

Application No. PD-42-16, Marquis Williamsburg RE Holdings LLC: Request to:

- (a) Amend the York County Zoning Map by reclassifying two areas encompassing a total of 11.9 acres along the northern boundary of The Marquis “South Pod” property located at 900 Marquis Parkway (Assessor’s Parcel No. 11-4-12) from EO (Economic Opportunity) to PDR (Planned Development Residential).
- (b) Amend the previously approved Overall Development Master Plan and proffer statement for The Marquis “South Pod” by 1) relocating and enlarging the elementary school site proffered to the County by the developer in November 2013; 2) changing the mix of residential units by removing the 189-unit townhouse component, increasing the permitted number of apartment units from 300 to 418, and increasing the permitted number of single-family detached units from 161 to 182, resulting in an overall decline from 650 to 600 housing units; 3) reconfiguring the layout of the single-family detached section and relocating and reconfiguring the apartment section; and 4) eliminating a proposed hotel site approved by the Board in February 2014.

Timothy C. Cross, Principal Planner, summarized the staff report dated September 1, 2016, stating that staff recommends the Commission forward the application to the Board of Supervisors with a recommendation of approval through the adoption of proposed Resolution No. PC16-16.

Dr. Phillips asked if the projected number of school students generated by the development is the staff’s estimate.

Mr. Cross responded that it is.

Dr. Phillips asked if it was based on standard County-wide multipliers.

Mr. Cross responded that it was in the case of this project but added that the multipliers sometimes vary depending on the location and the type of housing.

Dr. Phillips commented on the fact that the number of school students living in a development changes over time and is probably higher than average in the first few years after a new housing project is developed and occupied.

Mr. Cross agreed.

Ms. Magowan noted concerns expressed by the Naval Weapons Station about residential development in an area with high levels of noise generated by activities on the base. She asked if the developer has considered the possibility of building some type of noise barrier on the property to mitigate the noise impacts.

Mr. Cross responded that the developer has not given any indication that a noise barrier might be built.

Dr. Phillips noted the proposed wetland crossing to provide access between the school and the athletic fields. He asked if the County has thought about how equipment and students will get across the wetlands.

Mr. Cross responded that the School Board has likely thought about it since it has been evaluating the potential school site for some time. He added that the developer has secured the necessary wetlands permits for both the road crossing and the crossing between the school and the athletic fields.

Mr. Myer asked Mr. Cross to summarize the Naval Weapons Station's comments on the application.

Mr. Cross responded that the Navy reiterated concerns it had expressed when the original rezoning application for the South Pod was reviewed and approved in 2013. He stated that these concerns related to various noise-generating uses on-base, including an existing pistol range, an existing Explosive Ordnance Disposal (EOD) range, and a new small arms range now under construction, and their potential for generating complaints from residential neighbors. He stated that the Navy wants to be a good neighbor and has been consistent over the years, dating back to the Comprehensive Plan review and update in 2012-13 when this area was considered for a Mixed Use overlay designation, in raising such concerns.

Mr. Jons asked about the decibel levels generated by the Naval Weapons Station and what they would be comparable to.

Mr. Cross responded that the two noise level thresholds cited by the Navy in its comments are 87 and 104 peak decibels and that he did not know what kind of noise those levels might be comparable to. He noted that the Navy's Environmental Assessment for the small arms range concludes that with the existing noise environment, including noise from Interstate 64, the construction and operation of the small arms range would result in a periodic long-term, minor increase in noise.

Mr. Myer said that 87 decibels would be comparable to city traffic and that 104 decibels would be comparable to a lawnmower from a distance of about three feet.

Chair Jons asked if Sam's Club is still planning to build a store at The Marquis.

Mr. Cross responded that Sam's Club is still moving forward with plans to locate at The Marquis. He stated that Sam's Club has purchased the property and recently submitted a revised site plan.

Vice Chair Jons opened the public hearing.

