Excerpts
Planning Commission Minutes
July 12, 2006

> **Application No. PD-18-06, Mid-Atlantic Communities, LLC:** Request to amend the York County Zoning Map, pursuant to Section 24.1-362 of the York County Zoning Ordinance, by reclassifying from R20 (Medium-Density Single Family Residential) and GB (General Business) to PD (Planned Development) approximately 12.5 acres of land located at 113 Battle Road at the southeast quadrant of the intersection of George Washington Memorial Highway (Route 17) and Battle Road (Route 718). The property is further identified as Assessor's Parcel No. 24-56B and a portion of Assessor's Parcel No. 24-81B. The proposed development would consist of 49 townhouses and 19 condominium units combined with approximately 34,500 square feet of retail/office space. The Comprehensive Plan designates this area General Business along Route 17 and Medium Density Residential to the rear.

Ms. Amy Parker, Senior Planner, summarized the staff report dated July 5, 2006. Concerns raised included commercial and residential area ratios; traffic circulation, emergency vehicle access, and parking. Ms. Parker noted that the basic layout and design were acceptable and appropriate for a mixed-use development and the staff recommended approval through the adoption of proposed Resolution No. PC06-19, which included conditions relative to architectural design, timing of commercial construction, parking, and commercial/residential floor area ratios. Ms. Parker said the applicant submitted draft proffers to which staff recommended revisions, but no signed proffers had been received from the applicant, Ms. Parker requested that the County Attorney advise the Commission of the particular circumstances concerning the absence of signed proffers.

Mr. Barnett noted that proffers submitted in draft form are not proffers until they are signed. If the Commission thought the rezoning application made sense, provided that the proffers were eventually signed and submitted as presented in draft form, the recommendation could be conditional to recommend approval provided that final proffers are submitted as presented.

Mr. Abel inquired of the staff rationale for recommending a phasing requirement for the residential and commercial aspects of construction. **Ms. Parker** said the phasing requirement intended to ensure the commercial development was built concurrently with the residences, and that the development did not become all residential units. **Mr. Abel** asked if the staff was concerned that construction would begin on one aspect, such as residential, and then be abandoned before the commercial buildings were constructed. **Ms. Parker** said that without the scheduling provisions the County would have no assurance as to when the commercial mix would be constructed.

Mr. Abel inquired about the recommendation of vehicular access from Battle Road. He believed vehicular traffic could be a nuisance for the convalescent center and, while a connection to Battle Road would be nice, the Fire Chief indicated that access from the Patriot Square side was acceptable. **Ms. Parker** said the vehicular access via Battle Road was recommended as a method of mitigating traffic problems on Route 17. The residual GB - General Business property does not have automatic access to Route 17, and the Battle Road connection would alleviate traffic on Route 17 when that portion of the property was developed.

Mr. Ptasznik asked if the retention pond was adequate to handle drainage. **Ms. Parker** said the Department of Environmental and Development Services had reviewed the preliminary drainage plan submitted with the application and indicated it appeared to be adequate.

Mr. Ptasznik noted the applicant was opposed to the Battle Road connection recommended by staff. **Ms. Parker** said the staff was concerned about the traffic impact to Route 17 with this development and believed a connection at Battle Road would be better for the current development and future development of the remaining GB property fronting on Route 17.

Mr. Barba asked if the Department of Fire and Life Safety (FLS) was satisfied with access for emergency vehicles. **Ms. Parker** noted the plan as submitted does not provide adequate turnaround space for emergency vehicles and revisions would be needed for access design, as well as some adjustments in townhouse area to provide access around the buildings.

Chair Ptasznik opened the public hearing.

Mr. Paul Garman, 109 Chisman Point Road, Seaford, spoke for the applicant, Mid-Atlantic Communities. He said the applicant would address all of the FLS issues. Mr. Garman referred to the ongoing work of the Mixed-Use Development Committee, which had presentations from several professional land planners who had stressed the necessity for flexibility for a project to be successful. Mr. Garman said the applicant and staff were divided on two major issues: Vehicular and pedestrian access from Battle Road, and the development schedule recommended by staff.

With regard to access from Battle Road, Mr. Garman stated the owner of the Battle Road property, Virginia Health Services, does not want the property encumbered by a roadway in the event of an opportunity for future sale or an expansion of the present use. He said the applicant had worked out an agreement with the Fire Chief to have two emergency entrances.

