

**New Kent County
Planning Commission
Minutes**

Monday, June 16, 2003

Chairman Hathaway called the meeting to order.

Members Present:

Louis Abrams	Present
Jack Chalmers	Present
Mark Daniel	Present
David Frank	Present
Howard Gammon	Present
Jay Hubbard	Present
Milton Hathaway	Present
Julian Lipscomb	Present
Edward Pollard	Present
Marty Sparks	Present
Robert Stroube	Present

Also Present:

George Homewood, Planning Director
Theresa Carter, Planning Technician
Kenneth Vaughan, Zoning Administrator
Phyllis Katz, County Attorney

IN RE: ROLL CALL AND ESTABLISHMENT OF A QUORUM

Chairman Hathaway asked for roll call and established that there was a quorum.

IN RE: MINUTES

Mr. Frank moved that the minutes of the May 19, 2003 meeting be approved, seconded by Dr. Stroube. Motion adopted unanimously by roll call vote.

Mr. Pollard moved that the minutes of the May 22, 2003 work session be approved, seconded by Mr. Chalmers. Motion adopted unanimously by roll call vote.

Mr. Pollard moved that the minutes of the June 5, 2003 work session be approved, seconded by Mr. Sparks. Motion adopted unanimously by roll call vote.

IN RE: PUBLIC COMMENT

None.

IN RE: UNFINISHED BUSINESS

None.

IN RE: PUBLIC HEARINGS

PUD-1-03: FARMS OF NEW KENT

New Kent Farms, LLC is requesting to rezone approximately 2,800 acres from A-1 (2,200± acres), R-1 (135± acres) and M-2 (445± acres) to Planned Unit Development authorizing a mixed use development

Mr. Daniels declared he was abstaining from this discussion of the Farms of New Kent because of a perceived conflict of interest and removed himself from the commission discussion.

During the second informational public hearing, Mr. Homewood gave the staff report which was a second briefing on the application with the focus on new information received since the May meeting. The application was still under review and not yet complete. He also reviewed much of the material presented at the May meeting for the benefit of citizens who were not able to attend the that first public hearing. New information in the briefing included the following:

- Fire and Rescue Station proposed location
- Waste Water Treatment Plan proposed location
- Community design elements including streetscapes, buffers and Land Bay details

The wastewater treatment plant, for which a use permit application was received on this day, is proposed on a parcel on the south side of I-64 and owned by Riley Lowe. The facility possibly could be expanded to ultimately include the entire western and central portions of the County. This would include the Bottoms Bridge area as well as any developments along Route 60 and highway 249. Mr. Homewood also discussed the legal status of age-restricted housing, stating that the County Attorney has confirmed that age-restrictions are legal and could be enforced as a zoning regulation.

Some of the issues still needing attention include the following:

- How construction of the Black Creek Reservoir may affect the application
- Community Design and Character – a central design to tie the entire PUD together
- Socio-Economic Impacts
- Land Use Specifications

- Component Phasing
- Property Owners Associations that need to be created for each Land Bay

Mr. Homewood added that there would be additional meetings of the Development Review Committee and the applications development team. The Committee consists of staff, consultants and state/local review agencies. The goal is to present a recommendation to the Commission at the July meeting.

Pete Johns, one of the partners for the project, gave a presentation on the development. Leonard Bogorad of Robert Charles Lesser and Co., a real estate advisory firm, briefly reviewed the financial impacts of the development. He stated that his firm had prepared a detailed fiscal impact model through the year 2025 based on the County budget. According to Mr. Bogorad the results clearly show a positive fiscal impact on the County with the Farms of New Kent generating a net fiscal impact of \$142.9 million including inflation or \$96.3 million without inflation.

Mr. Sparks opened the public portion of the hearing.

Doug Houston Resident on Historical Path Road, had several questions he would like addressed. He first asked if the 100 “cottages” would be commercial or residential and where would they be constructed. He then asked if the Commission and Board of Supervisors members had compared the proposed developments to the sites visited during the May 22 (Currituck Club, Corolla, NC) and June 5 (Historic Virginia in Prince William County) mobile work sessions. Finally, he asked if, considering the existing approved residential lots in the county, the County projects the population growing fast enough to develop those existing lots plus the lots proposed by the application.