Greg Davis, attorney with Kaufman & Canoles, 4801 Courthouse Street, Williamsburg, spoke on behalf of the applicant. He stated that the application is driven by three developments that have taken place since the original rezoning was approved. He explained that 1) the School Division has concluded that the originally proffered school site is too small, 2) the developer has decided that the hotel site is not realistic given its location and the hotel market, and 3) the developer had decided that a sign on the property along I-64 would not be attractive or practical. Subsequent discussions between the developer and County and School Division officials led to the consideration of various potential sites and layouts on the South Pod and ultimately to the plan now under consideration. With regard to the wetlands crossing between the school and the

athletic fields, he stated that the plans envision a bridge that can accommodate walkers as well as ambulances and mowing equipment. With regard to consideration of a noise barrier, he stated that the development team has discussed noise mitigation. He noted that the small arms range will be in operation before any homes are built, so the builder will have exposure to the range before building any homes, and potential buyers will also have that exposure prior to buying a home. He urged the Commission to recommend approval of the application, and he offered to answer questions.

Ms. Magowan reiterated her recommendation that a sound barrier be considered. She noted the many complaints about the Lafayette Gun Club from residential neighbors who moved in after the gun club was in operation.

Mr. Davis responded that he would take that recommendation back to the developer, and he added that there are various noise mitigation features available that can be incorporated into the homes themselves.

Dr. Phillips commented that the proffered conditions would allow the school athletic fields and facilities to be counted toward the developer's recreational amenity requirement. He stated that he felt that both school and after-school athletic activities would greatly limit the residents' ability to use those facilities.

Mr. Davis responded that the development will be marketed to people, particularly dual-income families with no children, who want quick access to the interstate, proximity to commercial amenities, and smaller yards that do not require significant maintenance. He added that he felt the sharing of facilities would work well since the school will not be using them after school hours every day or during the summer months, and he noted that there would be significant trails and sidewalks that will be used by the residents regularly. Mr. Davis also stated that pools and clubhouses are often viewed negatively because the maintenance costs drive up homeowners' association dues.

Ms. Magowan asked if there would be any amenities specifically for the residents such as dog parks, picnic shelters, barbecue pits, etc.

Mr. Davis responded that there will be two areas for horseshoe pits and grills and that the developer envisions pocket parks along the trail system.

Ms. Magowan noted the ambiguous wording of the proffer and asked if the developer would provide the amenities themselves and not just provide space for them.

Mr. Davis responded that the developer would provide the amenities.

Mr. Myer asked Mr. Davis if he has reviewed the Environmental Assessment for the Navy small arms range.

Mr. Davis responded that he has not.

Mr. Myer noted that firing is expected to take place between 5:00 AM and 5:00 PM and that there might also be some firing at night. He suggested that the builder be made aware of this information as well as the types of weapons that will be fired at the range. He noted that automatic weapons have a much different noise impact than single-fire rounds from a rifle or pistol.

Chair Jons noted the presence of a representative from the School Division in the audience and asked if he would like to speak.

Carl James, Chief Operations Officer for the York County School Division, stated that the School Division is pleased to have the proffered school site, which provides ample space for a school and a playground, and the athletic field site, which will serve both the school and the community.

There being no one else present wishing to address the Commission on the application, **Chair Jons** closed the public hearing.

Mr. Peterman stated that he visited the site and observed that there were relatively fewer shoppers in the commercial area. He stated that he feels residential development is needed for the commercial area to remain viable. He expressed satisfaction with the plan and proffers. Regarding the noise issue, he stated that he served in the military and that the school his children attended was at the end of a runway used by F-111's that generated much higher decibel levels than will be experienced at The Marquis. He added that some type of sound barrier might be useful, although it might not be feasible because of the rough terrain.

Mr. Myer stated that by virtue of the rezoning in 2013, there will be a residential development on the South Pod and that the issue before the Commission is whether or not there should be changes to the plan and proffers as proposed by the developer. He stated that the larger school site and the reduction in the number of units are positive changes and that developer will need to work with his builders to address the noise issue. Mr. Myer stated that the Navy has been very forthright in making all parties aware of its activities that could affect the development. He stated that with the changes proposed by the developer, the project is superior to the project that was approved in 2013.

Dr. Phillips stated that the revised site layout is more crowded and provides less space for recreational activities. He also expressed concern about the noise issue, noting that the noise generated by the firing of weapons is qualitatively different from other types of noise. He noted that most of the property lies within the area with exposure to peak decibel levels that the military considers inappropriate for housing or schools. Dr. Phillips stated that he did not believe a sound barrier on the Marquis property would be effective at mitigating noise.

Ms. Magowan stated that she feels the current proposal is better than the 2013 proposal that was approved by the Board of Supervisors but that as someone who works on a military installation, she believes there will be problems because of the noise and that it needs to be addressed in some manner. She stated that otherwise, she feels it is a good proposal.

