

Chesapeake Planning Commission
PUBLIC HEARING MINUTES – May 9, 2001
CITY COUNCIL CHAMBER - 7:00 P.M.

Call to Order: Chairman Foster called the Chesapeake Planning Commission Public Hearing of May 9, 2001, to order at 7:00 p.m. in the City Council Chambers.

Invocation: Rev. Kim Brown, Mt. Lebanon Baptist Church, offered the Invocation for the evening.

Pledge of Allegiance: Commissioner Carroll led in the Pledge of Allegiance to the United States Flag.

Roll Call:

Present

Rodney L. Foster, Chairman
Clifton D. Cabarras, Vice-Chairman
Gladys A. Wilfore, Secretary
Frankie W. Carroll, Commissioner
Bryan L. Collins, Commissioner
Sanny S. Davenport, Commissioner
Larry W. Radford, Commissioner
Maurice Ward, Commissioner
Thomas T. Winborne, Commissioner

Department of Planning Staff Present

Brent R. Nielson, Planning Director
Dorothy M. Kowalsky, Recording Secretary and
Current Planning Coordinator
Christine C. Early, Planner
L. Lee Dydiw, Planner
Tim Howlett, Planner
Gary R. Pusey, Planner
Beverly Thacker, Administrative Office Associate

City Attorney Staff Present

Jan Proctor, Deputy City Attorney

Department of Public Utilities Staff Present

William J. Meyer, Jr., Utility Engineer Administrator

Department of Public Works Staff Present

Jay Tate, Assistant City Engineer

Zoning Administrator

Timothy Davis

School Administration Staff Present

Greg Hanson, Planner

Other

John Burke, Former Planning Commissioner
Debbie Ritter, Chesapeake Councilwoman

APPROVAL OF MINUTES:

Mrs. Kowalsky presented the April 11, 2001 Public Hearing minutes into the record for Commission action.

COMMISSION ACTION:

MINUTES for the April 11, 2001 Public Hearing were APPROVED.
(Cabarras/Carroll 9-0)

COMMISSION VOTE:

Mr. Cabarras moved that the **MINUTES** for the **April 11, 2001 Public Hearing** be **APPROVED**. Mr. Carroll seconded the motion. The motion was carried by a vote of 9-0.

DIRECTOR'S ITEMS:

TA-Z-98-19

An ordinance amending Appendix "A" of the Chesapeake City Code, entitled "Zoning," sections 6-2100, 7-600, 8-600, 9-500, 10-600, 12-400, 12-600, 13-2000, 13-2200, 15-102, 15-104, and 17-111 thereof, to require conditional use permits for municipal buildings including related site preparation and site improvements.
(Continued from the February 14, 2000 Public Hearing)

COMMISSION ACTION:

CONTINUED to the August 8, 2001 Planning Commission Public Hearing.
(Carroll/Radford 9-0)

Mr. Nielson stated that the staff had requested a continuation to the August 8, 2001 Planning Commission Public Hearing, to allow additional time for the City and the School Administration to complete their review.

COMMISSION VOTE:

Mr. Carroll moved that **TA-Z-98-19** be **CONTINUED** to August 8, 2001 as recommended by staff. Mr. Radford seconded the motion. The motion was carried by a vote of 9-0.

R(C)-00-27

PROJECT: Super K-Mart

APPLICANT: Bowen Construction Services, Inc.

AGENCY: Engineering Services Inc.

PROPOSAL: A conditional zoning reclassification for 22.24 acres from R-15s Single-family Residential District, RE-1 Residential Estate District, O & I Office and Institutional District and B-1 Neighborhood Business District to B-2 General Business District and 3.2 acres from RE-1 Residential Estate District to A-1 Agricultural District.

ZONE: R-15s Single-family Residential District, RE-1 Residential Estate District, O & I Office and Institutional District, B-1 Neighborhood Business District

PROPOSED COMP LAND USE: General Business (22.24 acres), Government/Institutional (3.2 acres)

EXISTING COMP LAND USE / DENSITY: Suburban Single-Family Residential / 1 unit per acre to something less than 4 units per acre

LOCATION: East side of Battlefield Boulevard between Gainsborough Circle and the Great Bridge Bypass/Battlefield Boulevard interchange

TAX MAP SECTION/PARCEL: 0370000001390, 0370000000030, 0370000000021, portion of 0480000000770

BOROUGH: Washington

(Continued from April 11, 2001 Public Hearing)

COMMISSION ACTION:

CONTINUED to the June 13, 2001 Planning Commission Public Hearing.
(Davenport/Ward 9-0)

Mr. Nielson stated that the staff had requested a continuation to the June 13, 2001 Planning Commission Public Hearing, to allow additional time for the applicant to resolve unresolved issues.

COMMISSION VOTE:

Mrs. Davenport moved that **RC-00-27** be **CONTINUED** to June 13, 2001 as recommended by staff. Mr. Ward seconded the motion. The motion was carried by a vote of 9-0.

ST.C-00-03

PROJECT: Oak Grove Road Street Closure

APPLICANT: Bowen Construction Services, Inc.

AGENCY: Engineering Services, Inc.

PROPOSAL: A street closure petition for two sections of Oak Grove Road totaling approximately 1,300 linear feet at its intersection with Battlefield Boulevard and the Great Bridge Bypass.

ZONE: R-15s Single-family Residential District, O & I Office and Institutional District, RE-1 Residential Estate District

LOCATION: Northeast corner of the Battlefield Boulevard/Great Bridge Bypass interchange

TAX MAP SECTION/PARCEL: 0370000001390, 0370000000030, 0370000000021, portion of 0480000000770

BOROUGH: Washington

(Continued from April 11, 2001 Public Hearing)

COMMISSION ACTION:

CONTINUED to the June 13, 2001 Planning Commission Public Hearing.
(Davenport/Cabarras 9-0)

Mr. Nielson stated that the staff had requested a continuation to the June 13, 2001 Planning Commission Public Hearing, to allow additional time for the applicant to resolve unresolved issues.

COMMISSION VOTE:

Mrs. Davenport moved that **ST.C-00-03** be **CONTINUED** to June 13, 2001 as recommended by staff. Mr. Cabarras seconded the motion. The motion was carried by a vote of 9-0.

R(C)-00-30

PROJECT: Amelia Venture Property Rezoning

APPLICANT: Amelia Venture Property, L.L.C.

AGENCY: Hoggard-Eure Associates, P.C.

PROPOSAL: A conditional zoning reclassification from R-15s Residential District (2.95 acres) and A-1 Agricultural District (10.95 acres) to R-MF1 Multi-family District for 13.9 acres of land.

ZONE: A-1 Agricultural District, R-15S Residential District

PROPOSED COMP LAND USE / DENSITY: High Density Multi-family Residential / 10 to 16 units per acre

EXISTING COMP LAND USE / DENSITY: Suburban Single-family Residential / 1 unit per acre to something less than 4 units per acre

LOCATION: West side of Gum Road, approximately 2,400 feet south of Bruce Road

TAX MAP SECTION/PARCEL: 0090000000891

BOROUGH: Western Branch

COMMISSION ACTION:

CONTINUED to the June 13, 2001 Planning Commission Public Hearing.
(Davenport/Collins 9-0)

Mr. Nielson stated that the applicant had requested a continuation to the June 13, 2001 Planning Commission Public Hearing, to allow additional time to meet with the local Civic Leagues in the area.

COMMISSION VOTE:

Mrs. Davenport moved that **R(C)-00-30** be **CONTINUED** to June 13, 2001 as recommended by staff. Mr. Collins seconded the motion. The motion was carried by a vote of 9-0.

UP-01-04

PROJECT: Advantage Dodge & Toyota Dealership

AGENCY: Hoggard-Eure Associates, P.C.

PROPOSAL: A conditional use permit for a 4.204-acre expansion of an existing motor vehicle dealership.

ZONE: B-2 General Business District

SIC CODE: 551

LOCATION: 4019 & 4021 Portsmouth Boulevard

TAX MAP SECTION/PARCEL: portion of 0100000000050

BOROUGH: Western Branch

COMMISSION ACTION:

CONTINUED to the June 13, 2001 Planning Commission Public Hearing.
(Collins/Davenport 9-0)

Mr. Nielson stated that the staff had requested a continuation to the June 13, 2001 Planning Commission Public Hearing, to allow additional time for the applicant to resolve the issues concerning the use of the property.