Willie Downs Crumps Mill Road resident whose home, including historic Crumps Mill, is adjacent to the proposed development. He and his wife Debbie also own Crumps Mill Pond which is surrounded by the proposed development. Mrs. Downs is a member of the Planning Department’s Development Review Committee (representing the County’s Historic Commission) and attended the Planning Commission’s May and June mobile work sessions. He stated that Crumps Mill dates back to the 1800’s and has been registered as a historic landmark on the state and national level. He added that they are in the process of restoring the grist mill. According to Mr. Downs the Land Bay I plan indicates that the area surrounding Crumps Mill will be maintained as green space. The Downs are concerned about accomplishing that goal with the 1- to 3-acre home sites proposed for that area. He added that according to County representatives the County seeks to protect historic structures and the environment in which they exist. Additionally the Downs are concerned about preserving the natural setting of the pond and mill. They offered to work with the County and the developer to preserve the mill and surrounding environment.

Lisa Guthrie Resident on Wensleydale Drive, organized a community informational meeting that was held on June 11 to help inform other citizens about the Farms of New Kent project. Mr. Homewood attended and provided information about the application. She is concerned that the development does not conform to the Comprehensive Plan's land use designations. She is also concerned about the lack of assurances that the applicant will be responsible for the ongoing costs of the development and not the County and ultimately county residents. Another area of concern is the impact to the schools. She estimated that 900 homes could generate an additional 1000 students.

George Philbates, Jr. County resident for over seventy years, concerned that this development would almost double the county's population in the next 8 to 10 years. He thinks the 2,400 age-restricted homes are okay but the 1,500 other homes planned that are not age-restricted could translate to an additional 2,250 children in the school system. He asked the Commission to consider educating these students at \$2,400 per student or over \$5,000,000 in school costs plus the associated costs such as additional school rooms, teachers, school buses, and principals. He went on to say that the plan is good overall but he would prefer that the applicant provide a school that is truly needed rather than a library or fire station.

Joyce Peterson Emmaus Church Road resident, lives on a 228 year old farm known as Iden that is adjacent to the proposed development. She stated that the Farms of New Kent is not about farms but about shopping centers, roundabouts, high density housing, and apartment complexes. She added that the development threatens her quality of life and that of every other county resident. If the proposal is approved she vowed that Iden would be gone, that she will have no choice other than to develop the property for commercial purposes.

Jennifer Caldwell Old Nottingham Road resident, agreed with the comments made by Lisa Guthrie. She added that the Planning Commission and Board of Supervisors have denied every new development over the past 8 years or so because the County cannot afford the services that are required for the influx of new residents. Other developments have also been denied because of possible environmental impacts. She is concerned that these issues have not been addressed with respect to this application. She added that it seems to her there are some political shenanigans going on and that she expects fair mindedness and an even obeying of the rules.

Steve Peterson Emmaus Church Road resident, lives on a farm know as Iden which is directly to the left of Land Bay III. He stated that he is

impressed by the project but that it does not belong here in New Kent. He listed a few implicit costs, costs that are not in the proposal but are related to the Comprehensive Plan. He stated that when they, and several of their neighbors, purchased their property that the surrounding property could only be developed as 15- to 25-acre estate lots according to the Comprehensive Plan in use at that time. He added that also at risk are the County's stated objectives relating to historic preservation, rural character, and low-density residential development. He stated that the County needs to be proactive and solicit the kind of development it wants and not to just react to whatever is brought to the table. He asked the Commission to reject the application based on its incompatibility with the Comprehensive Plan.

Charles Moss Life long county resident, lives on Stage Road. He is a member of the Mt. Calvary Baptist Church that is located near the proposed development. He spoke about his concerns for area residents who do not have adequate affordable housing and stated that this plan does not address this issue. He feels that homes for all citizens should be included in the proposal.

Patricia Townsend St. Peters Lane resident, former Planning Commissioner, asked the Commission to use previous history of approved development as a guide to review this proposal. She stated that lot size should be a concern as well as conserving green space. She noted that an approved age restricted development had children residing in it. She asked who would enforce the age-restricted covenant. She added that other localities are interested in building a reservoir and strongly suggested that the County take a look at the issue in order to sell water to Newport News rather than letting other localities do it.