Chair Jons opined that this is a very good proposal and that he was pleased when he saw the larger school site. He stated that the County has struggled over the years to help make The Marquis a viable commercial area and that the application is a great opportunity to create a customer base to support retail activity. He stated that he is excited about the possibilities created by this proposal and that he supports it.

Mr. Myer moved the approval of Resolution No. PC16-16.

A RESOLUTION TO RECOMMEND APPROVAL OF AN APPLICATION TO
REZONE APPROXIMATELY 11.9 ACRES OF A 112.6-ACRE PARCEL
LOCATED AT 900 MARQUIS PARKWAY FROM ECONOMIC

**OPPORTUNITY TO PLANNED DEVELOPMENT RESIDENTIAL AND TO
AMEND PREVIOUSLY APPROVED CONDITIONS OF APPROVAL
APPLICABLE TO THE REFERENCED PARCEL**

WHEREAS, Marquis Williamsburg RE Holding LLC has submitted Application No. PD-37-13, which is a request to amend the York County Zoning Map by reclassifying approximately 100.7 acres of an approximately 112.6-acre parcel of land located on the east side of Interstate 64 south of the Route 199 (Marquis Center Parkway) interchange, further identified as Assessor's Parcel No. 11-4-12 (GPIN I13c-0012-1173), from EO (Economic Opportunity) to PDR (Planned Development Residential); 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 14th day of September, 2016, that Application No. PD-342-16 be, and it is hereby, forwarded to the York County Board of Supervisors with a recommendation of approval to amend the York County Zoning Map by reclassifying from EO (Economic Opportunity) to PDR (Planned Development Residential) two portions, with a combined area of approximately 11.9 acres, of an approximately 112.6-acre parcel of land located on the east side of Interstate 64 south of the Route 199 (Marquis Center Parkway) interchange, further identified as Assessor's Parcel No. 11-4-12 (GPIN I13c-0012-1173) and more fully described below:

Area 1

Beginning at a point having Virginia State Plane South Zone coordinates N=3621380.9147, E=12025844.4862; Thence S 33° 32' 35" W, 338.00 feet to a point; Thence S 42° 54' 54" W, 327.09 feet to a point; Thence N 42° 25' 44" W, 697.76' feet to a point; Thence N 71° 32' 57" E, 45.25 feet to a point; Thence N68° 35' 19" E, 324.70 feet to a point; Thence S 87° 07' 01" E, 235.21 feet to a point; Thence S 66° 53' 34" E, 266.21' feet to a point; Thence S 76° 01' 05" E, 49.10' feet to a point; Thence N 78° 31' 22" E 7.77 feet, returning to the point of beginning and containing 6.9875 acres.

Area 2

Beginning at a point having Virginia State Plane South Zone coordinates N= 3620995.4442, E=12023626.4960; Thence N 74° 01' 06" E, 184.13 feet to a point; Thence S 80° 26' 33" E, 122.90 feet to a point; Thence N 72° 30' 45" E, 272.04 feet to a point; Thence S 32° 50' 51" E, 300.00 feet to a point; Thence S 57° 09' 09" W, 539.15 feet to a point; Thence N 32° 50' 51" W, 205.58 feet to a point; Thence N 30° 58' 48" W, 302.94 feet, returning to the point of beginning and containing 4.9143 acres.

BE IT FURTHER RESOLVED that development of the above-referenced parcel identified as Assessor's Parcel No. 11-4-12 (GPIN I13c-0012-1173) and containing approximately 112.6 acres shall be subject to the following conditions:

1. General Layout, Design, and Density

- a) The development shall be designed and constructed in accordance with the provisions of 24.1-361, Planned Development Residential district, except as modified herein.
- b) A site plan or subdivision plan, prepared in accordance with the provisions of Article V of the Zoning Ordinance or Chapter 20.5, Subdivision Ordinance, shall be submitted to and approved by the Division of Development Services prior to the commencement of any land clearing or construction activities on the site for each phase of the development. Except as modified herein, said site plan or subdivision plan shall be in substantial conformance with the overall development master plan titled "South Pod Concept Plan," prepared by VHB and dated ~~November 12, 2013~~June 28, 2016.
- c) The maximum number of residential units shall be ~~650~~600, including ~~approximately 300~~up to 418 apartments, ~~189 townhouses~~, and not more than ~~161~~182 single-family detached units.