COMMISSION VOTE:

Mr. Collins moved that **UP-01-04** be **CONTINUED** to June 13, 2001 as recommended by staff. Mrs. Davenport seconded the motion. The motion was carried by a vote of 9-0.

UP-01-06

PROJECT: Master Blasters Paintball

APPLICANT: Master Blasters Paintball

PROPOSAL: A conditional use permit for an outdoor (paintball) recreational facility on a 29 acre parcel and a request for an alternative parking surface in accordance with Section 19-406(C) of the Chesapeake Zoning Ordinance.

ZONE: A-1 Agricultural District

SIC CODE: 7999

LOCATION: 3648 Belle Haven Street

TAX MAP SECTION/PARCEL: portion of 0920000000090

BOROUGH: Pleasant Grove

COMMISSION ACTION:

CONTINUED to the May 23, 2001 Planning Commission Planning Session.
(Carroll/Radford 9-0)

Mr. Nielson stated that the staff had requested a continuation to the May 23, 2001 Planning Commission Planning Session, because of inadequate posting on the property.

COMMISSION VOTE:

Mr. Carroll moved that **UP-01-06** be **CONTINUED** to May 23, 2001 as recommended by staff. Mr. Radford seconded the motion. The motion was carried by a vote of 9-0.

REGULAR AGENDA:

R(C)-01-02

PROJECT: Boger Rezoning

APPLICANT: Michael G. & Judith Boger

AGENCY: Carr & Porter, LLC

PROPOSAL: A conditional zoning reclassification from R-15s Single-family Residential District to O & I Office & Institutional District for a .44 acre site.

ZONE: R-15s Single-family Residential District

PROPOSED COMP LAND USE: O & I Office & Institutional

EXISTING COMP LAND USE / DENSITY: Suburban Single-Family Residential / 1 unit per acre to something less than 4 units per acre

LOCATION: 2620 Taylor Road

TAX MAP SECTION/PARCEL: 0100000000661

BOROUGH: Western Branch

(Rescheduled from April 11, 2001 Public Hearing)

COMMISSION ACTION:

APPROVED with the following proffers: (Ward/Radford 8-1, Davenport opposed)

1. **The Applicant/Owner shall develop the subject property solely for use in conjunction with that land identified in Rezoning Application R(C)-00-16, Western Branch Wal-Mart and for replacement and expansion parking for the adjacent (Prudential Decker) office use. Specifically, the subject property shall be used only for the following purposes, provided that all applicable provisions in the Chesapeake Zoning Ordinance, the Chesapeake City Code, and the Chesapeake Public Facilities Manual are met:**
 - a. **subdivision and partial conveyance to the adjacent landowner, said property to be improved to allow an expanded parking area for the existing (Prudential Decker) office use and to replace parking spaces adjacent to Taylor Road, which are being conveyed to the City of Chesapeake for public road right-of-way at the time of subdivision,**
 - b. **for the detention pond, to serve the development of the outparcels and other property rezoned under Rezoning Application R(C)-00-16,**
 - c. **for signage, for the Wal-Mart/Sam's Club retail center, provided that lot lines are vacated or created as necessary to meet the sign regulations in the Chesapeake Zoning Ordinance,**

- d. for landscaping,
 - e. for ingress and egress to the property that is the subject of Rezoning Application R(C)-00-16, and
 - f. other incidental uses necessary for the development of the property which is the subject of Rezoning Application R(C)-00-16.
2. The Applicant/Owner agrees that there shall be no access to the property from the ingress/egress entrance to be constructed to the immediate north, other than for the customary maintenance of the improvements identified above.

Mrs. Kowalsky read R(C)-01-02 into the record for Commission review and action.

Staff Presentation:

Mr. Howlett stated that based on sound planning practices, Planning staff recommended **R(C) 01-02** be **APPROVED** with the proffers as listed in the official agenda.

Proponent:

Ridge Porter, 355 Crawford Parkway, Portsmouth, Virginia, appeared before the Commission on behalf of R(C)-01-02 representing the applicant. Mr. Porter said that this application was a follow-up to a previous rezoning passed in December 2000. In that application, proffer 6E said that this current piece of property would be rezoned to O&I which was the intent of the owner. He said that the landowner accepted the proffers that were listed in the agenda, and that the main purpose of this rezoning was so that the retention pond for the Wal-Mart expansion could be expanded to take care of the engineering that was consistent with the development of the property. Mr. Porter presented to the Commission photos of what the site would look like with and without the expansion of the retention pond.

John Knibb, 1307 Lake Point Drive, Chesapeake, Virginia, appeared before the Commission on behalf of R(C)-01-02 representing the applicant. Mr. Knibb was present to answer questions only.

Opponent:

Gerry Mattoon, 2813 Point Harbor Court, Chesapeake, Virginia, appeared before the Commission in opposition to R(C)-01-02 representing Point Harbor Civic League. Mr. Mattoon said that the citizens understood that this application was a result of R(C)-00-16, and they wanted to know if the application was in conformance with the Comprehensive Plan. He said that the rezoning would not only allow for the expansion of the retention pond, but it would also allow additional parking on the north side of Decker Reality. He wanted to know how that was going to be done because there was a ditch there.

T.J. Carawan, 330 Hurdle Drive, Chesapeake, Virginia, appeared before the Commission in opposition to R(C)-01-02. Mr. Carawan said that Mr. Porter should have given those that would be directly affected by the rezoning the opportunity to view the exhibits. He said that it portrayed deceit. He thought this application was a deviation from the original concept. Mr. Carawan said that instead of rezoning this property for the retention pond, parking spaces should have been reduced.

Commission Discussion:

Commissioner Radford asked Mr. Porter if he still planned to move the monument sign further back. Mr. Porter said that there were conditions to the sign that were proffered, and they did accept those conditions. Commissioner Radford asked Mr. Knibb if the sign was moved to satisfy the final site plan. Mr. Knibb said that was correct and with the rezoning, they would like to have the sign closer to Taylor Road. Commissioner Radford said that in response to Mr. Mattoon's comments, the stopping point on Taylor Road had been moved quite a bit. He said that it was up to City Council to determine where the line would stop. He said that he would have liked to give a guarantee now, but he could not because there was another application coming that went past the library. He said that as Mr. Mattoon mentioned, it was the right thing to do, to approve the rezoning in order to enhance the Wal-Mart project. Commissioner Radford said that he understood Mr. Mattoon's concerns, and he could only hope that City Council would do what was right by the community.

Commissioner Davenport asked Mr. Knibb what would happen with the original Wal-Mart building. Mr. Knibb said that they were in contact with retailers to fill the building. Commissioner Davenport said that she agreed with the comments of Mr. Mattoon. She said that neither the original application nor this application was in conformance with the Comprehensive Plan, so she would not support it.

COMMISSION VOTE:

Mr. Ward moved that **R(C)-01-02** be **APPROVED** with the proffers listed in the official agenda and as recommended by staff. Mr. Radford seconded the motion. The motion was carried by a vote of 8-1. Commissioner Davenport voted against the motion.

UP-01-01

PROJECT: Cavalier Ford

APPLICANT: Kenneth J. Silverman

AGENCY: Hassell & Folkes, P.C.

PROPOSAL: Conditional use permit to operate a used motor vehicle dealership on a 0.35 acre lease parcel.

ZONE: B-2 General Business District

SIC CODE: 552

LOCATION: 3900 Indian River Road

TAX MAP SECTION/PARCEL: portion of 0133010000070

BOROUGH: Washington

(Continued from April 11, 2001 Public Hearing)

COMMISSION ACTION:

APPROVED with the following stipulations: (Collins/Carroll 9-0)

- 1. As agreed upon by the applicant, a landscape buffer type "F" shall be provided adjacent to Indian River Road at the west end of the property and planters shall be provided adjacent to Indian River Road by the existing canopy, as indicated on the site plan submitted by the applicant and dated April 10, 2001, with plantings to be approved by the City Arborist.**
 - 2. The applicant agrees to remove the existing pole mounted sign prior to obtaining a certificate of occupancy and that the proposed monument sign will conform with all requirements of the Zoning Ordinance.**
 - 3. The Fire Department shall review and approve the location of fire hydrants prior to final site plan approval.**
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Mrs. Kowalsky read UP-01-01 into the record for Commission review and action.

Staff Presentation:

Mr. Pusey stated that based on sound planning practices, Planning staff recommended **UP-01-01** be **APPROVED** with the stipulations as listed in the official agenda.

