Williamsburg," prepared by AES Consulting Engineers and dated April 2, 2012, and revised May 1, 2013, except as modified herein. Substantial deviation, as determined by the Zoning Administrator, from the general design and layout as depicted on the "Non-Binding Illustrative Plan" or amended herein shall require resubmission and approval in accordance with all applicable provisions as established by the York County Zoning Ordinance. Limited deviations from the "Non-Binding Illustrative Plan" as depicted on the plan titled "Master Plan Amendment" prepared by AES Consulting Engineers, dated April 2, 2012 and revised May 1, 2013, shall be permitted.
- b) Architectural design of all residential structures, including the clubhouse, shall be in substantial conformance with the building elevations submitted by the applicant and titled "Architectural Renderings: The Reserve at Williamsburg," dated May 12, 2006, "BLDG, 'A'-Verena at Williamsburg," dated July 1, 2009, and "The Reserve at Williamsburg: Townhome Elevations," dated March 29, 2012, and the townhouse and single-family detached house elevations submitted by the applicant as part of the "Master Plan/Planned Development Amendment For The Reserve at Williamsburg" prepared by AES Consulting engineers and dated May 1, 2013, copies of which shall be kept on file in the York County Planning Division.
- c) The layout and design of the residential development shall be in conformance with the performance standards for senior housing set forth in Section 24.1-411 of the York County Zoning Ordinance, except as modified herein.
- d) The commercial center shall be developed in accordance with the standards for nonresidential uses within the PD district set forth in Section 24.1-361(h) of the Zoning Ordinance. Commercial uses in the development shall be consistent with the list of uses permitted in the EO-Economic Opportunity district, subject to the exclusions contained in the proffer statement submitted by the applicant and referenced herein. Furthermore, under no circumstance shall tattoo parlors, pawn shops or payday loan establishments be permitted on the property.

- e) The maximum number of residential units shall be 459.
- f) The maximum building height shall be 69 feet for rental apartment buildings and 72 feet for condominium apartment buildings.
- g) The minimum building separation for single-family detached, townhouse, and duplex units shall be twenty feet (20').
- h) In areas designated for single-family detached homes ~~and/or duplexes~~, the minimum distance between any principal building and any public or private street right-of-way shall be twenty feet (20'), provided that such single-family structure includes a covered front porch having a depth of at least ~~six~~ four feet (46') and an width area of at least ~~fifteen-fifty~~ square feet (~~15²50~~ s.f.²). In the event a front porch is not provided on the structure, the minimum setback shall be thirty feet (30').
- i) In areas designated for townhouses, the minimum distance between any principal building and any public or private street right-of-way shall be twenty feet (20'), ~~provided that such single-family structure includes a covered front porch having a depth of at least six feet (6') and a width of at least eight feet (8'). In the event a front porch is not provided on the structure, the minimum setback shall be thirty feet (30').~~
- j) Freestanding signage for the residential portion of the project shall be limited to a single monument-type community identification sign along Mooretown Road measuring no greater than 32 square feet in area and six feet (6') in height. Signage for the commercial parcel shall be in accordance with the provisions for LB-Limited Business districts, as established in Section 24.1-703 of the Zoning Ordinance.
- k) For any rental apartment building, a minimum of one (1) off-street parking space per residential unit shall be required and no additional spaces shall be required for visitor parking provided that, pursuant to Section 24.1-604(b) of the Zoning Ordinance, an area equal to one-half of the difference between the number of parking spaces provided and the number that would otherwise be required in accordance with the requirements set forth in the Zoning Ordinance shall be reserved for a period of five (5) years following the issuance of a Certificate of Occupancy for such building and shall be maintained as landscaped open space during that time.

3. Streets and Circulation

- a) In order to provide for safe, convenient, and continuous pedestrian circulation throughout the development, a four-foot (4') wide sidewalk shall be constructed on at least one side of all private residential streets within the development and shall include pedestrian connections to off-road walkways and walking trails and to the commercial center.
- b) Street lighting shall be provided at each street intersection and at other such locations determined by the subdivision agent to maximize vehicle and pedestrian safety. The design of the street lighting shall be consistent with the design and character of the development.
- c) The developer shall install a 200-foot left-turn lane with a 200-foot taper and appropriate transitions on southbound Mooretown Road at the main road, as well as northbound right turn tapers on Mooretown Road at both the main road and the right-turn in/right-turn out driveway (150' tapers), if such additional driveway is determined to be acceptable in

accordance with Zoning Ordinance requirements. The right-turn in/right-turn out driveway shall be constructed with an appropriate channelizing island.

- d) The main entrance shall include one dedicated left-turn lane and one dedicated right-turn lane for egress.
- e) The spacing from the edge of Mooretown Road to the first internal access point shall be 200 feet or greater, unless otherwise approved by the Virginia Department of Transportation.
- f) Pursuant to Section 24.1-255(b) of the Zoning Ordinance, the developer shall provide a transit bus shelter and pullout, the design and location of which shall be subject to the approval of the Williamsburg Area Transport.
- g) Pursuant to Section 24.1-252(b)(2) of the Zoning Ordinance, the right-turn in/right-turn out entrance to the commercial center depicted on the referenced plan shall be permitted only if the need for and safety of such is substantiated by a traffic impact analysis prepared in accordance with Section 24.1-251(b) of the Zoning Ordinance.