2. Residential Area Design Parameters

- a) The minimum lot width for single-family detached homes shall be 45 feet, provided, however, that a minimum lot width of 35 feet shall be permitted for up to 5% of the lots.
- b) The minimum front yard setback for single-family detached ~~and single family attached~~ homes shall be twenty feet (20').
- c) The minimum rear yard setback for single-family detached homes shall be ten feet (10'). Attached decks or porches shall be subject to the 10-foot setback requirement
- d) The minimum building separation between any two principal buildings, including attached decks or porches, shall be fifteen feet (15') for single-family detached homes ~~and single family attached homes~~, provided, however, that where two adjacent structures are separated by less than twenty feet (20'), the following conditions shall be met:
 1. Structures shall be constructed with an approved NFPA 13R Sprinkler System, and/or
 2. All adjacent facing walls shall be constructed with an approved fire-resistive exterior finish (or other approved alternatives) and said fire-resistive construction shall include associated projections (cornices, eaves, overhangs, fireplaces, etc). This shall include the projections for the fireplaces extending into the fifteen-foot (15') separation. Furthermore, in order to accommodate design features, a limited percentage (exact percentage to be determined by the Department of Fire and Life Safety) of the fire-resistive section of the structure could be allowed to have unprotected openings.
- e) The minimum side yard setback for single-family detached homes shall be 7.5 feet.

f) The maximum building height for multi-family residential structures shall be 75 feet.

3. Streets and Roads

Shoulder bike lanes with a minimum width of four feet (4') shall be provided along both sides of Marquis Parkway between the northern parcel boundary and the single-family detached section of the development.

4. Fire and Life Safety

All roads and parking lots shall be designed to accommodate the turning radius of large fire and rescue apparatus.

5. Open Space and Recreation

a) Common open space shall be provided as generally depicted on the referenced Concept Plan and in accordance with the provisions set forth in Section 24.1-361.1(e) of the Zoning Ordinance. In no event shall the amount of common open space be less than 25% of the total gross area of the planned development.

b) Recreational facilities shall be in accordance with the provisions set forth in Section 24.1-361(e)(3), with the following exceptions:

i) A swimming pool shall be provided specifically for the proposed apartment units and shall be a resort-style or lap pool. Nothing herein shall preclude the developer or developers from voluntarily making arrangements and agreements that would enable residents of other portions of the development to have access to the apartment project pool.

ii) In lieu of the otherwise required tennis courts and playgrounds, a minimum of two (2) outdoor activity facility areas designed for activities such as community picnic shelters, barbecue grilling areas, horseshoe pits, etc. shall be provided. Such facilities shall be located so as to be visible for security and safety purposes, easily accessible for residents and for maintenance, and located or buffered so as not to create the potential for adverse impacts (e.g., noise, lack of privacy, security, etc.) on any adjoining residential properties.

iii) Notwithstanding the provisions of Section 24.1-361(e)(3)d of the Zoning Ordinance, portions of recreation areas may be located in areas containing fuel, power, or other transmission lines and rights-of-way provided that those utility features do not interfere with or create hazards for use of the recreational facilities.

6. Environment

a) Prior to the approval of any site plans for this development, the developer shall submit a Natural Resources Inventory of the property prepared in accordance with Section 23.2-6 of the York County Code and evidence of all environmental permits.

b) Any proposed disturbance of wetlands on the property shall require a permit from the U.S. Army Corps of Engineers and/or Virginia Department of Environmental Quality.

Chesapeake Bay Preservation Area (CBPA) buffers shall be measured from the limits shown on the latest ACOE-approved wetlands delineation.

7. Proffered Conditions

The reclassification shall be subject to the conditions listed in the proffer statement titled "THE MARQUIS – SOUTH PARCEL (GPIN: I13c-0012-1173) PDR REZONING AMENDED AND RESTATED PROFFERS" dated ~~November 13, 2013~~June 29, 2016 and signed by Shawn Todd.

BE IT STILL FURTHER RESOLVED that in accordance with Section 24.1-114(e)(1) of the York County Zoning Ordinance, a certified copy of the ordinance approving this application, 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 site plan approval.

On roll call the vote was:

Yea:	(4)	Myer, Magowan, Peterman, Jons
Nay:	(1)	Phillips
