Chesapeake Gateway Expansion

CITY COUNCIL PACKAGE FOR
JUNE 19, 2012

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APPLICATION SUMMARY

**R(C)-12-05  Chesapeake Gateway Expansion**

**LOCATION:** South of I-64 between Tintern Street and Battlefield Boulevard North

**PROPOSAL:** A conditional zoning reclassification of three parcels totaling 9.21 acres from B-3, Highway Business District to R-MF-2, Multifamily Residential District to allow a condominium development.

**SUBMITTED:** 3-12-12  **ACKNOWLEDGED BY COUNCIL:** 4-24-12

**STAFF RECOMMENDATION**

Approval with proffers

**PLANNING COMMISSION**

**HEARING DATE:** 5-9-12

**RECOMMENDATION:** APPROVAL with proffers

**VOTE:** 7 - 1

**ATTACHMENTS**

Minutes, Proffer Statement, Staff Reports, Fiscal Impact Analysis, Rezoning Exhibit, Architectural Elevations, Site Plan, Aerial, GIS Parcel Exhibit
APPLICATION SUMMARY

R(C)-12-05  Chesapeake Gateway Expansion

APPLICANT/OWNER:  ROC Industrial Associates, LLC
Attn:  Robert Copeland
168 Business Park Drive, Suite 200
Virginia Beach, VA  23462
473-3702
No email address

Members:
Copeland Associates, LP
  Copeland-ROC, LLC, Robert O. Copeland, Member
  Copeland-AWC, LLC, Ann W. Copeland, Member
  The Robert O. Copeland Irrevocable Trust Number 1, Limited Partner, Ann W. Copeland, Trustee
  The Ann W. Copeland Irrevocable Trust Number 1, Limited Partner, Robert O. Copeland, Trustee
  M. Scott Copeland Family Partnership, RLLLP, Limited Partner
    Michael Scott Copeland, Managing Partner
    And as Custodian of Daniel Copeland, Jack Copeland, Nicholas Copeland, and Ethan Copeland
  Todd A. Copeland & Associates, LC, Limited Partner
    Todd A Copeland, Manager
    Robin A. Copeland and as Custodian of Jessica R. Copeland and Jacob Copeland
  Stacy Copeland Brody, Limited Partner
  Jodi Copeland Klebanoff, Limited Partner

AGENCY:  Site Improvement Associates
Attn:  Mr. Issam H. Baraki, PE
800 Juniper Crescent, Suite A
Chesapeake, VA  23320
671-9000
ibaraki@siteimprovement.net
R(C)-12-05
PROJECT: Chesapeake Gateway Expansion
APPLICANT: ROC Industrial Associates, LLC
AGENCY: Site Improvement Associates, Inc.
PROPOSAL: A conditional zoning reclassification of three parcels totaling 9.21 acres from B-3, Highway Business District to R-MF-2, Multifamily Residential District to allow a condominium development.
PROPOSED COMP LAND USE / DENSITY: High Density Residential
EXISTING COMP LAND USE / DENSITY: High Density Mixed Use
LOCATION: South of I-64 between Tintern Street and Battlefield Boulevard N
TAX MAP SECTION/PARCELS: 0270000000774, 0270000000770, 0270000000778
BOROUGH: Washington

PLANNING COMMISSION RECOMMENDATION:

Planning Commission recommends that R(C)-12-05 be APPROVED with the following proffers: (7-1; Papasodora-Cochrane/Van Laethem, Gerloff opposed, Small excused)

1. The applicant/owner agrees that all building construction shall be in substantial accordance with and similar in style & color to the existing building at Oak Crest at Battlefield (known as The Morgan’s).