Proponent:

James Bradford, Hassell & Folkes, P.C., 325 Volvo Parkway, Chesapeake, Virginia, appeared before the Commission on behalf of UP-01-01 representing the applicant. Mr. Bradford thanked the staff for their recommendation of approval and he concurred with the

stipulations that were listed in the official agenda.

Opponent:

T.J. Carawan, 330 Hurdle Drive, Chesapeake, Virginia, appeared before the Commission in opposition to UP-01-01. Mr. Carawan said that he thought there were enough car dealerships in the vicinity of the proposed Cavalier Ford.

COMMISSION VOTE:

Mr. Collins moved that **UP-01-01** be **APPROVED** with the stipulations listed in the official agenda and as recommended by staff. Mr. Carroll seconded the motion. The motion was carried by a vote of 9-0.

UP-01-03

PROJECT: Etheridge Greens

APPLICANT: Robert S. Diberardinis

AGENCY: Hassell & Folkes, P.C.

PROPOSAL: A conditional use permit to construct & operate a golf course, golf driving range & related facilities on a 217± acre site.

ZONE: A-1 Agricultural District

SIC CODE: 7992, 7999

LOCATION: Southeast corner of the intersection of Centerville Turnpike & Whittamore Road.

TAX MAP SECTION/PARCEL: 0620000000020

BOROUGH: Butts Road

(Continued from April 11, 2001 Public Hearing)

COMMISSION ACTION:

APPROVED with the following stipulations: (Collins/Wilfore 9-0)

1. **As agreed upon by the applicant, the applicant shall be responsible for providing a left turn lane on Centerville Turnpike at Whittamore Road prior to the initial delivery of fly ash to the site.**
2. **As agreed upon by the applicant, the applicant shall be responsible for providing a minimum twenty-four (24) foot width of pavement on Whittamore Road from the project entrance to the intersection of Centerville Turnpike. These improvements shall be completed prior to the initial delivery of fly ash to the site.**
3. **A subdivision plat shall be submitted for recordation prior to final site plan approval for the purpose of providing a 45 foot right-of-way reservation along Centerville Turnpike and any right-of-way dedication**

that may be necessary for ditch and shoulder improvements along Centerville Turnpike, as determined by the Department of Public Works.

4. As agreed upon by the applicant, the applicant shall implement corrective measures to ensure the safety of motorists along Centerville Turnpike and Whittamore Road from errant golf balls if required by the Department of Public Works.
5. As agreed upon by the applicant, an enhanced street buffer varying from 10 feet to 50 feet in width will be provided along Centerville Turnpike and Whittamore Road in order to soften the appearance from the public rights-of-way and to avoid a rigid linear effect. Landscaping shall be subject to approval by the City Arborist.
6. The applicant agrees that a 5 percent tree canopy coverage of the property shall be provided prior to finalization and formal opening of the golf course. The canopy coverage shall be accomplished through a combination of reforestation areas, street buffers and plantings internal to the golf course, subject to approval by the City Arborist. Reforestation areas shall be planted with large and small canopy tree seedlings a minimum of 6" to 12" in height at the time of planting and at a spacing of one tree per 400 sq. ft., subject to approval by the City Arborist. Street buffer trees and internal golf course trees shall be in accordance with the specifications of the Chesapeake Zoning Ordinance.
7. A dry hydrant shall be provided drawing supply from the proposed lake in accordance with the PFM prior to the issuance of a certificate of occupancy.
8. If approved by the City Council, the building setback for the Maintenance Building shall be at least 50 feet from the right-of-way reservation line along Whittamore Road. Landscaping, subject to approval by the City Arborist, shall be provided that screens the Maintenance Building from public view from the street if the setback is approved to be less than 150 feet.
9. A 12' x 35' loading space shall be indicated on the final site plan and provided prior to the issuance of a certificate of occupancy.
10. In the event any private potable well located within a 2,000 foot radius of the subject property's boundaries fails due to contamination or diminution of groundwater, the applicant agrees to promptly provide a replacement well equal in water quality to the failed well. The applicant agrees that he will provide such replacement wells upon receiving a complaint of well damage unless professional hydraulic and/or water quality studies show conclusively that the diminution of groundwater

and/or contamination was not caused or contributed to by the construction or operation of the golf course and related facilities. The applicant agrees to post and maintain a twenty-four hour telephone number at the entrance to the site during construction of the golf course to ensure an immediate response to local inquiries. The applicant's obligations under this stipulation shall apply only to potable wells existing at the time that construction of the golf course begins and shall expire seven (7) years from the date of the approval of this conditional use permit (UP-01-03).

- 11. The applicant acknowledges that it is his legal responsibility to ensure safe public drinking water to his patrons. As such the developer agrees that he shall monitor the domestic water supply for the clubhouse and have prepared water quality reports by an independent consultant on a semi-annual basis. Such report shall be filed with the State Water Control Board with a copy provided to the City of Chesapeake Health Department. The term of these reports shall extend from six (6) months from the date of the initial land disturbance to two (2) years after the formal opening of the golf course.**
- 12. The applicant shall fully comply with all applicable state, local, and federal laws relating to the use of "fly ash" or other coal combustion byproduct in the construction and maintenance of the golf course and related features. The applicant further agrees that no more than four (4) acres of uncovered fly ash or similar byproduct will be exposed at any given time and that the maximum period of exposure, from the time of delivery to the time of topsoil coverage will be seven (7) days. In addition, the applicant shall take all necessary action to prevent the fly ash from being carried by winds to neighboring properties by maintaining the condition of the fly ash, to include, at a minimum, watering on a regular basis.**
- 13. As agreed upon by the applicant, the clubhouse and maintenance building will be constructed with either brick, block with brick appearance, split block or other stone/masonry veneer, with colors and materials to be approved by the Planning Director or designee prior to the issuance of a building permit.**
- 14. In accordance with Section 12-406.E. of the Chesapeake Zoning Ordinance, prior to the issuance of a building permit associated with this conditional use, the building plan must be certified by an acoustical engineer as meeting the noise level reduction (NLR) standards established by the U.S. Navy for buildings located within AICUZ noise zone greater than 75 dB Ldn (noise zone 3). Certification by an acoustical engineer that such sound abatement procedures have**

been installed shall be provided prior to issuance of a certificate of occupancy for such building or structure.

- 15. In accordance with Section 12-407 of the Chesapeake Zoning Ordinance, the following statement shall be included on the final site plan: "This development is located partially or wholly within an aircraft noise and/or accident zone and may be subject to above average noise levels (including noise levels experienced in United States Navy AICUZ noise zone greater than 75 dB Ldn, noise zone 3) or to aircraft accidents."**

Mrs. Kowalsky read UP-01-03 into the record for Commission review and action.

Staff Presentation:

Mr. Pusey stated that based on sound planning practices, Planning staff recommended **UP-01-03** be **APPROVED** with the stipulations as listed in the official agenda. Mr. Pusey corrected stipulation eleven to read "The applicant acknowledges that it is his legal responsibility to ensure safe public drinking water to his patrons. As such the developer agrees that he shall monitor the domestic water supply for the clubhouse and have prepared water quality reports by an independent consultant on a semi-annual basis. Such report shall be filed with the State Water Control Board with a copy provided to the City of Chesapeake Health Department. The term of these reports shall extend from six (6) months from the date of the initial land disturbance to two (2) years after the formal opening of the golf course."

Proponent:

Marion Pine Jr., 1124 Murray Drive, Chesapeake, Virginia, appeared before the Commission on behalf of UP-01-03. Mr. Pine said that although he was not pro-developer, when the owner decided he did not want to farm the property anymore, of all the proposed uses, the golf course was the best. He said that he did have three concerns regarding the property, but when he read the listed stipulations, they were covered. Mr. Pine urged the Commission to vote for approval.

James Bradford, Hassell & Folkes, P.C.325 Volvo Parkway, Chesapeake, Virginia, appeared before the Commission on behalf of UP-01-03 representing the applicant. Mr. Bradford thanked the staff and the community for the generous time they devoted toward improving the application. He said that he concurred with the listed stipulations as well as the change made by Mr. Pusey, and he was available for questions.

Robert Stephenson, 1101 Murray Drive, Chesapeake, Virginia, appeared before the Commission on behalf of UP-01-03. Mr. Stephenson said that he was 100% in favor of the application.