4. Utilities and Drainage

- a) Public sanitary sewer service shall serve this development, the design of which shall be subject to approval by the County Administrator or his designated agent in consultation with the Department of Environmental and Development Services and in accordance with all applicable regulations and specifications. The applicant shall grant to the County all easements deemed necessary by the County for the maintenance of such sewer lines.
- b) A public water supply and fire protection system shall serve the development, the design of which shall be subject to approval by the County Administrator or his designated agent in consultation with the Department of Environmental and Development Services and the Department of Fire and Life Safety in accordance with all applicable regulations and specifications. The applicant shall grant to the County or the City of Williamsburg all easements deemed necessary by the County for maintenance of such water lines.
- c) The development shall be served by a stormwater collection and management system, the design of which shall be approved by the County Administrator or his designated agent in consultation with VDOT and in accordance with applicable regulations and specifications. Any easements deemed necessary by the County for maintenance of the stormwater system shall be dedicated to the County; however, the County shall bear no responsibility for such maintenance.
- d) The property owners' association(s) shall own and be responsible for the perpetual maintenance of all stormwater retention facilities serving the Planned Development.

5. Open Space and Recreation

- a) The location and arrangement of open space shall be generally as depicted on the plan titled "Master Plan for The Reserve at Williamsburg," prepared by AES Consulting Engineers, dated February 28, 2006, and revised May 12, 2006 and April 2, 2012 and revised May 1, 2013.

- b) A minimum of 200 square feet of common active/passive outdoor recreation area per dwelling unit shall be provided. Said area(s) shall include, at a minimum, the following facilities and amenities:
- Swimming pool (indoor or outdoor)
 - Covered pavilion
 - Barbecue/picnic area
 - Walking trails
 - Fountains (2)
 - Benches (10)
 - Trellises (3)
 - Yard game areas
 - Gazebos (2)
- c) Indoor recreational amenities shall consist of, at a minimum, a combined total of 8,250 square feet of indoor recreation space, including 2,775 square feet in the rental apartments and 2,475 square feet in the condominium apartments and a 3,000-square foot clubhouse/recreation center, each with an exercise room, multi-purpose community room, bistro-style (non-commercial) kitchen, fireplace, and other amenities as set forth in written materials supplied by the applicant and dated May 12, 2006.
- d) All common and public improvements within the development shall be subject to the standards governing timing, performance agreements, and surety requirements set forth in Sections 24.1-362(b)(3) and (4) of the Zoning Ordinance.
- e) The location and manner of development for the recreation area shall be fully disclosed in plain language to all home purchasers in this development prior to closing.
- f) All common open space and recreational facilities shall be protected and perpetual maintenance guaranteed by appropriate covenants as required in the York County Zoning Ordinance and submitted with development plans for the project.

6. Fire and Life Safety

- a) In conjunction with the site plan submittals for this project, the developer shall submit a detailed description of the proposed features of the project and building design related to protection and safety of the residents, as well as operational procedures to ensure and facilitate the safety of the residents in the event of fire or other emergencies.
- b) All rental and condominium apartment units shall be equipped with an approved (NFPA 13) fire suppression system throughout (including attic areas), underground vault(s), PIV(s), and FDC(s).

7. Proffered Conditions

The reclassification shall be subject to the conditions voluntarily proffered by the property owners in the proffer statement titled "Conditions Voluntarily Proffered for the Reclassification of Property Identified as a Portion of Tax Parcel 05-00-00-052, GPIN D16c-1780-1578," signed by Jackson C. Tuttle, Williamsburg City Manager, and dated May 25, 2006, except as modified herein.

8. Restrictive Covenants

Prior to final plan approval, the applicant shall submit restrictive covenants for review by the County Attorney for their consistency with the requirements of Section 24.1-497 of the Zoning Ordinance.

Yea: (6) Abel, Mathes, Hamilton, Magowan, McCulloch, Myer
Nay: (0)

Application No. ZM-141-13, Bieri Family Limited Partnership: Request to amend the York County Zoning Map by reclassifying an approximately 4.1-acre parcel of land located at 3301A Hampton Highway (Route 134), at its intersection with York Downs Drive (Route 1677), from LB (Limited Business) to conditional GB (General Business). The property is further identified as Assessor's Parcel No. 38A2-9-1. There are no density limits associated with either the LB or GB zoning district, and the Comprehensive Plan designates the property for General Business without density limits.

Earl Anderson, Planner, summarized the staff report to the Commission dated June 4, 2013, in which staff recommends that the Commission forward the application to the Board of Supervisors with a recommendation for approval through the adoption of proposed Resolution No. PC13-12.

Chair Myer opened the public hearing.

Tim Trant, 837 Poquoson Avenue, Poquoson, spoke as the attorney for the applicant. He gave a brief background of the Bieri family and the shopping center they own, which he said has faced challenges in retaining retail businesses. He stated that with the downturn in the economy, the Bieri family is struggling to find quality tenants. He noted that there was a variety store that wanted to locate in the shopping center but that it was not a permitted use, although it was permitted in the GB-zoned Shady Banks shopping center nearby. Mr. Trant said he and Mr. Bieri had developed a set of proffers to allow a wider range of businesses. He added that the Yorkshire Downs Homeowners Association Board of Directors has expressed support for the proposal.