2. The applicant/owner agrees to make a cash contribution to the City of Chesapeake for the expansion of classroom space in impacted public schools, including but not limited to, land acquisition for the expansion of public school facilities and construction of new schools and additions. The amount of the voluntary cash contribution shall be $2,858.00 per residential dwelling unit. The applicant/owner agrees to make the proffered cash contribution prior to issuance of Certificate of Occupancy for each residential dwelling unit. The applicant/owner acknowledges and agrees that the cash contribution may be deposited into the City of Chesapeake’s “lock box,” also known as the General Fund Reserve for School Capital Construction Costs and shall be subject to City Council approval prior to appropriation. In the event the cash proffer is not expended for land acquisition or classroom expansion within time constraints imposed by state law, the applicant/owner agrees that the cash proffer may be used for capital improvement projects for major repair, maintenance and renovation of public schools in the same school planning area as the rezoned property.
3. The applicant/owner agrees to make a cash contribution to the City of Chesapeake for capital improvements to public arterial and collector streets within the traffic shed impacted by the rezoning, including but not limited to, right-of-way acquisition, road design, road construction, project management, widening, paving, striping, adding turn lanes, adding acceleration or deceleration lanes, installing or adjusting traffic control devices, installing curb and gutter, making ditch and shoulder improvements, and constructing or improving roadside drainage facilities. The amount of the voluntary cash contribution shall be $558.00 per residential dwelling unit. The cash contribution shall be in addition to any required or voluntary road improvements. The applicant/owner agrees to make the proffered cash contribution prior to issuance of Certificate of Occupancy for each residential dwelling unit.

4. The applicant/owner agrees to make a cash contribution to the City of Chesapeake for capital improvements to public libraries, including but not limited to, land acquisition; design, construction, expansion, renovation, and repair of buildings and appurtenances; and acquisition of capital assets necessary to the operation of public libraries. The amount of the voluntary cash contribution shall be $520.00 per residential dwelling unit. The applicant/owner agrees to make the proffered cash contribution prior to issuance of Certificate of Occupancy for each residential dwelling unit.

5. The applicant/owner agrees to make a cash contribution to the City of Chesapeake for capital improvements to public emergency service facilities, including but not limited to, land acquisition; design, construction, expansion, renovation, and repair of buildings and appurtenances; and acquisition of capital assets necessary to the provision of emergency fire and medical services to the citizens of Chesapeake. The amount of the voluntary cash contribution shall be $356.00 per residential dwelling unit. The applicant/owner agrees to make the proffered cash contribution prior to issuance of Certificate of Occupancy for each residential dwelling unit.

6. The applicant/owner agrees to limit the number of residential dwelling units to be built on this site to a maximum of 120 dwelling units.

7. The applicant/owner agrees that all residential units on the subject property shall be condominium units for sale or rent.

8. The applicant/owner agrees they will not request an Occupancy Permit for the 41st dwelling unit until after January 1, 2014, or after the completion and placement in service of the Volvo Parkway Turn Around project, whichever comes first. The Volvo Parkway Turn Around Project is due to be completed by January 2013.
9. The applicant/owner agrees that all interior property lines between parcels 1, 2, 5A & 6A to be vacated.

Mrs. Hanson read R(C)-12-05 into the record for Commission review and action.

Staff Presentation:

Mr. McKay stated that based on sound planning practices, Planning staff recommended R(C)-12-05 be APPROVED with the proffers as listed in the official agenda.

Proponent:

Sam Baraki, Agent, Site Improvement Associates, Inc., 800 Juniper Crescent, Chesapeake, Virginia, appeared before the Commission on behalf of R(C)-12-05 representing the applicant.