Phillip Felts Lives on Tunstall Road, is in favor of the development, stating that the developer would provide the infrastructure such as a waste water treatment plant that could be used by other residents and businesses. He stated that there is a need to plan for the future of the County and that he supported the project.

Becky Philbates Clark Road resident who is concerned about the proposed roundabouts and possibly dangerous intersections, adding they would not be needed if New Kent did not allow this growth. She went on to say that the school issue should be addressed in the proposal and that the county should be kept country.

Frank Carley Lives on Rockahock Road, stated that the plan has some good features such as the age-restricted housing component, but added that the proposal needs to include some plans for a school and to scratch deeper on socioeconomic issues.

Mr. Sparks closed the public portion of the meeting.

Reverend Hathaway stated that regardless of the size of the development the approval process by the Planning Commission is the same for all developments. He added that no decisions have been made by the Commission regarding this application and that the public hearings are a critical part of the decision making process.

Mr. Hubbard asked who would enforce the age-restricted conditions for the proposed active adult community. Chuck Rothenberg spoke on behalf of the applicant and stated that the age restrictions would be a proffered condition and once recorded would be legally binding and enforceable through state and local law. He also responded to several of the comments made during the citizen comment portion of the meeting. He said that the fiscal impact analysis prepared for the applicant by Robert Charles Lesser and Co. and staff's analysis both projected the development would house 600 to 675 school aged children. He added that real estate taxes and other revenues to the county generated by this development would cover the capital costs and operating costs to educate those students.

Reverend Hathaway reminded the citizens that no action would be taken on this proposal at this meeting. He added that a least one more public hearing would be held prior to making a recommendation to the Board of Supervisors.

ZO-1-03: PLANNED UNIT DEVELOPMENT PROCESS

Proposed amendment to Section 98-701 to clarify the existing provisions of that section as it applies to the submittal, review and approval of planned development applications and conform them to current County practice

The legal team of one of the planned unit development applications had requested clarifications to Section 98-701. Staff withdrew the application as the County attorney advised that no changes needed to be made as the language was clear and staff had been interpreting the section correctly.

Mr. Sparks opened the citizen comment portion of the hearing. There being no comment, the citizen comment portion was closed.

Mr. Lipscomb made a motion to strike the item from the agenda, seconded by Mr. Frank. The motion passed with a roll call vote of 11:0.

CUP-3-03, COLONIAL DOWNS

Request for a use permit to authorize a motorcycle race to be held at Colonial Downs on 13 September 2003 from 4:00 PM until 10:30 PM. The subject property is located at 10515 Colonial Downs Parkway and is further identified as Tax Map parcel 33-6.

George Homewood gave the staff report on the application that was largely a repeat of an application considered by the Commission in February. Under this use permit no other motorized racing would be authorized before or after that one specific date of September 13, 2003. He stated that no definitive study exists as to the noise impacts on neighboring residential uses and that there will be at least some noise impact on

residential uses in Brickshire. The degree and extent of those impacts are unknown. He added that only a specific noise study conducted under race conditions at Colonial Downs could definitively answer the noise impact question. Motorcycle testing done at the track earlier this year was limited to testing the surface of the track for suitability and adequacy for motorcycle racing and did not include any type of noise study. Had staff known of any testing being conducted at the track it would have strongly recommended a noise analysis. Staff recommended tabling the application to allow Brickshire homeowners and Colonial Downs management time to work out an arrangement by which a race could be conducted. Failing that, staff recommended denying the application.

Ian Stewart, president of Colonial Downs, addressed the Commission. He requested approval of the application and stated that this one day event would make a substantial contribution to the New Kent County treasury and New Kent Teachers Wish List Foundation. He went on to say the use of the property for a motorcycle race was legal under the New Kent County zoning ordinance. He stated that the restrictions on the use of the facility were imposed contractually by Delmarva Properties and its affiliate Chesapeake Forest Products. Delmarva Properties or Chesapeake Forest Products could only enforce these restrictions and they have consented to this race. Colonial Downs would not do anything that would reflect poorly on the racetrack. He added that Colonial Downs proposed to support the Teachers Wish list Foundation by contributing \$1.00 for every person attending the event. He further stated that one key to profitability is off-season use of the facility and motorcycle racing is potentially very profitable considering that one day of motorcycle racing could generate more money than any day of live (horse) racing. According to Mr. Stewart, the first motorcycle race held in the spring of 2001 was conducted with the approval of the County and through an agreement between Colonial Downs and Delmarva Properties for a one-time event. No future races were anticipated. In the fall of 2002 price negotiations for property adjacent to the facility that was sold to Colonial Downs from Delmarva Properties included an agreement for Delmarva's support for a race in 2003. He further stated that this would be a once a year event.