Lornell Holley, 3301 Andrews Drive, Chesapeake, Virginia, appeared before the

Commission on behalf of UP-01-03 representing Whittamore Road Civic League. Mr. Holley said that when the project was presented to the community, they were concerned about the quality of the water, the air, the traffic, and the taxes. He said that they had several community meetings, and all those issues were addressed. Mr. Holley thanked Hassell & Folkes, P.C., the Planning staff, and Commissioners Collins and Cabarras for their help with the community on this project.

Opponent:

T.J. Carawan, 330 Hurdle Drive, Chesapeake, Virginia, appeared before the Commission in opposition to UP-01-03. Mr. Carawan said that he thought there were other residents who would be willing to till the land. He said that the new road that would have to be built would directly affect those residents that lived on Whittamore Road, and a price tag could not be put on that. He was concerned that no one would take responsibility for the problems that might arise.

Commission Discussion:

Vice-Chairman Cabarras commended Commissioner Collins for his hard work on the application. He said that this had been a win-win situation because the applicants came together with the residents, and they were on one accord. Commissioner Collins said that at the community meetings, concerns were raised in regard to the speed limit on the street and the deterioration of the property value. He said that Mr. Pusey checked on those concerns and the results were given to each of the Commissioners as well as the residents.

Commissioner Collins applauded the efforts of the communities that surrounded the site for their efforts.

Commissioner Ward said that he thought the site was appropriate for a golf course.

Commissioner Radford said that he was concerned about the reduction of the canopy of trees from 10% to 5%. He recommended Council look into that when they were reviewing the application.

COMMISSION VOTE:

Mr. Collins moved that **UP-01-03** be **APPROVED** with the stipulations listed in the official agenda including the amended stipulation 11 and as recommended by staff. Mrs. Wilfore seconded the motion. The motion was carried by a vote of 9-0.

CP(M)-01-01

PROJECT: Cahoon Plantation PUD Modification

AGENCY: Hassell & Folkes, P.C.

PROPOSAL: A modification to the Cahoon Plantation PUD to reduce the size of the approved golf course (by nine holes) from 346.9 acres to 299 acres and increase

the size of the residential area from 53.2 acres to 129.4 acres.

ZONE: PUD Planned Unit Development

LOCATION: 1501 Cedar Road

TAX MAP SECTION/PARCEL: 0460000001560, 0460000001570,
0460000000230,

BOROUGH: Deep Creek

COMMISSION ACTION:

APPROVED. (Winborne/Collins 9-0)

Mrs. Kowalsky read CP(M)-01-01 into the record for Commission review and action.

Staff Presentation:

Mr. Howlett stated that based on sound planning practices, Planning staff recommended **CP(M)-01-01** be **APPROVED** as listed in the official agenda.

Proponent:

James Bradford, Hassell & Folkes, P.C., 325 Volvo Parkway, Chesapeake, Virginia, appeared before the Commission on behalf of UP-01-03 representing the applicant. Mr. Bradford thanked the staff for their recommendation of approval. He wanted to underline the fact that there was no increase in the number of approved dwelling units within the PUD as was originally approved by City Council. The sole purpose of the modification was to spread the units out over a large area in an effort to take advantage of the remaining property. Mr. Bradford said that the result would be more valuable homes on larger lots that stood up to tree preserves.

Opponent:

T.J. Carawan, 330 Hurdle Drive, Chesapeake, Virginia, appeared before the Commission in opposition to CP(M)-01-01. Mr. Carawan said that he was not in favor of the reduction of the open space. He said that he was concerned with the impact it would have on the roads.

Commission Discussion:

Commissioner Winborne asked Mr. Howlett what the next step in the application would be. Mr. Howlett said that the applicant would come forward with a preliminary subdivision plan. Commissioner Winborne asked if the plan would show the redistribution of the fifty-two acres were among the 160 homes that were there. Mr. Howlett said that was correct. Commissioner Winborne asked Mr. Bradford if it was correct that the number of homes would not change. Mr. Bradford said that was correct. Commissioner Winborne asked Mr. Bradford was it correct that the amount of open space would not be reduced. Mr. Bradford

said that was correct. Commissioner Winborne said that the application had been improved and he supported it.

COMMISSION VOTE:

Mr. Winborne moved that **CP(M)-01-01** be **APPROVED** as recommended by staff. Mr. Collins seconded the motion. The motion was carried by a vote of 9-0.

R-01-04

PROJECT: Cross Rezoning

APPLICANT: William B. and Kimberly M. Cross

AGENCY: Hassell & Folkes, P.C.

PROPOSAL: A conventional zoning reclassification of 1.8 acres to allow office/institutional improvements on this property to tie in with the existing O&I zoning on the front 2.3 acres.

ZONE: R-15s Residential District(1.8 acre); O&I Office & Institutional District (2.3 acre);

PROPOSED COMP LAND USE: General Commercial (O&I Office & Institutional District)

EXISTING COMP LAND USE / DENSITY: General Commercial and Suburban Single-Family / 1 unit per acre to something less than 4 units per acre

LOCATION: north of Great Bridge Blvd., south of Route 168 Bypass and west of Battlefield Blvd.

TAX MAP SECTION/PARCEL: portion of 0360000001710

BOROUGH: Washington

COMMISSION ACTION:

APPROVED. (Wilfore/Ward 6-3, Winborne, Radford, Davenport opposed)

Mrs. Kowalsky read R-01-04 into the record for Commission review and action.

Staff Presentation:

Ms. Early stated that based on sound planning practices, Planning staff recommended **R-01-04** be **APPROVED** as listed in the official agenda.

Proponent:

James Bradford, Hassell & Folkes, P.C., 325 Volvo Parkway, Chesapeake, Virginia, appeared before the Commission on behalf of R-01-04 representing the applicant. Mr. Bradford thanked the staff for the recommendation of approval.

Opponent:

T.J. Carawan, 330 Hurdle Drive, Chesapeake, Virginia, appeared before the Commission in opposition to R-01-04. Mr. Carawan said that he was concerned about the property assessment of the people that lived there.

Commission Discussion:

Commissioner Winborne said that he was concerned that the proposed rezoning was not consistent with the Comprehensive Plan. He said that the entire Great Bridge neighborhood needed to be looked at with the current review of the Comprehensive Plan before more O&I was added. Commissioner Winborne said that the application was untimely, and he could not support it.

Commissioner Davenport said that she could not support the application. She said that she concurred with the comments of Commissioner Winborne.

Chairman Foster allowed Mr. Bradford to approach the podium for comments. Mr. Bradford said that in the interest of promoting orderly growth, he wanted to point out that the frontage of the property was already zoned O&I, and the rear portion which was sandwiched between the Oak Grove Connector and O&I, was zoned R-15. He said that the denial of the rezoning would force a subdivision in the middle of the Connector and O&I.

Commissioner Davenport said that in response to Mr. Bradford's comments, she did not want to be a part of the complaints that the Commissioners speculatively rezoned a parcel of land without any potential use.

Commissioner Winborne said that in response to Mr. Bradford's comments, he understood that the front of the property was zoned O&I. He said that the level of impact would be greater on the adjacent R-15s if the parcel was rezoned because it would allow for a greater O&I facility to occupy the land. Commissioner Winborne thanked Mr. Bradford for his comments, but said his opinion had not changed.

Mr. Bradford said that in response to Commissioner Davenport's comments, the current owner of the property had intentions of immediately putting a small office park on the land if the rezoning was approved.

COMMISSION VOTE:

Mr. Wilfore moved that **R-01-04** be **APPROVED** as recommended by staff. Mr. Ward seconded the motion. The motion was carried by a vote of 6-3. Commissioners Winborne, Radford, and Davenport voted against the motion.

R-01-05

PROJECT: Etheridge Pines

APPLICANT: Ramsgate Corporation, Inc.

AGENCY: Hassell & Folkes, P.C.

PROPOSAL: A conventional zoning reclassification for 23 acres from A-1 Agricultural District to R-12(a)s Residential District.

ZONE: R-8s Single Family District (2.1 acres); A-1 Agricultural District (23 acres)

PROPOSED COMP LAND USE / DENSITY: Suburban Single-Family Residential / 1 unit per acre to something less than 4 units per acre.

EXISTING COMP LAND USE / DENSITY: Suburban Single-Family Residential / 1 unit per acre to something less than 4 units per acre.