Regarding the development schedule, Mr. Garman said the applicant/developer could build the infrastructure, but needed proceeds from sales of the residential units to provide funding for the commercial properties.

Mr. Garman noted the draft proffers submitted to the County included a development schedule, but the applicant no longer wanted to offer such a proffer.

Mr. Barba asked why the corner lot was not included in the plan. The lot is zoned GB and could provide access to the proposed development. **Mr. Garman** said it is not a part of the project and referred the question to Mr. Lamont Myers for further clarification.

Mr. Lamont Myers, 108 Pheasant Watch, Mid-Atlantic Communities, said Virginia Health Services did not want the parcel encumbered and the applicant did not purchase it. If the issue of staff concern is traffic on Route 17, he pointed out that any traffic using a Battle Road connection would end up on Route 17.

Mr. Abel inquired if the applicant was willing to adhere to the proposed architectural conditions proposed by staff. **Mr. Garman** indicated that they had no objection to the recommendation.

Mr. Staton inquired about a redesign of the commercial buildings so that vehicles would not have to drive completely around the buildings to park. **Mr. Garman** introduced Mr. John Hopke to address the concerns.

Mr. John Hopke, Hopke and Associates, Williamsburg, said the concept evolved around streetscapes rather than a typical strip shopping center. He said the proposed traffic and parking plan required patrons to park their vehicles and walk around the development. **Mr. Staton** thought the current design would be a detriment to the use of the facilities.

Mr. Myers said the applicant would not be opposed to reconsidering the vehicle access design.

Mr. Brent Sedler, 1023 Marlbank Drive, lives on the corner of Battle Road and believed he would be affected by the proposed development. He believed the proposed high-density housing had the potential to affect traffic, home values and crime rates in the area and those issues were not being addressed. He said not all of the Marlbank Cove and Settlers Crossing property owners had been notified of this public hearing and proposed that the Commission defer any decision until a letter of notification was sent to every property owner in those subdivisions.

Ms. Michelle Hudgins, 110 Battle Road, was opposed to the development because it was very close to her property. She said there is enough traffic already on Battle Road. York County is expected to be quiet and safe, and the additional traffic and cut-through to Patriot Square would be a safety issue. Ms. Hudgins said her concerns would remain the same even if no connection were provided between the proposed development and Battle Road.

Mr. Matthew Hobbs, 24 Striding Ridge Court, Durham, NC, representing Triangle VIII, LP, managing agent for Patriot Square Shopping Center, spoke in favor of the development.

Mr. Raymond Schmidt, 106 Allen Harris Drive, was concerned about high-density housing in proximity to his neighborhood. He noted concerns with high-density housing, increased traffic, greater number of children, and decreased property values. He noted that there were many properties on Route 17 that were currently listed for lease and thought that those properties should be occupied before more commercial development is undertaken.

Mr. Myers said the property in question is the last "empty palette" available on Route 17 offering an opportunity for building something extraordinary. He said that housing in the vicinity is high quality but believed a high-end townhouse project was needed, and considered the project to be a worthy entrance to Yorktown.

There were no others who wished to speak, and **Chair Ptasznik** closed the public hearing.

Mr. Barnett addressed the Commission with regard to County authority to impose a condition requiring the Battle Road connection. The County Attorney's position is that PD (Planned Development) rezonings are, for all practical purposes, another form of a special use permit under which a locality can impose reasonable development conditions. He disagreed with the developer's point of view that this would be a requirement for an "off-site" improvement. The property in question

is a part of the application. The fact that the property would be subdivided off apart from the portion sold to Mid-Atlantic would not preclude a condition requiring the access connection to the proposed development.

Mr. Davis noted this application could be a test for the County as it was its first mixed-use development. He recommended that the County avoid placing timing requirements on the project, and suggested other methods such as bonding for addressing the issue.

Mr. Barba indicated he was uncomfortable downzoning property from GB because it effectively limited commercial development possibilities. He thought the commercial portion of the proposal would fit well with Patriot Square.

Mr. Abel believed this relatively small development appears to be a good first step into mixed-use development for the County. He mentioned possible other uses for the property might be an extension of Patriot Square, a parking lot, or a strip mall and believed this application to be the right size for its location. He did not support the proposed development schedule.