Next to address the Commission was Tom Hamilton, Vice-President of Finance for Colonial Downs. He stated that Colonial Downs had withdrawn their earlier application due to delays in obtaining approval that caused problems in advertising the event. He added that Clear Channel was to be the promoter of the earlier event and that Colonial Downs will be the promoter of this event. In the months since the February meeting, Colonial Downs management requested a meeting with Brickshire residents in order to talk about issues raised by the event. The outcome of the meeting was an offer by Colonial Downs to secure the development from citizens wandering around the area whether by design or accident. Also discussed were multiple races Colonial Downs might want to have on their property. Mr. Hamilton stated that this American Motorcycle Association Grand National event could only be held at Colonial Downs once a year.

Pam Horsley spoke on behalf of the Teachers Wish List Foundation. She told the Commission that the Foundation paid for non-budgeted expenses incurred by middle and high school teachers on a regular basis — expenses otherwise paid for out of the teacher's pocket. She estimated that the race proceeds for the Foundation would total

between \$6,000 and \$8,000. She stated that she could not be either for or against the application.

Mr. Hubbard asked the applicants if they intended to conduct a sound study during the event if approved to which Mr. Stewart replied that they would conduct a comprehensive study. Mr. Lipscomb suggested requiring a sound study as part of the approval.

Mr. Sparks opened the public portion of the hearing.

Thomas Kleine Attorney with Troutman Sanders, LLP, representing the Brickshire Homeowners Association, cited County zoning ordinance Section 98-744 "In all requests for approval for conditional use permits the burden of proof shall be on the applicant...the proposed use shall not be detrimental to use or development of the adjacent properties or to the general neighborhood nor impair the value of buildings or property in the surrounding areas." He stated that the HOA would like to express their concern with this application. According to Mr. Klein many of the property owners purchased their property with the understanding there would be no more races. He wanted the Commission to keep in mind that only 50 of the possible 1,000 homes have been constructed in Brickshire and that one of the proffers is that \$2,500 is paid to the County upon issuance of a certificate of occupancy. In addition, each homeowner pays yearly approximately \$3,000 in property taxes. He added that on any given weekend there would be up to forty prospective homeowners investigating the development and that this one time event could have a significant impact on those prospects. He also added that 79 decibels was a significant level.

Bob Kay Brickshire resident, played a promotional CD for the Commission that contained shots of some of the homes, golf course, grounds and clubhouse.

Donna Friend Brickshire resident, moved into the development on the day before the first race. She stated that during the race the windows shook in her home. Personnel at the Brickshire sales office assured her that this was a one-time event. She does not object to the race, only the noise it produces, and believes that the revenue generated by this event would not offset the revenue lost by discouraging prospective homeowners.

Dwight Johnson Brickshire resident, read a letter dated April 30, 2003 from R. Thomas Powers, president of Bluegreen Golf, that supercedes the September 12, 2001 letter from Richard Melchor, Brickshire General Manager that gave approval this type of event once or twice per year. The April 30 letter stated that Bluegreen Golf is against motorized racing of any kind at Colonial Downs. Mr. Johnson asked the Commission to turn down the application.

Larry Haviland Brickshire resident, pledged his and his wife's continued support for all non-motorized events at Colonial Downs. When he purchased his lot in July 2001 the salesman informed him that there would be no more races and that the County had a noise ordinance that would protect them from future races. Mr. Haviland and his wife were both home working on the day Colonial Downs conducted a track surface test and that the single motorcycle was quite loud and that during a telephone conversation the sound could be heard by the person at the other end of the line. He stated that the race would interrupt their business as well as personal life. Mr. Haviland urged the Commission not to approve the event.