LOCATION: Immediately south of New Born Court

TAX MAP SECTION/PARCEL: 0611005000010, 0611005000060, 0611005000080, portion of 0611005000090, 0611005000110, 0611005000020, 0611005000212, 0611005000260, 0611005000340

BOROUGH: Pleasant Grove

COMMISSION ACTION:

APPROVED. (Collins/Cabarras 8-1, Davenport opposed)

Mrs. Kowalsky read R-01-05 into the record for Commission review and action.

Staff Presentation:

Mr. Howlett stated that based on sound planning practices, Planning staff recommended **R-01-05** be **APPROVED** as listed in the official agenda.

Proponent:

James Bradford, Hassell & Folkes, P.C., 325 Volvo Parkway, Chesapeake, Virginia, appeared before the Commission on behalf of R-01-05 representing the applicant. Mr. Bradford thanked the staff for their recommendation of approval. Mr. Bradford said that Mr. Folkes, President of Hassell & Folkes, had spoken with Mr. Brian Whitsell, President of the Etheridge Woods Civic League, who said that he did not have any opposition to the rezoning as long as it was an infill development which would essentially finish out the neighborhood, and it met the acceptable level of service required by City Council.

John Burke, 1020 Fentress Road, Chesapeake, Virginia, appeared before the Commission on behalf of R-01-05. Mr. Burke said that this was an offspring of the redevelopment of the community from 1972. He said that the neighborhood was for this application, and he urged the Commission to vote for approval.

Opponent:

T.J. Carawan, 330 Hurdle Drive, Chesapeake, Virginia, appeared before the Commission in opposition to R-01-05. Mr. Carawan said that he was concerned about the level of service the application would require from the City. He said that he thought the open space should be left open for park and recreational space.

Commission Discussion:

Vice-Chairman Cabarras called Mr. Burke to the podium for comments. Mr. Burke said that the community already had two parks that were within walking distance.

Commissioner Davenport said that she could not support the application because there was already a need for police and fire personnel, and if they continue to add blacktop, the City would continue to get even further behind. She said that thirty-three additional school spots would also have to be provided to educate the students.

Chairman Foster asked Mr. Howlett if the application met the Level of Service Policy. Mr. Howlett said that it did.

COMMISSION VOTE:

Mr. Collins moved that **R-01-05** be **APPROVED** as recommended by staff. Mr. Cabarras seconded the motion. The motion was carried by a vote of 8-1. Commissioner Davenport voted against the motion.

R(C)-01-06

PROJECT: Tarleton Oaks at Tallwood

APPLICANT: Dragas Associates VIII. L.C.

AGENCY: Sykes, Carnes, Bourdon & Ahern, P.C.

PROPOSAL: A conditional zoning reclassification from PUD Planned Unit Development to R-MF-1 Multifamily Residential District for approximately 3 acres.

ZONE: PUD Planned Unit Development

PROPOSED COMP LAND USE / DENSITY: High Density Multi-Family Residential / 10 units per acre to something less than 16 units per acres. Note: with proffers, no dwelling units are proposed.

EXISTING COMP LAND USE / DENSITY: Suburban Single-Family Residential / 1 unit per acre to something less than 4 units per acre

LOCATION: Between Emerald Greens subdivision and the Virginia Beach city line, immediately east of properties known as 1400 & 1404 Baffy Loop

TAX MAP SECTION/PARCEL: Adjacent to 0285001000075 and 0290000000120

BOROUGH: Washington

COMMISSION ACTION:

APPROVED with the following proffer: (Ward/Collins 8-1, Wilfore opposed)

- **No dwellings shall be constructed upon the subject property.**
-

Mrs. Kowalsky read R(C)-01-06 into the record for Commission review and action.

Staff Presentation:

Mr. Dydiw stated that based on sound planning practices, Planning staff recommended **R(C)-01-06** be **APPROVED** with the proffer as listed in the staff report dated May 9, 2001 including the proffer "No dwellings shall be constructed upon the subject property."

Proponent:

Edward Bourdon, Pembroke One Building 5th Floor, Virginia Beach, Virginia, appeared before the Commission on behalf of R(C)-01-06 representing the applicant. Mr. Bourdon thanked the staff for their efforts and for their recommendation of approval. He said that this property had twenty-nine acres in Virginia Beach, and the remaining three were in Chesapeake. He said that the development was in the process of being approved administratively by the City of Virginia Beach. The development had three stormwater retention ponds, one of which was located in Chesapeake along with a number of trails. He said that they could put the retention pond in Chesapeake if they built a house in Chesapeake. Mr. Bourdon said that they did not want to build any houses in Chesapeake, but preferred to have the nature trails, pond, and trees to buffer the area. He said that they had to seek the rezoning because of the Ordinance. He said that the only issue that had been raised by the residents was City Line Road. He said that they were not doing anything to City Line Road, but because it was in both Chesapeake's and Virginia Beach's Master Road Plan, they had to show a reservation on the property for a 100ft right-of-way for that potential road.

Opponent:

T. J. Carwan, 330 Hurdle Drive, Chesapeake, Virginia, appeared before the Commission in opposition to R(C)-01-06. Mr. Carwan said that even though no houses were going to be built, the retention pond still had to be maintained. He said that he thought the City should require the developer to put a certain amount of money in an escrow account for the maintenance of the retention pond.

Richard Heffernan, 1342 Baffly Loop, Chesapeake, Virginia, appeared before the Commission in opposition to R(C)-01-06. Mr. Heffernan said that his property was on the upper left-hand side of the property. He said that his concern was if the Dragas property was developed, if City Line Road was ever put in, fifty feet of it would cut through his back

yard. He said that by approving the rezoning, the Commission would be condemning fifty feet of his backyard, and also the sixth green and fairway of the Country Club golf course.

Commission Discussion:

Commissioner Carroll asked Ms. Proctor who would be responsible for the maintenance of the retention pond. Ms. Proctor said that the pond would have to be maintained by the developer and the owners. Commissioner Carroll asked Mr. Tate, Public Works, if they had any plans in the immediate future for City Line Road. Mr. Tate said that there were no plans for the immediate future. He said that the road shown was the result of a corridor study that was done three years ago. Out of the three possible sites for the corridor, the one that was selected as the best site was one not shown on the drawing. Commissioner Carroll allowed Mr. Bourdon to return to the podium for comments. Mr. Bourdon said that the residents of the condominiums would be responsible for the maintenance of the pond. He said that each homeowner would contribute, on a monthly basis to the budget for the maintenance of all three retention ponds and the trails.

Commissioner Ward asked Mr. Dydiw if the updated proffer replaced the previous proffer. Mr. Dydiw said that the original proffer could have been construed that no trails or paths of recreation could be placed on the property because it said only retention ponds would be on the property.

Commissioner Davenport asked Mr. Dydiw if there would be a paved surface for the EMS vehicles as well as a chain-link fence around the BMP as recommended in the staff report. Mr. Dydiw said that he did not include that in his staff report because most of the subdivisions that were approved did not have those stipulations. He said that the main area of concern was to allow access to the site since it was landlocked from the City of Chesapeake side. Commissioner Davenport asked Mr. Bourdon to elaborate on the issues of access and the chain-link fence. Mr. Bourdon said that the fence issue was something they wanted to discuss with staff and the neighborhood. So it might not happen because of the benching and depth of the pond which has not yet been determined. He said that it would be dealt with in the final site plan approval. In regard to the access, Mr. Bourdon said that access would be provided, but the question would be the type of surface. He said that they would be working with both fire and police regarding that. Mr. Bourdon said that even if the fence was not built, for liability reasons, signs would be posted at all ponds saying no swimming was allowed.

Commissioner Wilfore said that because there was no entrance to the retention pond from the Chesapeake side, she could not support it. Mr. Bourdon said that there was no physical way to allow access from Chesapeake unless City Line Road was built because the property was landlocked. Commissioner Wilfore said that she understood that, but she still was concerned about the safety of the youth that might be near the pond.

Commissioner Ward asked Mrs. Dragas if she was going to hold true to all the safety measures that were concerns of the Commissioners. Mrs. Dragas said that she would not have a problem with putting a chain-link fence around the pond, but she suspected the neighboring property owners would object to it.

COMMISSION VOTE:

Mr. Ward moved that **R(C)-01-06** be **APPROVED** with the proffer listed in the official agenda and as recommended by staff. Mr. Collins seconded the motion. The motion was carried by a vote of 8-1. Commissioner Wilfore voted against the motion.