Mr. Hamilton asked if the purpose of the application is to allow a particular tenant to locate in the shopping center that currently is not able to because of the zoning.

Mr. Trant responded that the opportunity to lease space to the variety store has passed but that the incident highlighted the need to change the zoning.

Mr. Hamilton asked if the shopping center owner is in communication with the surrounding neighborhood to ensure that space will not be leased to any businesses that the residents might find objectionable.

Mr. Trant responded that the owner's commitment to being a good neighbor is evidenced by his effort to reach out proactively to the neighbors.

Mr. Mathes said he was pleased that the applicant had consulted with the homeowners' association. He asked what the vacancy rate of the shopping center is.

Mr. Trant responded that the vacancy rate is 30%.

Mr. Mathes asked if the Shady Banks shopping center is zoned General Business.

Mr. Anderson responded that it is.

Chair Myer asked if the homeowners association had seen the table of permitted land uses that was included in the staff report or something similar so that they would know what uses would and would not be permitted if the application is approved. He also asked if the table was developed by staff.

Mr. Trant responded that he had spoken with the property manager and the president of the Board of Directors and that he had emailed them the drafts of the proffers highlighting what would be changed. He added that he did not give them the table in the staff report, which was prepared by Mr. Anderson.

Chair Myer closed the public hearing.

Ms. Magowan, Mr. Hamilton, and Mr. Abel said they support the application.

Mr. Hamilton moved adoption of Resolution No. PC13-12.

A RESOLUTION TO RECOMMEND APPROVAL OF A REQUEST TO RECLASSIFY AN APPROXIMATELY 4.1-ACRE PARCEL OF LAND LOCATED AT 3301A HAMPTON HIGHWAY FROM LB (LIMITED BUSINESS) TO CONDITIONAL GB (GENERAL BUSINESS)

WHEREAS, Bieri Family Limited Partnership has submitted Application No. ZM-141-13 requesting to amend the York County Zoning Map by reclassifying from LB (Limited Business) to conditional GB (General Business) an approximately 4.1-acre parcel of land located at 3301A Hampton Highway (Route 134) and further identified as Assessor's Parcel No. 38A32-9-1(GPIN V02c-1965-1959), subject to conditions voluntarily proffered by the property owner; and

WHEREAS, said application has been forwarded to the York County Planning Commission in accordance with applicable procedure; and

WHEREAS, the Planning Commission has conducted a duly advertised public hearing on this application; and

WHEREAS, the Commission has carefully considered the public comments with respect to this application;

NOW, THEREFORE, BE IT RESOLVED by the York County Planning Commission this the 12th day of June, 2013, that Application No. ZM-141-13 be, and it is hereby, transmitted to the York County Board of Supervisors with a recommendation of approval to amend the York County Zoning Map by reclassifying from LB (Limited Business) to conditional GB (General Business) an approximately 4.1-acre parcel of land located at 3301A Hampton Highway (Route 134) and further identified as Assessor's Parcel No. 38A32-9-1(GPIN V02c-1965-1959), subject to conditions voluntarily proffered by the property owner set forth in the proffer statement titled "Yorkshire Downs Proffered Conditions" and dated June 5th, 2013, a copy of which shall remain on file in the office of the Planning Division;

BE IT FURTHER RESOLVED that in accordance with Section 24.1-114(e)(1) of the York County Zoning Ordinance, a certified copy of the Ordinance accepting the proffered conditions, together with a duly signed copy of the proffer statement, shall be recorded at the expense of the applicant in the name of

the property owner as grantor in the office of the Clerk of the Circuit Court prior to application for a building permit.

Yea: (6) Hamilton, Abel, McCullough, Mathes, Magowan, Myer

Nay: (0)

Application No. ZT-142-13, York County Board of Supervisors: Consider amendments to Section 24.1-271 (Residential Accessory Uses) of the York County Zoning Ordinance (Chapter 24.1, York County Code) to incorporate revisions to the temporary family health care structures provisions, as mandated by the General Assembly in House Bill 1419, which will allow occupancy by a married couple and extend from 30 to 60 days the time allowed for removal of the structure from a property.

Mark Carter, Assistant County Administrator, summarized the staff report to the Commission dated May 20, 2013, in which staff recommends that the Commission forward the proposed amendments to the Board of Supervisors with a recommendation for approval through the adoption of proposed Resolution No. PC13-10.

Chair Myer opened the public hearing.

There being no one wishing to speak, **Chair Myer** closed the public hearing.

Mr. Hamilton moved adoption of Resolution No. PC13-10.