Mr. Hamilton concurred with Mr. Abel's comments. He believed the proposal represented a good use of the land. He recommended turning the commercial buildings so vehicles would not have to drive around the building to get to the parking. He supported approval with the caveat that staff obtain and review signed proffers before submitting the application to the Board of Supervisors.

Mr. Station agreed with most of the Commissioners' remarks but he did not support Battle Road as an access road.

Mr. Ptasznik concurred with the comments of the Commissioners including Mr. Staton's recommendation to remove Battle Road as an access, and to require signed proffers addressing those issues. He noted the timing issue needed to be resolved.

Mr. Carter clarified the staff position on development timing. He explained how the ratios were determined in the absence of any existing mixed-use standards to follow. He recognized the Commission's concerns about rezoning land from commercial to residential use but noted that some opportunity for flexibility was in the staff proposal. Mr. Carter expressed his strong opinion about the issue of timing because there can be no mixed-use project without a concurrent mix of commercial and residential uses. Without a timing condition, there is nothing to compel the developer to develop the commercial portion of the project. He noted the developer's intent to market the townhouses to a separate developer, which risks the townhouses being built without the commercial aspect. Mr. Carter strongly recommended a provision in the proposal that would give some assurance that there would be a commercial component to the project that would be completed at the same time as the townhouses are completed.

Mr. Ptasznik re-opened the public hearing to allow the applicant to speak.
Mr. Paul Garman said the developer could work with the percentages recommended by staff, which he agreed would work in this case but did not think it would work for a large mixed-use case.

Mr. Davis said the issue appeared to be that the County wants to be assured that the commercial component is going to be built, but the applicant might not be able to obtain financing if the project schedule was approved as the County proposes.

Mr. Myers reiterated that the majority of the residential sales are needed to provide financing for the commercial units to be built. He said bonding was not workable. He assured that the commercial infrastructure would be in place, the pad sites readied, the architectural drawings completed, and site plans approved, all of which he said would require a great deal of time and money.

Mr. Carter reiterated the importance of timing for building the commercial space. Some of the mixed-use areas identified in the Comprehensive Plan are very large parcels compared to this relatively small project. If a larger project with hundreds of residential units were built in the future that significantly impacted the schools, for instance, the commercial component would be needed to help defray the financial burden on the County to support the schools. It is likely, he said, that the subject application would set the precedent for future mixed-use developments. While the applicant's concerns relate to financing the project, the County's concerns are related to a possible inundation of residential properties hitting the market before adequate commercial developments are in place to support County services. He strongly recommended a schedule for development as the method to ensure that would not happen with this or future mixed-use developments.

Mr. Davis asked if the developer would be willing to perform all of the site work, including parking, landscaping and the commercial pad sites in preparation for a builder. **Mr. Myers** did not know.

Mr. Carter firmly recommended that some commercial be built before all of the residential is built.

Mr. Barba acknowledged the Commission's responsibility to the success of the project.

Mr. Carter reiterated the need for linkage of residential and commercial development to prevent all of the residential from being built before any commercial is built. He noted that in Port Warwick and New Town, the commercial and residential components were built concurrently.

Mr. Ptasznik closed the public hearing.

Mr. Abel moved to adopt Proposed Resolution PC06-19(R), omitting Condition No. 3, Development Schedule, and omitting Condition No. 4(d), Streets and Circulation, to eliminate one Battle Road connection; and requiring signed proffers as recommended by staff.

<u>Resolution No. PC06-19(R)</u>

On motion of Mr. Abel, which carried 5:1 (Ms. Conner absent, Mr. Barba dissenting), the following resolution was adopted:

> A RESOLUTION TO RECOMMEND APPROVAL OF A 12.46-ACRE PLANNED DEVELOPMENT AT 133 BATTLE ROAD CONSISTING OF A MIXED-USE DEVELOPMENT OF 49 TOWNHOUSES AND 19 CONDOMINIUM UNITS COMBINED WITH APPROXIMATELY 34,500 SQUARE FEET OF RETAIL/OFFICE SPACE