UP-01-07

PROJECT: Better Life Ministries

APPLICANT: Reverend Duane S. McNair, Sr.

AGENCY: Hassell & Folkes, P.C.

PROPOSAL: A conditional use permit to operate a church in an existing building on a 0.54 acre parcel.

ZONE: B-1 Neighborhood Business District

SIC CODE: 866

LOCATION: 2101 Atlantic Avenue

TAX MAP SECTION/PARCEL: 1540000000190

BOROUGH: South Norfolk

COMMISSION ACTION:

APPROVED with the following stipulations: (Wilfore/Davenport 8-1, Radford opposed)

- 1. As agreed upon by the applicant, three landscaped islands shall be provided at the ends of the parking bays adjacent to Campostella Road and one large canopy tree shall be planted in the grassed triangular area at the intersection of Atlantic Avenue and Campostella Road, as indicated on the site plan submitted by the applicant and dated April 20, 2001, with plantings to be approved by the City Arborist.**
 - 2. The Fire Department shall review and approve the location of fire lanes and fire hydrants prior to final site plan approval.**
-

Mrs. Kowalsky read UP-01-07 into the record for Commission review and action.

Staff Presentation:

Mr. Pusey stated that based on sound planning practices, Planning staff recommended **UP-01-07** be **APPROVED** with the stipulations as listed in the official agenda.

Proponent:

James Bradford, Hassell & Folkes, P.C., 325 Volvo Parkway, Chesapeake, Virginia, appeared before the Commission on behalf of UP-01-07 representing the applicant. Mr.

Bradford thanked the staff for their recommendation of approval and he concurred with the stipulations listed.

Duane McNair, Pastor of Better Life Ministries, 2210 Myers Road, Chesapeake, Virginia, appeared before the Commission on behalf of UP-01-07. Mr. McNair thanked staff for their support of the application, and he urged the Commission to vote for approval of the application.

Velma McNair, 810 Aston Place, Chesapeake, Virginia, appeared before the Commission on behalf of UP-01-07. Mrs. McNair said that thanked staff for the support of the application, and he urged the Commission to vote for approval of the application.

Opponent:

T.J. Carawan 330 Hurdle Drive, Chesapeake, Virginia, appeared before the Commission in opposition to UP-01-07. Mr. Carawan said that he was not against the application, but he questioned some of the stipulations. He commended the applicants for occupying a vacant building instead of trying to build a new one. He said that he hoped the City did not go overboard in their requirements for interior alterations. He was also concerned about the requirement to purchase a building permit in order to put a fence around the playground.

Commission Discussion:

Commissioner Ward commended Mr. McNair on his service to the community and his dedication. He said he originally had some concerns about the parking, but they were clarified in the staff report. Commissioner Ward said that he would support the application.

Commissioner Winborne commended the applicant for wanting to occupy the building. He also commended them for their elegant layout of the building. Commissioner Winborne said that he would also support the application.

COMMISSION VOTE:

Mrs. Wilfore moved that **UP-01-07** be **APPROVED** with the stipulations listed in the official agenda and as recommended by staff. Mrs. Davenport seconded the motion. The motion was carried by a vote of 8-1. Commissioner Radford voted against the motion.

UP-01-08

PROJECT: Mill Creek Harbor

APPLICANT: Mill Creek Harbor, L.L.C

AGENCY: Hassell & Folkes, P.C.

PROPOSAL: A conditional use permit for a single-family residential cluster subdivision pursuant to Sections 6-2200 through 6-2203 of the Chesapeake Zoning Ordinance.

ZONE: R-15s Residential District

LOCATION: 2057 Millville Road

TAX MAP SECTION/PARCEL: 0460000001222 and portions of 0460000001250,

0460000001260, 0460000001270, and 0460000001280

BOROUGH: Deep Creek

COMMISSION ACTION:

APPROVED with the following stipulations: (Wilfore/Ward 6-3, Davenport, Collins, Carroll opposed)

1. **The Developer/Owner agrees that he/they shall reserve right-of-way for the Cedar Road Phase 4 & 5 projects to be dedicated at a later date, as specified by the City of Chesapeake. The developer/owner also agrees that the actual limits of the right-of-way needed, as determined by the Public Works Department, may vary from that shown on the preliminary plan. The Developer/Owner further agrees that the actual right-of-way needed shall be shown on the final subdivision plan and be dedicated prior to, or concurrently with, the recordation of the final subdivision plat or the dedication date specified by the City of Chesapeake, whichever is sooner.**
2. **The Developer/Owner agrees that he/they shall dedicate easements that are deemed necessary by the Public Works Department to route drainage from the Cedar Road Phase 4 & 5 projects through the proposed detention facility located on the south/west side of the proposed Cedar Road right-of-way reservation. The developer/owner also agrees that such easements shall be dedicated prior to, or concurrently with, the approval of the final subdivision plat.**
3. **The development of the proposed lots shall be subject to the architectural provisions that are listed in April 20, 2001 letter from James R. Bradford of Hassell & Folkes, P.C. to the Department of Planning regarding the subject conditional use permit application, except for those provisions that explicitly refer to (a) the base price of the models and (b) the estimated average sales price.**
4. **A water quality impact assessment shall be submitted with the final subdivision plan to demonstrate that any encroachment into the landward 50-foot portion of the 100-foot RPA buffer will comply with the buffer equivalency provisions of Section 12-508.C of the Zoning Ordinance.**
5. **The applicant agrees that all open space areas depicted on the revised preliminary site plan shall be dedicated to a property owners association for the perpetual use and enjoyment of its members. To the extent permitted by state law, the applicant shall ensure that the property owners association will have control over all open space areas**

regardless of any claim of riparian rights that may be raised by owners of lots abutting open space waterways.

- 6. All homeowner's association documents required under Section 13-1800 of the Zoning Ordinance shall be submitted to, and approved by, the City Attorney's Office prior to the approval of the final subdivision plan.**
-

Mrs. Kowalsky read UP-01-08 into the record for Commission review and action.

Staff Presentation:

Mr. Dydiw stated that based on sound planning practices, Planning staff recommended **UP-01-08** be **APPROVED** with the stipulations as listed in the staff report dated May 9, 2001.

Proponent:

James Bradford, Hassell & Folkes, P.C., 325 Volvo Parkway, Chesapeake, Virginia, appeared before the Commission on behalf of UP-01-08 representing the applicant. Mr. Bradford said that the Planning Commission had currently approved the number of dwellings promoted on the application via a conventional layout, and there was no increase in that regard.

Opponent:

T.J. Carawan, 330 Hurdle Drive, Chesapeake, Virginia, appeared before the Commission in opposition to UP-01-08. Mr. Carawan said that he was concerned about the impact on the level of service.

Commission Discussion:

Commissioner Davenport said that the application had a lot of good merits with respect to the right-of-way for the improvement of Cedar Road. However, she said that she was not a proponent of cluster developments. She was not comfortable placing a development in the middle of R-15 zoning with a average lot size of 9,000 to 10,000 square feet. She was also concerned with the encroachment into the landward fifty-foot portion of the 100-foot buffer. Commissioner Davenport said that she also concurred with staff's concern regarding the architecture.

COMMISSION VOTE:

Mrs. Wilfore moved that **UP-01-08** be **APPROVED** with the stipulations listed in the updated staff report and as recommended by staff. Mr. Ward seconded the motion. The motion was carried by a vote of 6-3. Commissioners Davenport, Collins, and Carroll voted against the motion.

UP-01-11

PROJECT: Piercy Height Exception

APPLICANT: Ernest L. & Cynthia W. Piercy

PROPOSAL: A conditional use permit to allow a garage to exceed the height of the primary dwelling in accordance with Section 19-205.B of the Chesapeake Zoning Ordinance.

ZONE: R-8s Single Family District

LOCATION: 801 Balford Lane

TAX MAP SECTION/PARCEL: 0271014000320

BOROUGH: Washington

COMMISSION ACTION:

APPROVED with the following stipulations: (Collins/Winborne 8-0, Carroll out of chamber)

- 1. The garage shall not be used as a residence.**
 - 2. At the option of the applicant, either a buffer yard consisting of a row of Leyland Cypress, 6' on center, minimum height of 36" at planting, or a buffer yard "A" or "B" shall be installed along the western and southern property lines. A landscape plan shall be submitted to and approved by the City Arborist.**
-

Mrs. Kowalsky read UP-01-11 into the record for Commission review and action.