Elizabeth Files Greenwood Estates resident, felt that based on personal experience noise is a factor but that the race should be run along with a noise study. She added that middle- to high-income range people attended these types of races.

Jan Haviland Brickshire resident, stated that it is not the type of people attracted to this kind of event that is the issue, noise is the issue.

Lynn McPhearson New Kent resident, supports the one time event for the tax revenue it would provide as well as support the school system and believes it would be a win-win situation for the County. She stated that if the event were approved she would attend the race and urged the Commission members to attend as well.

Tom Porterfield President, Woodfin Oil and owner of the Exxon station across from Colonial Downs on Route 155, supports the application and asked if the track folded how taxes currently generated would be replaced. He urged the Commission to look at the long-term viability of the facility and to remember the effort made to get the track here.

Patricia Townsend New Kent resident, is in favor of the event and reminded the Commission that a conditional use permit subject to certain conditions could offer protection from certain elements. Stated that she believed the July 4th fireworks were just as noisy as the motorcycle race.

Jack Roos Moving to Brickshire in the next few weeks, asked the Commission to consider the several thousand residents that will one day occupy the homes in Brickshire. He is concerned that motorcycle races would lower property values and the effect it may have on prospective homeowners. He requested that the application be rejected.

Mary Nell Roos Moving to Brickshire in the next few weeks, commended Colonial Downs offer to contribute to the Teachers Wish List Foundation but was concerned that this would act as a carrot to lead the

Commission into approving the application. She asked that the contribution not be made an issue or consideration in approving the application and further asked that the application be denied.

- Jack Crane has a home under construction in Brickshire, agreed with the comments made by the Brickshire residents. He asked the Commission to consider that it appeared motorized racing is the one key element that could bring profitability to racetracks.
- Linda Callahan Brickshire resident, and was a resident at the time of the first race. She stated that she would not have moved here if she had known that this type of event would be allowed. She supports Colonial Downs but is concerned about the noise that a race would generate.
- Donna Sickles Brickshire resident, asked how many other racetracks that also host motorized events are within a mile of residences. She also asked that, given Colonial Downs claims to be losing money, are the losses only at the facility or is off-track betting included.
- Diane Ibanez Brickshire resident who also owns two additional lots in the development but is considering selling all of her holdings and moving elsewhere. She has two small children who are usually in bed at 8:30 pm and this type of event is disruptive. She is also concerned that approval of this event will open the door for future events.
- David Horsley New Kent resident, is in support of the race and believes a sound study should be conducted. He added that if Donna Friend's windows shook at the next race as she stated earlier he would withdraw his support.
- Jenny McCain Resident of the state of Florida vacationing at Brickshire and is thinking about moving to the area. She expressed her concern about the noise that could be generated by a motorized event. She is also concerned that if the event would prove to be such a moneymaker, Colonial Downs would stop horseracing altogether and use the facility for more races and other events.
- Becky Philbates New Kent resident, reminisced about an earlier track located somewhere in the County that was used to race motorcycles. She added that it was not the noise from the motorcycles that was a problem but the noise from the party held after the events and that the events were enjoyable.
- Patricia Page New Kent resident, president of the Thunder Road Motorcycle Club, fully supports the application and would support the event on a once a year basis. She added that Colonial Downs supports many New Kent interests and that the community should show its support of Colonial Downs.

Stran Trout New Kent resident, asked the Commission to approve the application but to include a requirement for the applicant to conduct a professional noise study paid for by Colonial Downs.

Mary Johnson New Kent resident, supports the race and is concerned about the future success of Colonial Downs. She challenged those opposed to present alternative events that would equal the projected revenue from the race.

Blaze Keegel Future Brickshire resident, concerned that the event has gone from a one-time event to once a year and possibly several times a year. He added that he has not built his house in Brickshire as of yet, and is undecided whether or not to build. He asked the commission to deny the application.

Jane Keegel Future Brickshire resident, informed the Commission that she was not advised about motorcycle races at the track when she purchased her lot in Brickshire. She does not want a motorized racing track in her back yard. She is concerned about the direction of the community and asked the Commission to consider current and future residents and deny the application.

