

**New Kent County  
Planning Commission  
Minutes**

**Monday, September 29, 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	Absent
Milton Hathaway	Present
Julian Lipscomb	Present
Edward Pollard	Present
Marty Sparks	Present
Robert Stroube	Present

Also Present:

George Homewood, Planning Director  
Courtney R. Jones, Environmental Planner  
Lamont Myers, Economic Analyst  
Kenneth Vaughan, Zoning Administrator  
Phyllis Katz, County Attorney

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IN RE:                   ROLL CALL AND ESTABLISHMENT OF A QUORUM

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

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IN RE:                   PUBLIC COMMENT

None.

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IN RE:                   UNFINISHED BUSINESS

None.

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IN RE: PUBLIC HEARINGS

**PUD-2-03: Patriot's Landing Planned Unit Development**

*East West Partners has applied to reclassify approximately 250 acres of property from B-1 and B-2 (approximately 135 acres) and R-1 (approximately 115 acres) to Planned Unit Development. The property is identified on the New Kent County tax maps as parcel numbers 19 (1) 1, 19 (1) 2, 19 (1) 3, 19 (1) 4, 19 (1) 5, 19 (1) 6, 19-45, and 19 (9) W1. The application has been filed subject to certain proffered conditions relating to the contribution to be made to New Kent County to offset the costs of the development.*

Mr. Homewood explained that although this was a public hearing, the Planning Commission had previously decided that it would not take action on the application at this meeting. He noted that the Commission had previously set the 20 October 2003 meeting as the target date for final action on the Patriot Landing PUD and that another public hearing on this application would be held at that meeting. Mr. Homewood pointed out to the Commissioners that there were the five (5) letters before them with respect to the application; he explained to the Commissioners that the letters had just been received by fax earlier in the day. Closing, Mr. Homewood introduced Mr. Myers to present the staff report on PUD-2-03.

With the aid of a PowerPoint presentation, Mr. Myers gave an overview of the property including an explanation of the site plan. Mr. Myers detailed the projected residential values along with the commercial components of the proposed Patriot's Landing. Mr. Myers explained that specific commercial uses are excluded as part of the proffered conditions applicable to the Patriot's Landing PUD proposal. Next Mr. Myers went over environmental issues, utility issues, and transportation issues associated with the PUD application. Mr. Myers listed the proffers for the project and explained the projected fiscal impact and its related economic spin-off. Finishing up his presentation, Mr. Myers explained unresolved issues associated with the PUD application, and then opened up the forum for any questions from the Commissioners.

Mr. Daniel asked if there was a proposal for the location of a traffic signal on Route 60.

Mr. Myers responded that the traffic signal would likely be installed at access point number 1, but that it could be at access point 2 if VDOT determined early on in the process that access 2 would be a better location.

Mr. Frank questioned the sanitary sewer agreement with Henrico County, and asked what the connection cost to the County would be. He furthered his concerns by asking if there was a way for either party to get out of the contract.

Mr. Myers explained that he had not seen the existing contract with Henrico, that he was not sure of the connection cost. Mr. Myers stated that he would have to answer Mr. Frank's questions at a future time, as he did not have that information currently.

With no further question from the Commissioners, Chairman Hathaway invited the applicant to make a presentation.

Mr. John Cogbill, introduced himself as the attorney for East West Partners. He began by asking that the Commissioners recommend approval of the Patriot's Landing PUD application. Next, Mr. Cogbill thanked County staff and VDOT for their assistance with preparations of the details of the application. Mr. Cogbill explained that approval of the PUD application would take away the development uncertainty of the area by setting forth specifics. Mr. Cogbill praised the proposed location of the planned development, and then went on to extol the quality of East West Partners, trying to assure the Commissioners of a quality development.

There were no questions from the Commissioners at that time; therefore, the public hearing was opened.

Mr. "Wimpy" Isgett stated that he felt that the development would bring a positive cash flow plus the benefits of water and sewer to the area. Mr. Isgett explained that his current tax bill was \$12,000 annually and that bringing water and sewer to the area would enable further development and be able to increase the tax return to the County from this area and possibly allow other taxes to be reduced.

Mr. David Horsley stated his favor for the project.