A RESOLUTION TO RECOMMEND APPROVAL OF APPLICATION NO. ZT-142-13 TO AMEND SECTION 24.1-271 OF THE YORK COUNTY ZONING ORDINANCE (CHAPTER 24.1, YORK COUNTY CODE) PERTAINING TO TEMPORARY FAMILY HEALTH CARE STRUCTURES

WHEREAS, Application No. ZT-142-13 has been sponsored by the Board of Supervisors to allow consideration of amendments to the accessory use provisions pertaining to temporary family health care structures, as required pursuant to legislation adopted by the 2013 General Assembly; and

WHEREAS, said application has been forwarded to the York County Planning Commission in accordance with applicable procedure; and

WHEREAS, the Planning Commission has conducted a duly advertised public hearing on this application; and

WHEREAS, the Commission has carefully considered the public comments with respect to this application;

NOW, THEREFORE, BE IT RESOLVED by the York County Planning Commission this the 12th day of June, 2013, that Application No. ZT-142-13 be, and it is hereby, transmitted to the York County Board of Supervisors with a recommendation of approval to amend the York County Zoning Ordinance (Chapter 24.1, York County Code) to incorporate the following amendments:

Sec. 24.1-271. Accessory uses permitted in conjunction with residential uses.

The following accessory uses shall be permitted in conjunction with residential uses. No accessory use, activity or structure, except fences, shall be constructed or conducted until the principal use of the lot has commenced, or the construction of the principal building/structure has commenced and is thereafter diligently and continuously pursued to completion. Land uses not listed in this section and not deemed similar to a listed use pursuant to subsection (q) shall be deemed not allowed as residential accessory uses:

- (p) Temporary family health care structures for use by a caregiver in providing care for a mentally or physically impaired person on property that is zoned for single-family residential use and that owned or occupied by the caregiver as his residence, subject to the following performance standards.
- (1) occupancy of the structure shall be by a mentally or physically impaired person who, for the purposes of this section, shall be deemed to be a person who is a resident of Virginia and who requires assistance with two or more activities of daily living, as defined in Section 63.2-2200 of the Code of Virginia and as certified in writing by a physician licensed by the Commonwealth of Virginia;
 - (2) a maximum of one (1) resident occupant, who shall be the mentally or physically impaired person, shall be permitted; or, in the case of a married couple, two (2) occupants, one of whom is a mentally or physically impaired person, and the other requires assistance with one or more activities of daily living as defined in Section 63.2-2200 of the Code of Virginia, as certified by a physician licensed in the Commonwealth;
 - (3) the structure shall not exceed 300 square feet in gross floor area;
 - (4) the structure shall comply with all applicable provisions of the Industrialized Building Safety Law and the Uniform Statewide Building Code;
 - (5) placement on a permanent foundation shall not be required or permitted;
 - (6) only one such structure shall be permitted on a lot;
 - (7) the structure shall comply with all setback requirements applicable to principal structures in the district in which located;
 - (8) such structure shall be connected to all necessary public and/or private utilities and shall comply with all applicable requirements of the Virginia Department of Health;
 - (9) no signage advertising or otherwise promoting the existence of the structure shall be permitted either on the exterior of the temporary family health care structure or elsewhere on the property;
 - (10) prior to placement of such a structure on a residential property, the property owner shall obtain a permit, available from the office of the zoning administrator; the zoning administrator shall require submission of a sketch plan and such other

documentation as deemed necessary to ensure compliance with the standards set forth herein;

- (11) any temporary family health care structure installed pursuant to this section shall be removed within ~~30~~ 60 days of the date on which the temporary family health care structure was last occupied by a ~~occurrence of the~~ mentally or physically impaired person ~~no longer receiving services~~ or ~~no longer in~~ needing of the assistance of a caregiver;
- (12) for the purposes of this section, the term caregiver means an adult who provides care for a mentally or physically impaired person within the Commonwealth and the caregiver shall be either related by blood, marriage, or adoption to, or shall be the legally appointed guardian of, the mentally or physically impaired person for who care is being provided; and,
- (13) on an annual basis, at least 30 days prior to the anniversary date of the initial permit issuance, the caregiver shall be required to provide evidence of compliance with the terms of this section and to grant zoning and code enforcement personnel the opportunity to conduct an inspection of the property and the structure at a time mutually acceptable to the caregiver and the inspection personnel.

Yea: (6) Mathes, Hamilton, Magowan, Abel, McCulloch, Myer
Nay: (0)

Application No. ZT-143-13, York County Board of Supervisors: Consider amendments to Section 24.1-409 (Standards for Bed and Breakfast Establishments) of the York County Zoning Ordinance (Chapter 24.1, York County Code) to add provisions allowing the operator of a bed and breakfast establishment to request a Special Use Permit to authorize the hosting of weddings and receptions as a commercial venture, subject to various performance standards including but not limited to frequency of events, maximum number of guests, hours of operation, and off-street parking.

Mark Carter, Assistant County Administrator, summarized the staff report to the Commission dated May 22, 2013, in which staff recommends that the Commission forward the proposed amendments to the Board of Supervisors with a recommendation of approval through the adoption of proposed Resolution No. PC-13-11.

Mr. Mathes asked how staff arrived at the proposed time restrictions.

Mr. Carter responded that staff considered 11:00 to be reasonable limit for activity in a residential area but that the hours could be adjusted by the Board of Supervisors on a case-by-case basis.

Mr. Mathes asked how staff arrived at the parking standard of one car for every two attendees.