George Philbates New Kent resident, supports the race on the condition a noise test be conducted for consideration of possible future races. He encouraged the new residents to join in with other residents in support the event and Colonial Downs.

Jessica McNamara Brickshire resident, stated that she was not against Colonial Downs and any of their profit making ability but that it was not her responsibility to bail Colonial Downs out of their financial hole if they have made poor financial decisions. She asked why support of the Teachers Wish List Foundation has been made part of this application and not any of the other applications Colonial Downs has submitted.

Robert Rumens Henrico County resident, owns a lot in Brickshire, believes that Colonial Downs support of the Teachers Wish List Foundation is not a carrot but a bribe. He stated that the support was not part of the earlier application and when it failed to be approved this support was added. He added that while some people have mentioned that hosting the fair is a charitable act, Colonial Downs lists it as a moneymaking proposition. He asked that the Commission turn down the application.

Jerry McNamara Brickshire resident, concerned about the noise such an event would produce, stated that the onus was on Colonial Downs to come before the Commission prepared with a noise study in hand. He stated that he was opposed to the event.

- Duke Dale Controller at Colonial Downs, addressed the reasons behind Colonial Downs support of the Teachers Wish List Foundation, saying that prior to this application Colonial Downs was leasing their facility to a promoter. He stated that Colonial Downs was now a co-promoter and could bring certain things into the deal. He further added that fears of more than once a year events were unrealistic, that he was confident no additional races would be approved by the Commission. He went on to add that Colonial Downs was losing money and was subsidized by the parent company. He also added that people usually overlook noise made by their neighbors when those neighbors are using the lawn mower while you are trying to entertain on the patio or using the leaf blower early in the morning while you are still in bed. He asked the Brickshire residents consider Colonial Downs a neighbor and allow this one race which would give the opportunity for a sound study to be conducted.
- Rob Whitehurst New Kent resident, gave his support of the race, believes the event would benefit the entire county.
- Perry Ann Whitehurst New Kent resident, stated that her two small children are looking forward to the event and that she would view the race as a family event. She added that she would be willing to compromise her lifestyle for approximately 6 hours a year to allow for such an event and asked the Commission to approve the application.
- Phillip Felts New Kent resident, stated that as a County resident he approached Colonial Downs to ask for their support of the Teachers Wish List Foundation and that the Foundation was a fairly new cause. He added that while the race may produce a lot of noise, an estimated 6,000 to 10,000 people would attend the event with a handful of people that could be affected. He went on to say that possibly \$10,000 could be generated for the Teachers Wish List, \$10,000 could be generated for the County and revenue for Colonial Downs. He is in favor of the race.
- Larry Winskus Brickshire resident, stated that the 2002 use permit for a wide variety of entertainment uses obtained by Colonial Downs specifically excluded motorized racing. He asked the Commission to deny the application. He added that a single event should not be seen as a financial savior of an entity. He asked the Commission to allow Brickshire residents to work with Colonial Downs to explore other entertainment uses.
- Frank Crawley New Kent resident, asked that the community practice tolerance and allow the race to proceed. In response to the comment made by the previous speaker about one-event not saving Colonial Downs, Mr. Crawley stated that neither would one-event shatter the lives of the Brickshire residents.

Jennifer Caldwell New Kent resident, concerned about noise pollution. She stated that when the Colonel Downs facility was proposed she supported it as a horseracing track, not a motorized racing track. She added that noise pollution should be taken into consideration for all application.

Reed Ellis with Essex Properties, developers of the land adjacent to the Route 155 Exxon and Dairy Queen plan to develop 47 acres at the intersection of Highway 249, Route 60 and I-64. He believes the success of Colonial Downs is critical to the future development of commercial real estate in the County. He stated that Essex Properties recommended that the Commission vote in favor of the applications.

Theresa Harvard Colonial Downs employee since August 1997, works in group sales and special events. She attended the 2001 event calling it a family event. She asked the Commission to approve the race.

Tim Suiter Brickshire resident, fully supports Colonial Downs but not this motorcycle event. He believes that sanctioned events could be tweaked to provide more revenue for the facility. He added that he could hear the trumpet call announcing horse races from his home. He asked if consideration had been given to the retaining wall at the track that was designed for horses, not motorcycles.