COMMISSION VOTE:

Commissioner Papasodora-Cochrane moved that R(C)-12-05 be APPROVED with the proffers as listed in the official agenda and as recommended by staff. Commissioner Van Laethem seconded the motion. The motion was carried by a vote of 7 - 1. Commissioner Gerloff voted against the motion and Commissioner Small was absent.
PROFFER STATEMENT

Application No: R(C)-12-05  Initial & Date: RCO 5/14/2012

Name and Address of Applicant/Owner: ROC Industrial Associates, LLC 168
Business Park Drive, Suite 200, Virginia Beach, VA 23462
Tax Map Number(s): 0270000000770, 0270000000774 and 2700000000778

Description of land: Parcel 1 & 2 of Chesapeake Gateway Park is recorded in MB 149,
PG 51 & 51A containing 7.24 AC and parcel 6A of resubdivision of parcel 5 & 6
recorded in MB 152, PG 142

Description of Proposed Rezoning:
The existing zoning is B-3, Highway Business District, parcel 1 containing 3.08 acre
parcel 2 containing 4.16 acres and parcel 6a containing 1.97 acre totaling 9.21 acres.
The entire 9.4 acres to be rezoned to R-MF-2, Multifamily Residential District.

Date of Application: March 12, 2012

The above named applicant/owner hereby proffers, as a part and provision of the above
referenced rezoning, that the use and development of this property shall be in strict
accordance with the following conditions, which shall constitute covenants running with
said property, and which shall be binding upon the property and upon all parties and
persons claiming under or through the owners and applicants, their heirs, personal
representative, assigns, grantees and other successors in interest or title:

1. The applicant/owner agrees that all building construction shall be in
   substantial accordance with and similar in style & color to the existing
   building at Oak Crest at Battlefield (known as The Morgan’s, UP-06-39).

2. The applicant/owner agrees to make a cash contribution to the City of
   Chesapeake for the expansion of classroom space in impacted public
   schools, including but not limited to, land acquisition for the expansion of
   public school facilities and construction of new schools and additions. The
   amount of the voluntary cash contribution shall be $2,858.00 per residential
dwelling unit. The applicant/owner agrees to make the proffered cash
contribution prior to issuance of Certificate of Occupancy for each
residential dwelling unit. The applicant/owner acknowledges and agrees
that the cash contribution may be deposited into the City of Chesapeake’s
“lock box,” also known as the General Fund Reserve for School Capital
Construction Costs and shall be subject to City Council approval prior to
appropriation. In the event the cash proffer is not expended for land
acquisition or classroom expansion within time constraints imposed by
state law, the applicant/owner agrees that the cash proffer may be used for
capital improvement projects for major repair, maintenance and renovation of public schools in the same school planning area as the rezoned property.

3. The applicant/owner agrees to make a cash contribution to the City of Chesapeake for capital improvements to public arterial and collector streets within the traffic shed impacted by the rezoning, including but not limited to, right-of-way acquisition, road design, road construction, project management, widening, paving, striping, adding turn lanes, adding acceleration or deceleration lanes, installing or adjusting traffic control devices, installing curb and gutter, making ditch and shoulder improvements, and constructing or improving roadside drainage facilities. The amount of the voluntary cash contribution shall be $558.00 per residential dwelling unit. The cash contribution shall be in addition to any required or voluntary road improvements. The applicant/owner agrees to make the proffered cash contribution prior to issuance of Certificate of Occupancy for each residential dwelling unit.

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5. The applicant/owner agrees to make a cash contribution to the City of Chesapeake for capital improvements to public emergency service facilities, including but not limited to, land acquisition; design, construction, expansion, renovation, and repair of buildings and appurtenances; and acquisition of capital assets necessary to the provision of emergency fire and medical services to the citizens of Chesapeake. The amount of the voluntary cash contribution shall be $356.00 per residential dwelling unit. The applicant/owner agrees to make the proffered cash contribution prior to issuance of Certificate of Occupancy for each residential dwelling unit.

6. The applicant/owner agrees to limit the number of residential dwelling units to be built on this site to a maximum of 120 dwelling units.
PROFFER STATEMENT

Application No: R(C)-12-05 Initial & Date: ROC 5/16/2012

7. The applicant/owner agrees that all residential units on the subject property shall be condominium units for sale or rent.