Mr. Carter responded that it is based on staff's assumptions concerning attendance at weddings and receptions.

Mr. Mathes asked if the number of guests would be limited.

Mr. Carter said there would be an opportunity to set a maximum occupancy limit on the number of guests, the size of the property, size of the tent, and the number of staff.

Mr. McCulloch asked if the Zoning Ordinance needs to be amended to allow bed and breakfast establishments to host such events.

Mr. Carter said there are currently no provisions stating that it is a permitted use.

Mr. Hamilton asked if there are bed and breakfast establishments in the area that are currently providing this service.

Mr. Carter said there have been and that the proposed amendments would provide an opportunity for any such businesses in the County to come into conformance with the Zoning Ordinance.

Ms. Magowan asked how many events would be allowed per day. She stated that most bed and breakfast establishments require their guests to stay overnight, which would indicate that there should be no more than one event every two days.

Mr. Carter said one event per day is the proposed maximum, so if the establishment wants to host only one event every two days they could do so.

Ms. Magowan said it would seem impossible to host one event per day if the bridal party is staying the night and the parties would overlap.

Mr. Carter said conceivably it could be done and again this is set as the maximum.

Ms. Magowan said she would like to ask the applicant if it is possible to have one event per day.

Mr. Carter said the amendments were sponsored by the Board of Supervisors, so there is no applicant.

Ms. Magowan recommended allowing one event every two days.

Mr. Carter said the way the proposed amendments are drafted would not require that the wedding event/reception be for guests of the bed and breakfast. He explained that the amendments would open the door for events for people other than registered guests of the establishment.

Chair Myer said his concerns have to do with the typical things that would be addressed in the review of each individual use permit.

Mr. Carter said not all bed and breakfast establishments will be appropriate for hosting events and that all interested parties would have to go through the Special Use Permit process.

Chair Myer opened the public hearing.

Paige and Mark Stephens, 4201 Seaford Road, Seaford, spoke as the owners of a bed-and-breakfast establishment called Bay Tree Manor. They said their lot is 9.5 acres, which allows ample room for parking. They said they have a 30' by 60' tent to accommodate events outside and most weddings are booked for the afternoon and most vendors are contracted for four hours. Ms. Stephens said most events rarely continue past 9:30 pm or 10:00 pm. She said their neighbors are very supportive and much of their business is from the neighbors. She added that there are restrooms and handicap-accessible restrooms available and that they would only want to host one event per weekend, with the wedding season generally

running from May to October. Mr. Stephens said there is a massive shortage of wedding venues in York County.

Chair Myer closed the public hearing.

Mr. Abel said the proposed amendments would correct an oversight in the Zoning Ordinance.

Ms. Magowan said she could support the resolution.

Chair Myer said this is a good idea to set up rules and standards for this practice.

Mr. Hamilton moved adoption of Resolution No. PC13-10.

**APPLICATION TO AMEND CHAPTER 24.1, ZONING, YORK COUNTY CODE, BY
ADDING PROVISIONS TO ALLOW AUTHORIZATION OF WEDDING RECEPTIONS
CONDUCTED ON THE PREMISES OF OPERATING BED AND BREAKFAST
ESTABLISHMENTS**

WHEREAS, in response to property owner inquiries, the Board of Supervisors has sponsored Application No. ZT-143-13 to allow consideration of amendments to the Zoning Ordinance to provide opportunities for the operators of bed and breakfast establishments to host wedding receptions on the same premises; and

WHEREAS, said application has been forwarded to the York County Planning Commission in accordance with applicable procedure; and

WHEREAS, the Planning Commission has conducted a duly advertised public hearing on this application; and

WHEREAS, the Commission has carefully considered the public comments with respect to this application;

NOW, THEREFORE, BE IT RESOLVED by the York County Planning Commission this the 12th day of June, 2013, that Application No. ZT-143-13 be, and it is hereby, transmitted to the York County Board of Supervisors with a recommendation of approval to amend the York County Zoning Ordinance (Chapter 24.1, York County Code) to incorporate the following amendments:

Sec. 24.1-409. Standards for boarding house, tourist home and bed and breakfast establishments.

- (a) When located in single-family residential zoning districts, boarding houses, tourist homes, and bed and breakfast establishments shall have the appearance of a single-family detached residence and normal residential accessory structures.
- (b) Other provisions of this chapter notwithstanding, one freestanding, non-illuminated sign, not exceeding four (4) square feet in area, may be permitted to identify such use.