Mr. John Montgomery explained his over two-year involvement with the Bottom's Bridge property owners' association, and the need that this group has foreseen of bring sewer and water to the area. Mr. Montgomery stated that East West Partners has proven their flexibility by working with the County on the proposed application and that the firm has a proven record of commitment to community as demonstrated by their other projects. Mr. Montgomery supported the proposed PUD application as a positive way to bring the much in-demand water and sewer to the area.

Mr. Ray Ellis stated that although water and sewer is important, also important is the number of rooftops in attracting additional business to the area. This development would bring the needed rooftops for the area to attract additional businesses.

Mr. William Cunningham stated that he agreed with the previous statements of the previous speakers and voiced his approval of the proposal.

Ms. Rebecca McGuire, representative of the Five Lakes Civic Association, expressed concerns relating to an already over-burdened school capacity, noting at the same time the need for growth in the area. She indicated that the Five Lakes Civic Association did not oppose the proposal, however had some questions and concerns that they hoped the applicant would address.

Mrs. Toby Campbell, owner of the Brookwoods Golf Course, heartily endorsed the proposed development for bring much needed capital to the area.

Mr. Wayne Hayden stated that the Bottoms Bridge area needed water and sewer, also that the schools are overcrowded. Mr. Hayden stated that this type of residential project will cost the County money. He stated that the Commission had walked away from one project recently and voted 5:5 on another similar project. Mr. Hayden stated that the County needs non-residential growth for the tax base.

With no further comments from the audience, Chairman Hathaway thanked the audience, and re-opened the forum for questions from the Commissioners.

Mr. Frank asked what was the minimum number of acres required for a PUD.

Mr. Homewood responded. He explained that there are several different types of PUDs. This PUD application is for the village-activity, and the Board of Supervisors had directed that the PUD process be construed to allow consideration of any reasonable proposal without regard to the minimum acreage because the Board interpreted the Zoning Ordinance as permitting the Board through the legislative process of approving any project that merited approval based on its specific attributes. Mr. Homewood further stated that the practical minimum acreage for a village PUD is 50 acres.

Mr. Frank questioned how the numbers for the fiscal impact were derived.

Mr. Myers responded that the numbers were derived from projected sales and the average cost method.

Chairman Hathaway asked the project cost for the water and sewer study that was performed for the Bottom's Bridge Property Owner's Association.

Mr. Montgomery spoke up on behalf of the Bottom's Bridge Property Owner's Association, and responded that that information was forthcoming, but that it was not available at this time.

Chairman Hathaway asked what capacity Henrico was willing to give New Kent.

Mr. Homewood responded 500,000 gallons per day.

A short discussion ensued regarding what excess would be available to other businesses after Patriot's Landing brought the sewer and water to the vicinity.

Mr. Frank asked what would happen if Henrico decided to back out of the sewer agreement.

Mr. Montgomery explained that the agreement with Henrico was a ten-year commitment.

Mr. Chalmers stated that he thought that talks should be initiated with Henrico County, else the proposal would be asking for a failure with the existing uncertainties.

Mr. Lipscomb asked how quickly the developer anticipated receiving the first occupancy permit after water and sewer were established to serve the development.

Mr. Cogbill responded that he anticipated 12-18 months from the date of approval for the PUD (keeping in mind the permitting process and the time-frame for infrastructure construction), but that East West Partners would strive to seek their first occupancy permit as soon as possible.

Mr. Sparks asked if the applicant would be available the following evening at the Planning Commission Work Session.

Mr. Homewood responded affirmatively.

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IN RE:                    OLD BUSINESS

**AFD-06-03: Renewal of Pamunkey Church AFD**

Ms. Jones reviewed the information relating to the renewal of Pamunkey Church AFD. She explained that with respect to this renewal, she had heard no response from the property owner of tax map number 26 (2) 3 relating to their desire to either stay in the District or withdraw from the District after

having been sent two (2) notices of inquiry. The other new property owners of the subdivided parcel had all expressed in writing their desire to remain in the District. Ms. Jones elaborated, and stated that she had in fact spoken with the owners of lot 1, the Kings, and understood that they were in the process of preparations for planting grapes for a vineyard to help supply the proposed development the Farms of New Kent. Ms. Jones repeated the recommendation of the Agricultural and Forestal District Committee to renew the Pamunkey Church AFD excluding the parcels 26 (2) 1, 26 (2) 2, 26 (2) 3, and 26 (2) 4, she then asked the desire of the Planning Commission.