Julia Saddington Brickshire resident, came to this meeting to voice her disapproval of the proposal because of the noise issue but has changed her mind due to her open-mindedness and the comments made about the new people (residents) versus the old people. She asked the Commission to pass the application with a condition to include a noise study. She stated that she would withdraw her support for this type of event if the noise is as bad as previously stated by Brickshire residents.

Herb Jones New Kent resident, owns property in Brickshire, gave his full support and encouragement of the event. He did not understand why the noise from a motorcycle race presented a problem and why noises from other events do not. He asked if there would be a future outcry from Brickshire residents about the smell when the Colonial Downs stables are operating at full capacity.

Mark Turner employee with Jeffery Charles Associates, the exclusive managing agent for Brickshire Community Association, Inc. He stated his office had received eighty-five letters from Brickshire homeowners opposing motorized racing. The letters, along with any others received, will be submitted to the Board of Supervisors prior to the July meeting. He stated that the event would clearly be detrimental to the Brickshire homeowners and rob them of their reasonable expectations of making their house a home. He asked

the Commission help protect their investment and ensure their quality of life by voting no to the application.

Mr. Sparks closed the public portion of the meeting.

Reverend Hathaway acknowledged the receipt of two letters prior to the meeting addressed to the Commission. The letters stated the opinions of William and Carolyn Hildebrandt and Otto Stoltz on the application.

Mr. Gammon abstained from the discussion citing pending contracts with Colonial Downs.

Mr. Frank began the discussion by reminding the Commission that Brickshire residents purchased their property with the knowledge of an ordinance restricting motorized racing. Mr. Daniel clarified that it was not an ordinance but a proffer agreement between the seller of the property that was to become Colonial Downs and the purchaser. Mr. Pollard stated his opinion to give the application a chance, to go ahead with the event, to get the information needed to approve or disapprove of future events. He stressed the benefits of being tolerant. Mr. Lipscomb remarked that there had been many comments made about the peace and quiet New Kent County had to offer and stated that the reason for those things was previous decisions made by the Planning Commission and Board of Supervisors. He asked that the citizens trust the Commission and Board to do the right thing on behalf of the residents. Mr. Daniel stated that in order to try to be fair to everyone, that it would not be unreasonable to allow the event, conduct the noise study, and determine any detrimental effects for consideration on future applications. In order to get a fair assessment, Mr. Lipscomb asked if the County should hire the firm to conduct the sound study. Mr. Homewood replied that it was his opinion that professionals would do an honest job regardless who hired them. Mr. Frank added that it might be a good idea for Commission members to be located in the Brickshire community during the event to get firsthand the noise impact. Reverend Hathaway admonished the applicants, stating that the opportunity should have been seized to conduct the sound study during the 2001 event and again earlier this year during the surface testing, especially since noise was the number one complaint at the February hearing. He expressed concern that this one time event could grow into a once a year event or several times a year. He urged the Commission to give consideration to the Brickshire residents as persons most affected by such an event.

Mr. Daniel made a motion to adopt Resolution PC-13-03 to forward application CUP-3-03 to the New Kent County Board of Supervisors with a favorable recommendation along with the suggested condition to require a sound study. Mr. Hubbard seconded the motion. The members were polled:

Edward Pollard	Yes
Marty Sparks	No
Julian Lipscomb	Yes
Robert Stroube	No
Jay Hubbard	Yes
Howard Gammon	Abstain
Jack Chalmers	Yes

Louis Abrams	No
David Frank	No
Mark Daniel	Yes
Milton Hathaway	No

The motion failed with a roll call vote of 5:5:1.

No other motions on this issue were forthcoming.

RE: NEW BUSINESS

None.

RE: MOTION

Mr. Lipscomb made a motion to forego the remainder of the meeting due to the lateness of the hour. The motion was seconded by Mr. Frank. The motion passes by voice vote.

RE: CHAIRMAN'S REPORT

Not discussed.

RE: RRPDC REPORT

Not discussed.

RE: COMMISSIONER'S REPORT

Not discussed.

RE: STAFF REPORT

Not discussed.

The next regular meeting is scheduled at 7:00 p.m. on Monday, July 21, 2003 in the Boardroom of the County Administration Building.

ADJOURNMENT