- (c) In all residential districts, required off-street parking for the subject use shall be effectively screened by landscaping from view from adjacent residential properties and shall not be located in any required front yard area.
- (d) The board shall specify the maximum number of persons who may be accommodated in the proposed use. Such determination shall be based on a consideration of the density and character of the vicinity in which located and of the size and characteristics of the proposed site.
- (e) The owner/proprietor of an authorized and operating bed & breakfast (B&B) establishment or tourist home may apply for a supplementary Special Use Permit authorization to host private weddings and receptions for a fee as a business venture. In order to be eligible to apply for such supplementary Special Use Permit, the B&B or tourist home shall have been in continuous operation for at least one (1) year prior to the date of the submission of the application. The following performance standards and conditions shall be observed unless specifically modified or waived by the Board of Supervisors at the time of approval:
- (1) Frequency of events: No more than one (1) event per day, or two (2) events in any 7-day period, shall be allowed. A wedding ceremony and its associated reception shall be considered to be a single event.
 - (2) Maximum number of guests: The maximum number of guests shall be established as a condition of the Special Use Permit approval and shall be based on an assessment of the capacity and suitability of the site in consideration of the size of the property and facilities, the amount of parking available to accommodate guests, the capacity and condition of the highway network providing access to the site, the surrounding land uses and their proximity, and such other considerations as the Board of Supervisors deems to be relevant to prevent adverse effects upon neighboring properties.
 - (3) Facilities: Any building or temporary tents used to accommodate ceremonies or receptions shall comply with all applicable Building and Fire Code requirements including, but not limited to: access; materials and fire ratings; emergency lighting; exit lights; fire detection and suppression; etc. Any tent(s) shall be positioned on the property in accordance with all applicable setback requirements for principal structures or such greater setbacks as may be established as a condition of the Special Use Permit approval. Tents shall be dismantled within 48 hours of the conclusion of each event, unless the Special Use Permit shall allow a greater time.
 - (4) Duration of event. Events shall be limited to the time period between 10:00 am and 10:00 pm. Set-up and take-down activities may take place no earlier than 8:00 am and no later than 11:00 pm.
 - (5) Lighting: Exterior lighting shall be limited to fixtures and illumination intensities that will not produce illumination intensities exceeding 0.1 footcandles at any property line.
 - (6) Noise: The activities on the subject property shall be conducted in complete accordance with all requirements of the York County Noise Ordinance set forth in Section 16-19 of the York County Code.

- (7) Parking: Except as specified below and as documented in the Special Use Permit approval, all parking demand associated with the event shall be accommodated on the site on a suitable all-weather surface. The minimum number of spaces shall be calculated at a ratio of one (1) parking space per every two (2) persons based on the maximum allowable occupancy/attendance limit plus one (1) space for every regular or contract employee associated with the reception facility.

The Special Use Permit may allow:

- a. the use of an abutting property owned or controlled by the applicant and from which event attendees can walk without obstruction to reach the reception site. For the purposes of this section, the term abutting shall be construed to include property located on the opposite side of a street right-of-way, provided that event attendees will be able to cross perpendicularly and safely and will not be required to walk along a road or road shoulder;
- b. the use of any available and conveniently located public parking spaces from which attendees can walk safely.

Any parking areas constructed or established specifically for support of the reception use shall be located a minimum of 25 feet from any abutting property not owned by the proprietor, unless with the consent of the owner of the abutting property, and shall be screened from view from those abutting properties and public rights-of-way by evergreen landscaping, unless the abutting property owner consents to waiver of the screening requirement. All applicable stormwater management standards and requirements associated with the installation of the required parking spaces shall be observed.

- (8) Fire and Emergency Vehicle Access: Driveway access to the site shall comply with all requirements as to weight capacity, base and surface material, width, configuration and alignment, and vertical and horizontal clearance as set forth in Section 24.1-261. Existing driveways shall be upgraded to meet these standards if they are deficient in any aspect.
- (9) Sanitation: Restrooms or toilet facilities shall be provided for event attendees based on the ratios/requirements set forth in the Virginia Uniform Statewide Building Code. Reception venues that would be dependent on the dwelling's on-site septic system will not be approved unless the applicant provides written authorization from the Health Department as to the adequacy of the system. In the event portable restroom or toilet facilities are proposed to be used, all shall be screened from view from adjacent public rights-of-way and abutting properties and all shall be serviced or removed within two working days of the conclusion of the event.
- (10) Caterers / Vendors: The proprietor shall ensure that any caterers or other vendors providing services for a reception are properly licensed and permitted, whether such caterer/vendor is hired by the proprietor or by the client contracting for the use of the facility. Likewise, the proprietor shall ensure that all applicable ABC permits have been obtained, either by the client or by the proprietor, and are kept valid.

Yea: (6) Mathes, Hamilton, Magowan, Abel, McCulloch, Myer
Nay: (0)

OLD BUSINESS

Timothy Cross, AICP, Principal Planner, summarized the previous Comprehensive Plan discussions concerning the existing and proposed Mixed Use overlay designation in the area surrounding the I-64/Route 199/Marquis interchange, also known as the Whittaker's Mill area. He presented five alternatives for the Commission's consideration.

Mr. McCulloch asked if the staff's recommendation at the October 12 work session had anything to do with the concerns expressed by the Naval Weapons Station.

Mr. Cross responded that it did not, that the recommendation was made before any of the Navy's concerns had been presented to staff. He explained that the recommendation was based exclusively on land use issues such as accessibility, utilities, and visibility.

Mr. McCulloch asked if the Navy first expressed its concerns in the letter dated April 23rd.

Mr. Cross responded that there was some informal discussion at a meeting hosted by the Navy to discuss its Encroachment Action Plan but that the April 23rd letter was the first official correspondence that was received.

Chair Myer asked if there is any data to indicate whether a Mixed Use overlay designation has any effect on property values.