Reverend Hathaway asked why the AFD Committee did not want to include the three parcels that responded that they wanted to remain in the Pamunkey Church District.

Ms. Jones responded that she felt that the AFD Committee wanted to more closely scrutinize Districts, and felt that rather than an automatic renewal by default, that the property owners of the newly formed parcels should have to prove their validity for inclusion with the District.

Reverend Hathaway asked if staff knew if the property owners of the newly formed parcels were engaged in agricultural or forestal activities.

Ms. Jones responded that the only parcel that she could attest to was that of the property owners the Kings, as they were in active preparation of plans for a vineyard.

Mr. Homewood inserted that members of the AFD Committee had expressed concern that the basic reason for Districts is to provide a tax break in return for keeping land, otherwise developable, out of development. In the case of these four (4) lots they had been, based on current zoning, developed to their maximum by having been subdivided even while in an AFD. The AFD Committee members are then asking, what does the County gain by giving them the tax break unless there is a verifiable agricultural or forestal use.

Reverend Hathaway asked the minimum size for a parcel to be eligible for AFD status.

Ms. Jones responded that the minimum size for forested land is twenty (20) acres and for cropped land five (5) acres.

Mr. Lipscomb stated that there were a lot of twenty-five acre lots, and that if these particular lots were allowed to automatically remain in the AFD, then there could be the potential for any other twenty-five acre lot within a mile of an existing AFD to join up with that respective AFD. Ultimately, almost every 25-acre A-1 property could qualify to be in an AFD even though no real

agricultural or forest activity was occurring and it would raise the taxes for everyone else as a result.

General conversation arose among the members of the Commission concerning whether or not these four parcels in question met the criteria set forth in which to judge an AFD.

Mr. Frank made a motion with a second by Mr. Chalmers to renew Pamunkey Church AFD with the exception of lot 3. The motion was defeated with a 4:6 vote, Mr. Abrams, Mr. Daniel, Mr. Pollard, Mr. Sparks, Dr. Stroube, and Mr. Gammon dissenting.

Mr. Pollard thereupon moved to forward the renewal of Pamunkey Church AFD to the Board of Supervisors with the same recommendation of the AFD Committee, renewal of the District excluding the subdivided parcels 26 (2) 1, 26 (2) 2, 26 (2) 3, and 26 (2) 4. The motion was seconded by Dr. Stroube and passed 9:1 with Mr. Frank dissenting.

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RE: NEW BUSINESS

None.

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RE: CHAIRMAN'S REPORT

None given.

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RE: RRPDC REPORT

None given.

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RE: COMMISSIONER'S REPORT

Reverend Hathaway and Mr. Lipscomb both thanked everyone including the churches for their help in the aftermath of Hurricane Isabell. Mr. Lipscomb specially named the National Guardsmen, the firemen, and the Salvation Army that had provided their services, along with Colonial Downs for allowing their property to be a distribution area for ice and water. Mr. Lipscomb noted that Plum Point area has been especially hard hit with damage. He noted that Mr. Homewood and his staff had performed damage assessment to all the homes and business of the County.

Mr. Homewood noted that damage totals were over 8.5 million dollars. Mr. Homewood stated that the Permit Center had implemented field issued building permits for damage and that the building permit fees for damage had been waived. He closed by noting that individuals should be careful to use only licensed contractors for their repair work.

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RE: STAFF REPORT

Mr Homewood noted that Resolution PC-24-03 incorporating the motion made by Mr. Gammon at the previous meeting to request that the Board of Supervisors address staffing and salary issues in the Community Development Department had been sent to the Commission members for their review and all comments received had been incorporated. The final result had been distributed prior to the meeting and has been transmitted to the Board.

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The next regular meeting of the Planning Commission is scheduled at 7:00 p.m. on Monday, October 20, 2003 in the Boardroom of the County Administration Building.

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ADJOURNMENT

Mr. Gammon made a motion to continue the meeting until the work session tomorrow evening on Patriot's Landing Planned Unit Development to be held at the Old Courthouse Building at 6:30 p.m. The second was by Mr. Chalmers and the vote was unanimous.