8. The applicant/owner agrees they will not request an Occupancy Permit for the 41st dwelling unit until after January 1, 2014, or after the completion and placement in service of the Volvo Parkway Turn Around project which ever come first. The Volvo Parkway Turn-Around Project is due to be completed by January 2013.

9. The applicant/owner agrees that all interior property lines between parcels 1, 2, 5A & 6A to be vacated.

The authorized applicant/owner certifies that the following cash proffers are offered with this rezoning application:

CASH PROFFERS & IMPROVEMENTS

<table>
<thead>
<tr>
<th>Roads</th>
<th>Schools</th>
<th>Library</th>
<th>Fire/EMS</th>
</tr>
</thead>
<tbody>
<tr>
<td>$66,960</td>
<td>$342,960</td>
<td>$63,120</td>
<td>$42,720</td>
</tr>
</tbody>
</table>

The authorized applicant/owner certifies that soil tests have been performed on dedicated land, other than right-of-way, and that certified findings show the land to be suitable for its intended use.

In the event that land dedicated or money provided to the City in accordance with the proffered conditions are not used for the specific purpose originally intended under this proffer, the applicants and owners propose that such property and/or money be treated as follows:

The cash proffered may be used for other capital improvement projects, the need for which is generated in whole or in part by the impacts of this rezoning.

The improvements for which the property and/or money are proffered are part of the city's overall program for capital improvement, even if not contained in the immediate five-year improvement budget.
Application No: **R(C)-12-05**  Initial & Date: **ROC 5/16/2012**

The owners and applicants, for themselves, their heirs, personal representatives, assigns, grantees, and other successors in interest or title, voluntarily and without any undue influence by, requirement by or exaction from the City of Chesapeake or its governing body, proffers these conditions, acknowledging that the proposed rezoning itself gives rise to the need for the conditions, that such conditions have a reasonable relation to the rezoning, and that all such conditions are in conformity with the City's Comprehensive Plan. The applicants and owners further acknowledge that the City is in no way obligated to rezone the subject property; that in the event the property is rezoned, the conditions proffered shall continue in full force and effect unless or until they are modified by subsequent amendment to the zoning ordinance; and that the applicants and owners, their heirs, personal representatives, assigns, grantees, and other successors in interest or title, shall not be released from the responsibility of fulfilling each of the enumerated conditions by virtue of any variance or other change in or to the zoning ordinance.

**This proffer statement supersedes any and all previously submitted proffers.**

WITNESS our signatures.

**Applicant/Owner:**

[Signature]

Robert Copeland, Manager
ROC Industrial, LLC

Commonwealth of VIRGINIA
City of Chesapeake

Subscribed and sworn to before me this **16th** day of **May** , 2012, by
Robert Copeland.

[Signature]

CARIE M. NORWOOD
Notary Public
Commonwealth of Virginia
303206
My Commission Expires Sep 30, 2013

Approved as to form:

[Signature]

Grady A. Palmer
Assistant City Attorney

[Signature]

Carie M. Norwood
NOTARY PUBLIC
Notary Registration No. 303206
My commission expires: 9/30/2013
TO: CHESAPEAKE PLANNING COMMISSIONERS

FROM: BILL McKay, AICP, SENIOR PLANNER

THROUGH: BRENT R. NIELSON, AICP, PLANNING DIRECTOR

DATE: APRIL 30, 2012

RE: R(C)-12-05
PROJEC: Chesapeake Gateway Expansion
APPLICANT: ROC Industrial Associates, LLC
AGENCY: Site Improvement Associates, Inc.
PROPOSAL: A conditional zoning reclassification of three parcels totaling 9.21 acres from B-3, Highway Business District to R-MF-2, Multifamily Residential District to allow a condominium development.
PROPOSED COMP LAND USE / DENSITY: High Density Residential
EXISTING COMP LAND USE / DENSITY: High Density Mixed Use
LOCATION: South of I-64 between Tintern Street and Battlefield Boulevard N
TAX MAP SECTION/PARCELS: 0270000000774, 0270000000770, 0270000000778
BOROUGH: Washington