WHEREAS, Mid-Atlantic Communities LLC has submitted Application No. PD-18-06, which seeks to amend the York County Zoning Map by reclassifying from GB (General Business) and R20 (Medium-density Single-family Residential) to PD (Planned Development) approximately 12.46 acres of a 24.2-acre site for the purpose of establishing a mixed-use development located at 133 Battle Road at the southeast quadrant of the intersection of George Washington Memorial Highway (Route 17) and Battle Road (Route 718) and further identified as Assessor's Parcel No. 24-56B and a portion of Assessor's Parcel No. 24-81B; 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 day 12th of July, 2006, that Application No. PD-18-06 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 GB (General Business) and R20 (Medium-density Single-family Residential) to PD (Planned Development) approximately 12.46 acres of a 24.2-acre site for the purpose of establishing a mixed-use development located at 133 Battle Road at the southeast quadrant of the intersection of George Washington Memorial Highway (Route 17) and Battle Road (Route 718) and further identified as Assessor's Parcel No. 24-56B (GPIN Q09d-4122-0113) and a portion of Assessor's Parcel No. 24-81B (Q09d-3894-0486) subject to the following conditions:

1 <u>General Layout, Design, and Density</u>

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. Except as modified herein, said site plan shall be in substantial conformance with the conceptual plans titled "Site Plan, Yorktown Green, Yorktown, Virginia" prepared by Hopke & Associates, Inc, dated June28, 2006 and received by the Planning Division June29, 2006, building elevations (three sheets) titled "Yorktown Green," prepared by Hopke & Associates, Inc., dated June 23, 2006 and received by the Planning Division June 22, 2006, and "Master Plan, Yorktown Green" prepared by C.E. Newbaker Surveying and Planning Inc., dated 4/26/06, revised 6/28/06 and received by the Planning Division June 29, 2006.

b) Except as modified herein, architectural design of all buildings shall be in substantial conformance with the building elevations submitted by the applicant and titled "Yorktown Green, Yorktown, Virginia" prepared by Hopke & Associates, Inc, dated June 23, 2006 and

received by the Planning Division June 22, 2006, copies of which shall be kept on file in the York County Planning Division.

c) Architectural design of buildings shall be in conformance with standards contained in Zoning Ordinance Section 24.1-378(d), Route 17 Corridor Overlay District. In addition to any modifications necessary to comply with those standards, the building architecture for both the mixed-use structures and the townhouse rows shall be modified so as to provide variation in the height or alignment of the longitudinal ridgeline of each structure, or to include some other architectural feature or treatment to mitigate the continuous ridgeline treatment depicted on the conceptual drawings.

d) The maximum number of residential units shall be 68. The maximum number of townhouse units shall be 49. Unit Nos. 50 through 58 as shown on the above referenced master plan shall be commercial use on the ground floor and residential use on the upper floor(s). The first six units within the mixed-use commercial buildings, located on either side of and closest to the development's entrance from Route 17 (three units on each side of the drive aisle), shall be entirely commercial use.

e) The maximum building height for mixed-use commercial buildings shall be fifty feet (50') and for residential buildings it shall be forty feet (40').

f) The development may be identified by a single monument-style sign located along the Route 17 frontage. Said sign shall not exceed sixty-four (64) square feet in area or ten (10) feet in height. Not more than four (4) individual commercial tenants shall be identified on the development identification sign and the area devoted to individual tenant identification shall not exceed 40% of the total sign face. Each commercial tenant space within the project shall be entitled to one marquee or canopy sign not exceeding 3 square feet in area at each customer entrance. Wall signage shall be permitted at a ratio of one (1) square foot per linear foot of tenant space building width for each face of the building with a customer entrance. Wall signage allowances shall not be transferable from one building face to another.

g) Free standing and building-mounted lighting shall be full cut-off fixtures that are shielded and directed downward at a 90-degree angle to the ground to prevent off-site illumination. Illumination levels shall not exceed 0.5 foot candle at the right-of-way line for Route 17. All lighting schemes and lighting fixtures shall be consistent with the lighting recommended by the Illumination Engineering Society of North America (IESNA). A lighting plan indicating manufacturer's specifications for all fixtures and illumination levels for the development site shall be submitted for review and approval by Environmental and Development Services at time of application for site plan approval.

h) Minimum required parking for the commercial portion of the development shall be one space for every 250 square feet of commercial floor area. Minimum parking ratios for the residential components of the project shall be: condos/flats – 1.5 spaces per unit, plus 1 space for every three (3) units for visitor parking; townhouses – 2 spaces per unit, plus 1 space for every three (3) units for visitor parking. Visitor parking shall be appropriately and conveniently dispersed throughout the residential portions of the project.

i) All commercial parking areas shall be screened from view of Route 17 with evergreen plantings having a minimum mature height of three (3) feet. Landforms, supplemented with appropriate landscaping, may be used to achieve the required screening effect.

j) Landscaping along the Route 17 frontage of the development shall meet minimum planting standards for a 45-foot greenbelt pursuant to Zoning Ordinance Section 24.1-245(c).

k) Within the townhouse portion of the development there shall be a minimum twenty foot (20') setback from the face of the garage to the closest edge of any street curbline or streetside sidewalk. The minimum setback of the remainder of the façade of the townhouse (excepting the garage) from the closest edge of any street curbline or streetside sidewalk shall be ten feet (10'). Such area shall be landscaped with grass, trees and shrubs.