Mr. Cross responded that he is not aware of any such data. He pointed out that the overlay designation does not confer any specific development right but that it confers the right to apply for mixed-use zoning and make the argument that it is consistent with the Comprehensive Plan.

Chair Myer said he wanted to open it up for discussion amongst the Commissioners.

Ms. Magowan said it is important that development around military installations be compatible with nearby military activities and she said that in establishing the Mixed Use overlay designation in this area in 2005, the Board of Supervisors had no intent to allow large-scale housing development. She stated that the Navy has stated that the designation is incompatible with national security needs and their mission, which includes training. She noted that the Naval Weapons Station is the County's largest employer and that last year York County School Division received \$8.2 million in federal Impact Aid. Citing her professional experience with the BRAC (Base Realignment and Closure) process, Ms. Magowan stated that if the naval installation were to close it would have a devastating impact on the County, so it is important that the military sees York County as a military-friendly community. Ms. Magowan said she has met with Mr. Egger and that he has looked at the Readiness and Environmental Protection Integration Program, which could be the best way to address both the Navy's and Mr. Egger's desires. Ms. Magowan said she supports Alternative D, which would limit the mixed-use potential to the Marquis property in the southeast quadrant of the interchange because it best addresses the Navy's concerns.

Mr. Hamilton said he has been vacillating between Alternatives C and D but that he is leaning toward Alternative C based on the notion that as the Marquis develops, the properties on the other side of Route

199 and Penniman Road will become more viable for development. He stated that he believes Alternative C provides the best opportunity for growth in the area.

Mr. Abel said he wanted to make it clear from the outset that all of the Commissioners strongly support the military regardless of how they may feel about this particular land use issue. He stated that the role of the Commission is to consider the highest and best use of the land and not political issues, which is the job of the Board of Supervisors. Further, he said he does not blame the Navy for its efforts to influence the Comprehensive Plan process to limit development around Cheatham Annex, although he does not support their efforts. He noted that the Navy began its training activities in the Jones Pond area knowing that the surrounding area had a Mixed Use overlay designation. He stated that he does not understand why residential development should be prohibited when there are many other commercial uses that are permitted as a matter of right that could have similar impacts in terms of light, trespassing, etc., and he expressed concern that to require a 2,500-foot undisturbed buffer along the Cheatham Annex boundary would effectively deny the adjacent property owner any ability to develop his property, and would do so without providing just compensation. In addition, he stated he does not believe the Naval Weapons Station is vulnerable to the BRAC process for a variety of reasons but that even if it were to close, which he does not want to happen, such closure would open up development opportunities for a vast amount of prime waterfront property on which the County currently receives no property or business taxes. Mr. Abel stated that if the Navy wants to control the use of the adjacent land, it should follow the prescribed legal mechanisms, which are to either purchase the land or condemn it and pay just compensation but that to eliminate the mixed-use development opportunity – which, he noted, is an opportunity and not a guaranteed right – would constitute, in his opinion, a legislative taking. He stated that for these reasons, he continues to support the decision that the Commission has already made twice in the past six months, which is to retain the Mixed Use overlay designation on the Egger tract and extend it south to also encompass the Busch and Marquis properties, which is now identified as Alternative B.

Mr. McCulloch expressed frustration that the Navy did not express its concerns earlier in the Comprehensive Plan review process to allow adequate time for all the interested parties to arrive at a mutually acceptable resolution. He stated that he is inclined to support Alternative B or C, primarily because the Commission has already made this decision at a previous meeting and it did so for good reasons. He added that he has concerns about mixed-use development in general because he feels developers use it as a loophole in order to get more high-density housing approved, which is not consistent with the County's and the citizens' goal of an 80,000-resident maximum build-out population. Mr. McCulloch asked Chair Myer if the Alternative selected tonight will be the one that will be forwarded to the Board of Supervisors as part of the Comprehensive Plan.

Chair Myer responded that was correct.

Mr. McCulloch said he would like to hold his vote until he hears the rest of the Commissioners speak.

Mr. Mathes asked about the mechanics of the vote and if there would be a separate vote on each of the five alternatives.

Chair Myer said he is keeping a tally of the number of expressions of support for each alternative. He stated that if there is a tie, it would appear that the Commission's original decision made in February would stand since that is what is in the current draft of the Comprehensive Plan.

Mr. Mathes said he agrees with most of Mr. Abel's comments and he supports Alternative B. He said Cheatham Annex is not in its location because of Jones Pond, but rather because of logistical support and the body of water on the other side of it. He said he is glad the Navy has found a use for the Jones Pond area but that he is confident that if that training no longer took place there Cheatham Annex would not

close. Mr. Mathes stated that he is sympathetic with both the Navy's position and the property owners' position. He expressed support for Alternative B because it preserves individual property rights while ensuring that any proposed mixed-use development would have to be considered on its merits with due consideration given to any concerns on the Navy's part.