AND

UP-12-08
PROJECT: Chesapeake Gateway Expansion
APPLICANT: ROC Industrial Associates, LLC
AGENCY: Site Improvement Associates, Inc.
PROPOSAL: A conditional use permit to allow a height limitation exception under section 19-205.B. of the zoning ordinance. Some buildings will exceed the limitation of 35 feet, but the maximum height shall not exceed 75 feet.
ZONE: Proposed R-MF-2, Multifamily Residential District.
LOCATION: South of I-64 between Tintern Street and Battlefield Boulevard N
TAX MAP SECTION/PARCELS: 0270000000774, 0270000000770, 0270000000778
BOROUGH: Washington
PROJECT DESCRIPTION:

The applicant seeks approval of a conditional zoning reclassification of three parcels totaling 9.21 acres from B-3, Highway Business District, to R-MF-2, Multifamily Residential District, to allow a condominium development of 120 dwelling units. The applicant also seeks approval of a conditional use permit to allow a height limitation exception under section 19-205.B. of the zoning ordinance. Some buildings will exceed the limitation of 35 feet but the maximum height shall not exceed 75 feet. This is an expansion of the existing condominium development known as The Morgans. It was approved as R(C)-06-25 and UP-06-39 on May 1, 2007. The design of the new buildings will be the same as the existing ones. The applicant has also proffered cash for schools, roads, libraries and emergency services.

BACKGROUND:

The subject site is zoned B-3, Highway Business District. Adjacent zoning designations are as follows:

<table>
<thead>
<tr>
<th>DIRECTION</th>
<th>ADJACENT ZONING DESIGNATIONS</th>
</tr>
</thead>
</table>
| North     | R-MF-2, Multi-family Residential District (I-64)  
                         B-3, Highway Business District (Beyond) |
| South     | B-3, Highway Business District (Multi-family) |
| East      | B-3, Highway Business District (Battlefield Blvd.)  
                         B-3, Highway Business District (Beyond) |
| West      | B-3, Highway Business District (Tintern Street)  
                         M-1, Light Industrial District (Beyond) |

DEPARTMENTAL COMMENTS:

Development Engineering:

- See attached memo dated April 19, 2012 for comments.

Public Utilities:

- City water and sewer are existing to the site.

School Administration:

R(C)-12-05 only

- See attached letter dated April 15, 2012 for comments.

Parks and Recreation:

R(C)-12-05 only

- See attached memo dated March 26, 2012 for comments.
Environmental/Landscaping:
- This department will require a final construction plan.
- No comments.
- All standard Landscape Ordinance requirements will apply in accordance with Chesapeake Zoning Ordinance Section 19-600.

Fire Prevention:
- See attached memo dated April 10, 2012.

Zoning Administrator:
- This department will require a final construction plan.
- Table 1106.1 of the 2009 International Building Code requires 7 handicap parking spaces (Chesapeake requires that the 1st 2 shall be served by an 8-foot wide 'van accessible' aisle and identified with above grade signs.
- Signs, fences and dumpster locations not reviewed on preliminary plan.

Code Enforcement:
- This department will require a final construction plan.
- No comments.

Library:
R(C)-12-05 only
- No comments.

Police:
- This department will not require a final construction plan.
- No comments.

Historic Preservation:
- No impact.

Chesapeake Bicycle/Trails Advisory Committee:
- No impact.