Staff Presentation:

Mr. Howlett stated that based on sound planning practices, Planning staff recommended **UP-01-11** be **APPROVED** with the stipulations as listed in the official agenda with the northern designation changed to read western designation.

Opponent:

T.J. Carawan, 330 Hurdle Drive, Chesapeake, Virginia, appeared before the Commission in opposition to UP-01-11 representing himself. Mr. Carawan said that he was not opposed to the application, but he had some concerns about the stipulation. disagreed with stipulation one because you never know when someone may become homeless and might need to live in the garage.

Commission Discussion:

Commissioner Radford asked Mr. Piercy if he understood and agreed with the stipulations that were attached to the application. Mr. Piercy said that he understood and agreed with

the stipulations.

COMMISSION VOTE:

Mr. Collins moved that **UP-01-11** be **APPROVED** with the stipulations listed in the official agenda and as recommended by staff combining stipulations two and three inserting the word either. Mr. Winborne seconded the motion. The motion was carried by a vote of 8-0. Commissioner Carroll was out of the chambers.

UP-01-12

PROJECT: Salvation Army Child Daycare Facility

APPLICANT: The Salvation Army

AGENCY: Huff, Poole, & Mahoney, P.C.

PROPOSAL: A conditional use permit to allow a child daycare facility in a B-3 Highway Business District within an existing building on 6.07 acres.

ZONE: B-3 Highway Business District

SIC CODE: 835

LOCATION: 2099 Military Highway South

TAX MAP SECTION/PARCEL: 1610000000060

BOROUGH: South Norfolk

PROJECT:

COMMISSION ACTION:

APPROVED with the following stipulations: (Davenport/Radford 8-0, Carroll out of chamber)

1. **The daycare facility shall be for the use of current residents of the shelter and no more than ten prior residents of the shelter only. If other trip generating users are proposed for this facility, the applicant will be required to upgrade the entrance and internal circulation on the final site plan as approved by the Department of Public Works.**
 2. **A building permit is required for interior alterations. A certificate of occupancy is required for the change of use.**
 3. **A building permit is required for the playground fence.**
 4. **The dumpster shall be screened and meet setbacks according to Section 14-500 of the Chesapeake Zoning Ordinance.**
 5. **The Fire Department shall review and approve the location of fire lanes and fire hydrants prior to final site plan approval.**
-

Mrs. Kowalsky read UP-01-12 into the record for Commission review and action.

Staff Presentation:

Ms. Early stated that based on sound planning practices, Planning staff recommended **UP-01-12** be **APPROVED** with the stipulations as listed in the official agenda.

Proponent:

Jean Mumm, Huff, Poole & Mahoney, P.C., 4705 Columbus Street, Virginia Beach, Virginia, appeared before the Commission on behalf of UP-01-12 representing the applicant. Ms. Mumm thanked the Planning staff for their recommendation of approval and she concurred with the stipulations listed in the official agenda.

Opponent:

T.J. Carwan, 330 Hurdle Drive, Chesapeake, Virginia, appeared before the Commission in opposition to UP-01-12. Mr. Carawan said that he disagreed with stipulations that required interior alterations. He also disagreed with the stipulation that required a building permit to fence in the playground. He commended the applicants for wanting to occupy a vacant building instead of building a new one.

Commission Discussion:

Commissioner Winborne apologized to the applicant for having to remain through the meeting because a citizen filled out a card in opposition when in fact they supported the application.

COMMISSION VOTE:

Mrs. Davenport moved that **UP-01-12** be **APPROVED** with the stipulations listed in the official agenda and as recommended by staff. Mr. Radford seconded the motion. The motion was carried by a vote of 8-0. Commissioner Carroll was out of the chambers.

UP-01-13

PROJECT: Cavalier Gas Station

APPLICANT: MAH Corporation

AGENCY: Engineering Services, Inc.

PROPOSAL: A conditional use permit to construct and operate a motor vehicle fuel supply facility and carwash on a 1.15 acre site in conjunction with a permitted convenience store.

ZONE: M-1 Light Industrial District

SIC CODE: 554 and 754

LOCATION: Northwest corner of Military Highway South and Cavalier Boulevard

TAX MAP SECTION/PARCEL: 0240000000610

BOROUGH: Deep Creek

COMMISSION ACTION:

APPROVED with the following stipulations: (Cabarras/Radford 8-0, Carroll out of chamber)

1. The primary material on all buildings and pump island support columns shall be brick, and shall be neutral in color (colonial red also appropriate).
 2. Any accent banding on the building, car wash or pump island support columns shall be neutral in color and be approved by the Planning Director prior to final site plan approval.
 3. A mansard roof, with architectural or similar shingles, shall be utilized for all buildings and the canopy. Such materials shall be neutral in color.
 4. All proposed awnings shall be neutral in color.
 5. No advertising shall be permitted on the exterior of the building.
 6. Prior to final site plan approval, architectural plans, including colors and materials, shall be subject to Planning Department approval.
 7. No outdoor telephones shall be permitted on the site.
 8. No loitering shall be permitted on the site. Employees shall be required to monitor and prevent, as necessary, any evidence of loitering.
 9. The site must be kept in a clean, well-maintained order at all times.
 10. The location of the southern entrance and improvements to the median in Cavalier Boulevard must be approved by the Public Works Department prior to final site plan approval. In addition, the applicant shall be responsible for constructing all necessary road improvements required by the Public Works Department for this development prior to the issuance of a Certificate of Occupancy.
 11. The site layout shall accommodate the largest vehicle anticipated to use this site (i.e. a fuel tanker), subject to Public Works Department approval.
 12. The proposed entrance on Military Highway must be deleted from the final site plan unless a letter permitting such an entrance is provided by the Virginia Department of Transportation.
-

Mrs. Kowalsky read UP-01-13 into the record for Commission review and action.

Staff Presentation:

Mr. Howlett stated that based on sound planning practices, Planning staff recommended **UP-01-13** be **APPROVED** with the stipulations as listed in the official agenda with the condition that the applicant agreed with the stipulations.

Proponent:

Pete Burkheimer, Engineering Services Inc., 3351 Stoneshore Road, Chesapeake, Virginia, appeared before the Commission on behalf of UP-01-13 representing the applicant. Mr. Burkheimer said that he concurred with the stipulations listed and he thanked staff for their recommendation of approval.

Opponent:

T.J. Carawan, 330 Hurdle Drive, Chesapeake, Virginia, appeared before the Commission in opposition to UP-01-13. Mr. Carawan said that there was already a service station at the corner of Cavalier Boulevard, and he did not think the City needed another one.

Commission Discussion:

Commissioner Ward said that he thought the gas station at that corner was well needed.

Commissioner Radford asked Mr. Burkheimer asked if his client had entered into any discussions with VDOT, and if so, with whom. Mr. Burkheimer said that they deemed that this was the first step. He said that from an engineering standpoint, the site would work without that connection, but it might be another story from a marketing standpoint. He said their next step was to enter into discussion with VDOT and from there with the Highway Commission to ask for a break in the limited access line. Commissioner Radford asked Mr. Tate what the concerns of VDOT were. Mr. Tate said that typically VDOT was concerned about access points that were close to interchanges they had constructed. He said that Public Works had reviewed the proposed access entrance and they were not opposed to it based on the proposed geometry of the deceleration lane.

Commissioner Davenport thanked the applicant for the architectural stipulations. She said that she appreciated the applicant volunteering to do the upgrades to the development.

COMMISSION VOTE:

Mr. Cabarras moved that **UP-01-13** be **APPROVED** with the stipulations listed in the updated staff report and as recommended by staff. Mr. Radford seconded the motion. The motion was carried by a vote of 8-0. Commissioner Carroll was out of the chambers.

S-01-20

PROJECT: Bellwood Meadows Subdivision

APPLICANT: Hearndon Construction Company

AGENCY: Hassell & Folkes, P.C.

PROPOSAL: Preliminary 32 lot subdivision consisting of 30 residential lots zoned R-8s Single Family District (8.2 acres) and 2 lots zoned B-2 General Business District (7.9 acres).