Chair Myer said he has talked to all parties involved and is glad that the Commission is talking about this issue because it means that the Commission is flushing out an issue that has land use impacts but also needs to be addressed by the Board of Supervisors, and he stated that he agrees with Mr. Abel's comment that this is a land use issue that has no bearing on one's patriotism or support for the military. He said that when he spoke with the Navy representatives, they were the ones who said they were going to pursue purchase of an easement through the Civil War Trust. He stated that the ultimate solution to this problem is not going to be decided by the Planning Commission and would require a multi-faceted that may need federal and/or state legislation to secure funding for the federal government to purchase land or easements. Chair Myer stated that he wants to provide an opportunity for all the affected parties to come together to resolve the issue in an agreeable manner. He stated that contrary to assertions made in correspondence received from Mr. Egger, there is no data to support the notion that a Mixed Use overlay designation enhances property values, and he added that he does not feel removal of the designation constitutes a legislative taking. Chair Myer stated that he supports Alternative D, noting that the Navy has no concerns about mixed-use development on the Marquis property.

Mr. McCulloch said he supports Alternative B.

Chair Myer said that Alternative B is the preferred choice of the plurality of the Commissioners.

NEW BUSINESS

Consider Proposed Resolution No. PC13-14 to certify and transmit to the York County Board of Supervisors a proposed updated Comprehensive Plan titled *Charting the Course to 2035: The County of York Comprehensive Plan*.

Timothy Cross, AICP, Principal Planner, summarized the Comprehensive Plan review process which been underway since February 2012 and involved numerous public input sessions and Planning Commission discussions. He stated that all the Commissioners' comments from the April 24 work session have been incorporated into the June 7 draft of the Plan, and he stated that staff recommends that the Commission certify the draft Plan, *Charting the Course to 2035*, and transmit it to the Board of Supervisors with a recommendation for adoption, which can be accomplished through the adoption of proposed Resolution No. PC13-14.

Chair Myer described the Comprehensive Plan review process and he thanked his fellow Commissioners and staff for all the effort put into this project.

Mr. Hamilton moved adoption of Resolution No. PC13-14.

A RESOLUTION TO CERTIFY AND TRANSMIT TO THE YORK COUNTY BOARD OF SUPERVISORS A PROPOSED UPDATED COMPREHENSIVE PLAN FOR THE COUNTY

WHEREAS, the Code of Virginia (1950), as amended, requires the adoption of a comprehensive plan by all Virginia localities; and

WHEREAS, §15.2-2225 of the Code of Virginia requires certification of the Comprehensive Plan based on the Planning Commission's recommendation to the Board of Supervisors; and

WHEREAS, on December 5, 1991, the York County Board of Supervisors adopted the County's Comprehensive Plan titled *Charting the Course to 2010*; and

WHEREAS, §15.2-2230 of the Code of Virginia requires the local Planning Commission to review the Comprehensive Plan at least once every five years and determine whether it is advisable to amend the plan; and

WHEREAS, the last comprehensive review and update of the plan was completed in December 2005; and

WHEREAS, in December 2010 the Planning Commission reviewed and considered a summary listing of all land use decisions (Rezoning and Special Use Permits) rendered since the Plan's adoption as well as a summary report concerning the status of accomplishments and actions on the various Implementation Strategies established by the Plan and, based on that review, determined that it was not necessary or advisable to consider amendments to the York County Comprehensive Plan in advance of the 2012 review cycle established by the Board of Supervisors through the adoption of Resolution No. R08-93; and

WHEREAS, the York County Planning Commission has conducted a complete and thorough review of the Comprehensive Plan from February 2012 through June 2013; and

WHEREAS, the Planning Commission has conducted a duly advertised public hearing on the draft updated Plan; and

WHEREAS, the Commission has thoroughly reviewed the draft updated Plan and has carefully considered the public comments with respect to the draft Plan;

NOW, THEREFORE, BE IT RESOLVED by the York County Planning Commission this the 12th day of June, 2013, that the proposed updated Comprehensive Plan, entitled *Charting the Course to 2035*, dated June 7, 2013, is hereby certified and transmitted to the York County Board of Supervisors with a recommendation of adoption.

Yea: (6) Mathes, Hamilton, Magowan, Abel, McCulloch, Myer
Nay: (0)

STAFF REPORTS

Mr. Carter referred to the Development Activity Report dated June 12, 2013, and offered to answer any questions.

Chair Myer said it is his understanding that the Board of Supervisors has ninety days to take action on the draft Plan.

Mark Carter said yes that is correct and the public hearing will likely be in August.

COMMITTEE REPORTS

There were no committee reports.

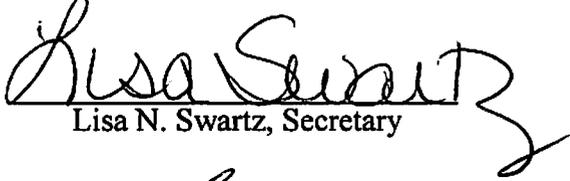
COMMISSION REPORTS AND REQUESTS

There were no Commission reports and requests.

ADJOURN

The meeting was adjourned at 10:10 P.M.

SUBMITTED:



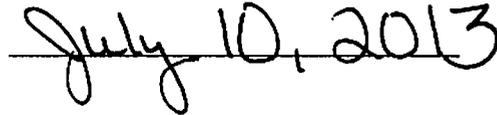
Lisa N. Swartz, Secretary

APPROVED:



Richard M. Myer, Jr., Chair

DATE:



July 10, 2013