Fiscal Impact Analysis:
- See attached analysis dated April 27, 2012.
REZONING STAFF ANALYSIS:

PLANNING AND LAND USE POLICIES

On March 21, 1995, the Chesapeake City Council adopted policies pertaining to acceptable level of service (LOS) standards focusing on three areas: (1) school needs; (2) road capacity; and (3) sewer capacity. Where the analysis of the rezoning application, whether a conventional or conditional rezoning, indicates that the public infrastructure is not sufficient to meet the needs that will be generated by the proposed development, then the application will be presumed to be untimely and inappropriate. The three areas, as they specifically apply to this application, are addressed below:

1. **SCHOOL NEEDS:** Since the proposed zoning reclassification will not result in any of the schools in this attendance area exceeding 120% of capacity, the application meets the Level of Service standard for school needs.

2. **ROAD CAPACITY:** Since the proposed zoning reclassification will result in less projected vehicle trips than the existing zoning classification, the application is exempt from the Level of Service standard for road capacity.

3. **SEWER CAPACITY:** The subject site is located within an HRSD service area; therefore, the proposed rezoning passes the Level of Service test for sewer capacity.

PROFFER POLICY

On September 20, 2005, City Council adopted a policy addressing the acceptance of voluntary cash contributions for the improvement of schools, roads, libraries, and emergency service facilities. In this policy the maximum proffer amount anticipated is calculated by location in the City and dwelling type. There is no exception from the Proffer Policy even if the level of service as prescribed in the Planning and Land Use Policy is met. Below is a summary of the maximum proffer amount for this rezoning, the amount offered by the applicant, and the difference between the applicant’s offer and the adopted proffer policy:

<table>
<thead>
<tr>
<th>Public Facility</th>
<th>Current Maximum Proffer Amount Range <em>(Varies by Unit Type and Location)</em></th>
<th>Total Maximum Proffer Amount Anticipated for R(C)-12-05 per unit</th>
<th>Total Proffer Amount Offered per unit</th>
<th>Difference per unit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Schools</td>
<td>$3,811.44 to $14,229.37</td>
<td>$2,858.58</td>
<td>$2,858.00</td>
<td>.58</td>
</tr>
<tr>
<td>Roads</td>
<td>$744 to $3,186</td>
<td>$558.00</td>
<td>$558.00</td>
<td>0</td>
</tr>
<tr>
<td>Libraries</td>
<td>$701.45 to $949.03</td>
<td>$526.09</td>
<td>$520.00</td>
<td>$6.09</td>
</tr>
<tr>
<td>Fire &amp; EMS</td>
<td>$474.77 to $1,986.48</td>
<td>$356.08</td>
<td>$356.00</td>
<td>.08</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>$5,731.66 to $20,350.88</strong></td>
<td><strong>$4298.75</strong></td>
<td><strong>$4292.00</strong></td>
<td><strong>$6.75</strong></td>
</tr>
</tbody>
</table>
FINDINGS FOR REZONINGS

According to Section 16-106 of the Chesapeake Zoning Ordinance, if the application is for a reclassification of property to a different zoning district classification, the report of the Planning Commission should contain findings with respect to one or more of the following matters, as the Commission determines to be most significant:

1. **STANDARD:** Whether and in what respect the proposed zoning district classification is consistent with the Chesapeake Comprehensive Plan.

   **FINDING:** The subject site is designated for high density mixed use in the 2026 Land Use Plan. This classification is characterized by predominately commercial land uses with higher density residential uses mixed in. The subject property was part of a larger tract of land that was subdivided seven years ago. Two of these parcels were rezoned for the existing condominium project five years ago. The remaining two parcels of this original tract will remain B-3, Highway Business District. There is nothing in this application to prevent a future rezoning from making these remaining parcels residential. When considered as part of this larger subdivision, the proposed rezoning can be considered consistent with the Chesapeake Comprehensive Plan since it would provide the residential component of a mixed use development, but only if the remaining parcels are developed commercially. Ideally, in order to ensure consistency with the Comprehensive Plan, commercial uses should be proposed as part of the same project. With different ownership interests controlling the various parcels within the original commercial subdivision, there is no guarantee that the eventual build out of the site will be mixed use in accordance with the vision expressed in the Comprehensive Plan.