2 Commercial/Residential Ratios

a) The development shall maintain the following commercial/residential unit ratios:

- Commercial – 3,000 square feet of commercial floor area per useable (excluding utility easements and wetlands) land acre
- Residential – 500 square feet of commercial floor area per dwelling unit

3 Streets and Circulation

a) 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.

b) The developer shall install a right-turn lane and taper on George Washington Memorial Highway as shown on the development plan. Design, including length and width of the taper, shall meet all applicable standards of Virginia Department of Transportation (VDOT).

c) There shall be no on-street parking within the townhouse section of the development except where street pavement width equals or exceeds twenty-eight feet (28').

d) The vehicular/sidewalk connection to the abutting shopping center (GPIN Q08b-4408-4590) shown on the referenced plans shall be constructed and completed, inspected by the County and opened to vehicular and pedestrian use prior to the issuance of the first Certificate of Occupancy for the townhouse section of the development.

e) In accordance with Zoning Ordinance Section 24.1-252(b)(4), access to proposed Parcel A-2 from Route 17 shall be permitted provided that it is designed as a right-in-only driveway, or right-in/right-out if approved by VDOT, interconnecting with the circulation system in the mixed-use development and that it is located on or abutting the common parcel boundary between Parcels A-1 and A-2 as shown on the plat titled "Exhibit Plat of Parcel A-1 & Parcel B, Property To Be Zoned PD Containing 542,659 sq. ft. or 12.458 Acres," prepared by C.E. Newbaker Surveying and Planning, Inc., dated March 30, 2006, revised June 28, 2006 and received by the Planning Division on June 30, 2006.

f) The private street system within the development and as required above shall be designed and constructed in conformance with Zoning Ordinance Section 24.1-361(f), Planned Development District; Special Design Standards.

g) A revised traffic impact analysis with trip generation figures reflecting the revised mix of residential and commercial use shall be submitted for review and approval by Environmental and Development Services at time of application for site plan approval.

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 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 in accordance with all applicable regulations and specifications. The applicant shall grant to Newport News Waterworks all easements deemed necessary 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 in consultation with VDOT and in accordance with applicable regulations and specifications. The property owners' association(s) shall own and be responsible for the perpetual maintenance of all stormwater retention facilities serving the Planned Development and located within the project limits. This shall not preclude the use of cooperative arrangements for joint use of off-site stormwater management facilities.

5 Open Space and Recreation

a) The location and arrangement of open space shall be generally as depicted on the plan titled "Master Plan, Yorktown Green" prepared by C.E. Newbaker Surveying and Planning Inc., dated 4/26/06, revised 6/28/06 and received by the Planning Division June 29, 2006.

b) Open space and recreation areas shall be developed in accordance with Zoning Ordinance Section 24.1-361(e). Common active/passive outdoor recreation areas shall include, at a minimum, the following facilities and amenities:
   - Gazebo
   - Picnic area
   - Walking trails
   - Benches
   - Fitness trail

c) Indoor recreational amenities shall consist of, at a minimum, a 900-square foot ground-floor fitness center as shown on the development plan titled "Yorktown Green, Yorktown, Virginia" prepared by Hopke & Associates, Inc, dated June 23, 2006 and received by the Planning

Division June 22, 2006. Said facility shall be available without additional charges or fees (i.e., in addition to normal Property Owner's Association dues) to all residents of the development and their guests. Said facility shall be completed and available to residents prior to the issuance of a building permit for the 25th townhouse unit.

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) Recreational facilities or improvements shall not be located within any wetland areas.

g) 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 Proffered Conditions

The reclassification shall be subject to the conditions listed in the draft proffer statement titled "Proffers, Yorktown Green," dated 6/29/06 with the exception of Proffer No. 7 except as modified herein.

7 Restrictive Covenants

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

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