ZONE: R-8 Residential District and B-2 General Business District

LOCATION: 800 Boxer Drive

TAX MAP SECTION/PARCEL: 0360000000360

BOROUGH: Washington

(Continued from the April 25, 2001 Planning Session)

COMMISSION ACTION:

APPROVED with the following stipulations: (Cabarras/Collins 8-0, Carroll out of chamber)

1. **The applicant shall provide a left turn lane from Great Bridge Boulevard and shall provide the necessary physical improvements for the turn lane, including but not limited to widening of the existing pavement that is required by the Public Works Department. This requirement shall be reflected on the final site plan and final subdivision plan.**
2. **The landscape buffer "D" shall be provided along the entire portion of the site that is adjacent to Interstate 64. This requirement shall be reflected on the final site plan.**
3. **The applicant/owner shall be responsible for constructing all necessary road improvements required by Public Works Department for the subdivision and development prior to the issuance of a certificate of occupancy. All such improvements shall be shown on the final subdivision and site plans.**

Mrs. Kowalsky read S-01-20 into the record for Commission review and action.

Staff Presentation:

Mr. Dydiw stated that based on sound planning practices, Planning staff recommended **S-01-20** be **APPROVED** with the stipulations as listed in the official agenda and the updated staff report with the additional stipulation "The applicant/owner shall be responsible for constructing all necessary road improvements required by Public Works Department for the subdivision and development prior to the issuance of a certificate of occupancy. All such improvements shall be shown on the final subdivision and site plans."

Proponent:

James Bradford, Hassell & Folkes, P.C., 325 Volvo Parkway, Chesapeake, Virginia, appeared before the Commission on behalf of S-01-20 representing the applicant. Mr. Bradford said that he concurred with the stipulations listed and he thanked staff for their recommendation of approval.

Opponent:

T.J. Carawan, 330 Hurdle Drive, Chesapeake, Virginia, appeared before the Commission in opposition to S-01-20. Mr. Carawan said that he was concerned with what would happen to the residential lots attached to a business. He said that there was already a shortage of police and fire workers without adding another development.

Commission Discussion:

Commissioner Collins asked Mr. Tate to discuss the impact that the drainage, the left turn lane and the number of turn lanes in that area had on that site and the surrounding neighborhoods. Mr. Tate said that the department had recognized and was sensitive to the fragile nature of the existing drainage system. Because of that, he said they had informed the applicant that a more sophisticated drainage system would be required to address the peak rate of runoff generated from this site as well as the volume of runoff to the site to insure there was not any increase to the frequency of flooding or the duration of flooding. He said that the site would not correct any of the deficiencies, but they would make sure it did not create any additional impacts that would create problems for the downstream neighborhoods. Mr. Tate said that he thought that Public Works had come up with a solution where they could widen the existing pavement so they would maintain two lanes of eastbound traffic and provide a left turn lane and a westbound through lane. He said that the intersection's geometry would work out nicely with the entrances across the street.

COMMISSION VOTE:

Mr. Cabarras moved that **S-01-20** be **APPROVED** with the stipulations listed in the updated staff report and as recommended by staff. Mr. Collins seconded the motion. The motion was carried by a vote of 8-0. Commissioner Carroll was out of the chambers.

SP-01-11

PROJECT: Bellwood Meadows Subdivision

APPLICANT: Hearndon Construction Company

AGENCY: Hassell & Folkes, P.C.

PROPOSAL: Preliminary site plan for an office-warehouse complex on 7.3 acres

ZONE: B-2 General Business District

LOCATION: 800 Boxer Drive

TAX MAP SECTION/PARCEL: portion of 0360000000360

BOROUGH: Washington

(Continued from the April 25, 2001 Planning Session)

COMMISSION ACTION:

APPROVED with the following stipulations: (Cabarras/Collins 8-0, Carroll out of chamber)

4. The applicant shall provide a left turn lane from Great Bridge Boulevard and shall provide the necessary physical improvements for the turn lane, including but not limited to widening of the existing pavement that is required by the Public Works Department. This requirement shall be reflected on the final site plan and final subdivision plan.
5. The landscape buffer "D" shall be provided along the entire portion of the site that is adjacent to Interstate 64. This requirement shall be reflected on the final site plan.
6. The applicant/owner shall be responsible for constructing all necessary road improvements required by Public Works Department for the subdivision and development prior to the issuance of a certificate of occupancy. All such improvements shall be shown on the final subdivision and site plans.

Mrs. Kowalsky read SP-01-11 into the record for Commission review and action.

Staff Presentation:

Mrs. Kowalsky stated that based on sound planning practices, Planning staff recommended **SP-01-11** be **APPROVED** with the stipulations as listed in the official agenda.

Proponent:

James Bradford, Hassell & Folkes, P.C., 325 Volvo Parkway, Chesapeake, Virginia, appeared before the Commission on behalf of SP-01-11 representing the applicant. Mr. Bradford said that he concurred with the stipulations listed and he thanked staff for their recommendation.

Opponent:

T.J. Carawan, 330 Hurdle Drive, Chesapeake, Virginia, appeared before the Commission in opposition to SP-01-11. Mr. Carawan said that he was concerned about what would happen to the residential lots attached to a business. He said that there was already a shortage of police and fire workers without adding another development.

Commission Discussion:

Commissioner Collins asked Mr. Tate to discuss what the drainage, the left turn lane and

the number of turn lanes in that area had on that site and the surrounding neighborhoods. Mr. Tate said that the department had recognized and was sensitive to the fragile nature of the existing drainage system. Because of that, he said they had informed the applicant that a more sophisticated drainage system would be required to address the peak rate of runoff generated from this site as well as the volume of runoff to the site to insure there was not any increase to the frequency of flooding or the duration of flooding. He said that the site would not correct any of the deficiencies, but they would make sure it did not create any additional impacts that would create problems for the downstream neighborhoods. Mr. Tate said that he thought that Public Works had come up with a solution where they could widen the existing pavement so they would maintain two lanes of eastbound traffic and provide a left turn lane and a westbound through lane. He said that the intersection's geometry would work out nicely with the entrances across the street.

COMMISSION VOTE:

Mr. Cabarras moved that **SP-01-11** be **APPROVED** with the stipulations listed in the updated staff report and as recommended by staff. Mr. Collins seconded the motion. The motion was carried by a vote of 8-0. Commissioner Carroll was out of the chambers.

COMMISSION DISCUSSION:

Commissioner Winborne asked the Planning staff to look into the safety issues regarding stormwater detention and retention ponds, particularly the fencing.

Commissioner Ward asked if there was something that could be done when a speaker filled out a card in opposition and then stated that they were not against it or vice-versa without infringing on their rights. Chairman Foster said that if they filled out the card in opposition, but they did not have anything to support it, then a motion would be in order to put it back on the consent agenda and vote on it at that time. Ms. Proctor said that research might need to be done to make sure that their first amendment rights would not be violated. She referred to Mr. John Oliver, City Attorney, for further discussion. Mr. Oliver said that research would be conducted and they would come up with some type of guidelines, and make those guidelines available to the public. He said that it was within the Commission's guidelines to make sure the speaker stayed on topic. Mr. Oliver said that he recommended the Chairman declare the speaker out of order and ask him to surrender the podium if he got off subject. Commissioner Ward said that he wanted the citizens to know that the City employees and the Commissioners were prepared to stay as long as necessary as long as they were handling the business of the people. He commended Mr. Burke for the job well done when he served on the Planning Commission.

Commissioner Collins said that Commissioners Radford, Carroll, Wilfore, Cabarras, and himself attended the 2001 Certified Planning Commissioner Seminar in Richmond on April 30, 2001. Mrs. Kowalsky also attended to represent the Planning staff. He said that Commissioner Cabarras and himself attended the Whittamore/Mary Road community meeting to discuss the Etheridge Green use permit for the golf course on May 2, 2001.

Commissioner Wilfore and himself attended the Water Sensitive Site Design Seminar on May 3, 2001.

Secretary Wilfore said that the time she allotted for the speakers came directly from page 7 of the Bylaws.

Vice-Chairman Cabarras asked everyone who had not completed the registration form for the Hampton Roads Planning Commission Forum to be held on May 31, 2001 to complete them. He commended Secretary Wilfore on the way she handled the speakers at the meeting tonight. He said that it bothered him when speakers made personal attacks against someone.

He urged everyone to approach that person after the meeting. Vice-Chairman Cabarras said that the citizens deserved an apology for being kept at the meeting unnecessarily.

Adjournment:

There being no further business to bring before the Commission, Chairman Foster declared the meeting adjourned at 10:30 p.m.

Respectfully submitted,

Dorothy M. Kowalsky
Recording Secretary

DMK:mye

APPROVED: June 13, 2001 Public Hearing (Collins/Ward 9-0)