2. **STANDARD:** Whether and in what respect there are any changed or changing conditions in the area affected that make the proposed rezoning necessary.

   **FINDING:** There are no changed or changing conditions in the area affected that make the proposed rezoning necessary.

3. **STANDARD:** Whether and in what respect the range of uses in the proposed zoning district classification are compatible with the uses permitted on other property in the immediate vicinity.

   **FINDING:** The surrounding area is comprised of a mix of land uses including light industrial, commercial, office and residential. Some of the area is within the Greenbrier PUD, including Red Cedar Court Apartments to the south on Tintern Road. Other properties in the vicinity have conventional zoning classifications ranging from M-1, Light Industrial District, to O&I, Office and Institutional District, with the aforementioned B-3, Highway Business District immediately adjacent to the south. The proposed condominiums are compatible with the range of uses permitted on other property in the immediate vicinity.
4. **STANDARD:** Whether and in what respect adequate public facilities and services exist or can be provided to serve the uses that would be permitted on the property if it were rezoned.

**FINDING:** The departmental comments indicate that adequate public facilities and services exist or can be provided.

5. **STANDARD:** The impact that the uses that would be permitted if the property were rezoned will have on the volume of vehicular and pedestrian traffic and traffic safety in the vicinity.

**FINDING:** The proposed residential rezoning would generate less traffic than would potentially be generated by the existing commercial zoning. Also, the traffic generated by the proposed residential use would be opposing peak hour traffic volumes generated by the surrounding commercial uses, thereby lessening the impact on the current transportation deficiencies that would be experienced if the property was to develop commercially under the existing zoning.

6. **STANDARD:** Whether and in what respect the proposed rezoning will correct an error in the application of this zoning ordinance as applied to the subject property.

**FINDING:** The proposed rezoning will not correct an error in the application of this zoning ordinance as applied to the subject property.

7. **STANDARD:** Whether a reasonably viable economic use of the subject property exists under the current zoning.

**FINDING:** The subject property could be used for any commercial development permitted in the B-2, General Business District; therefore, a reasonably viable economic use of the subject property exists under the current zoning.

**USE PERMIT STAFF ANALYSIS:**

Section 17-106.A of the Chesapeake Zoning Code requires Conditional Use Permit applications to meet the following standards:

1. **STANDARD:** The proposal, as submitted or as modified, is in conformity with the Comprehensive Plan, including specific applicable elements of the Plan, and with official policies adopted in relation to the plan, including the purposes of this ordinance.

**FINDING:** In order to achieve the higher density envisioned by the Comprehensive Plan, buildings will have to exceed the height limit of 35 feet. The proposed buildings will be no more than 60 feet high, the same as the existing buildings in The Morgans development. They will be setback and buffered from surrounding shorter buildings, and will not substantially detract
from the appearance of the area; therefore, the requested use permit is in conformity with the Comprehensive Plan in terms of providing the necessary building height to achieve the residential density envisioned in the Plan.

2. **STANDARD:** The proposal, as submitted or as modified, is compatible with the surrounding community and will have no more adverse effects on the health, safety, or comfort of persons living or working in or driving through the area than would any other use generally permitted in the same district.

**FINDING:** The proposed buildings will be sufficiently set back and buffered from surrounding uses so as not to adversely affect the health, safety, or comfort of persons living or working in or driving through the area. The increased height is only 25 feet more than that currently allowed by right in the area and will not be visually obtrusive or high enough to substantially affect views or access to sunlight.

Section 17-106.B. offers factors which may be considered in determining whether a Conditional Use Permit application meets the required standards. Only those factors considered applicable to this application are discussed below:

1. **STANDARD:** Whether the proposed conditional use will be consistent with the adopted policies in the Chesapeake Comprehensive Plan.

**FINDING:** See Finding 1 for Section 17-106.A. above.

2. **STANDARD:** Whether the existing or proposed streets and highways are adequate to safely accommodate and serve the site, with particular attention being given to the following:

   a. The capacity of existing or proposed streets and highways located on or near the site to accommodate projected traffic volumes.

   b. The adequacy and safety of the size and design of access roads, entrance and exit drives, and traffic circulation patterns, for both vehicular and pedestrian traffic on and near the site.

**FINDING:** The proposed residential rezoning would generate less traffic than would potentially be generated by the existing commercial zoning. Also, the traffic generated by the proposed residential use would be opposing peak hour traffic volumes generated by the surrounding commercial uses, thereby lessening the impact on the current transportation deficiencies that would be experienced if the property was to develop commercially under the existing zoning.

3. **STANDARD:** Whether the proposed conditional use will be adequately served by other essential public facilities, including but not limited to the following: water and sewers, drainage facilities, schools, recreational facilities, police and fire protection, refuse disposal.
FINDING: The departmental comments indicate that adequate public facilities and services exist or can be provided.

4. **STANDARD:** Whether the proposed conditional use will have any adverse effect upon or will be incompatible with the use or enjoyment of adjacent and surrounding property, with particular attention being given to the following:
   
   a. The noise characteristics of the proposed use and whether they exceed the maximum sound levels that are typical of uses permitted as a matter of right in the district.
   
   b. The anticipated glare from vehicular and stationary lights and the extent to which such lights will be visible from any residential district.
   
   c. The vulnerability of the proposed use to fire and related safety hazards.
   
   d. The interference by the proposed use with any easement, roadways, rail lines, utilities and public or private rights-of-way.
   
   e. The possible destruction, loss, or damage of a natural, scenic, or historic feature of significant importance.
   
   f. The adequacy of proposed landscaping and buffering measures to screen the site from neighboring properties zoned for or containing less intensive uses.

FINDING: The proposed residential use has no noise characteristics that exceed the standard residential use permitted by right in the R-MF-2 zoning district. The glare from stationary lights will be mitigated by meeting the requirements of the City’s standard development regulations. Off-site impact of vehicular lights will be minimized by the buildings and vegetated buffer surrounding the site. The proposed use is no more vulnerable to fire or other safety hazards than any other use permitted by right in the R-MF-2 zoning district, and the additional building height can be adequately served by the current firefighting capabilities of the Chesapeake Fire Department. The proposed use will not interfere with any easements, roadways, rail lines, utilities and public or private rights-of-way. It will not result in the destruction, loss, or damage of a natural, scenic, or historic feature of significant importance. The site is surrounded by more intensive uses and will provide adequate buffering from such uses with the proposed landscaping as shown on the preliminary site plan.

5. **STANDARD:** Whether the proposed conditional use will be constructed, arranged, and operated so as not to dominate or interfere with the immediate vicinity or to interfere with the development and use of neighboring property in accordance with the applicable district regulations. In determining whether the proposed conditional use will so dominate the immediate neighborhood, considerations shall be given to:
a. The location, nature, and height of buildings, structures, walls, and fences on the site; and

b. The overall compatibility of the appearance of the site as proposed with neighborhood sites;

c. The nature and extent of landscaping and screening on the site.

**FINDING:** The applicant has proffered certain design restrictions for the buildings that will ensure a high quality appearance of the site. Staff finds that with the proposed proffers, the location, nature and height of structures on the site will not dominate or interfere with the immediate vicinity or to interfere with the development and use of neighboring property in accordance with the applicable district regulations. The appearance of the site will be compatible with neighborhood sites and the nature and extent of landscaping and screening will be adequate.

**STAFF RECOMMENDATION:**

Based on the findings contained in this staff report, staff recommends that R(C)-12-05 be **APPROVED** with the following proffers:

1. The applicant/owner agrees that all building construction shall be in substantial accordance with and similar in style & color to the existing building at Oak Crest at Battlefield (known as The Morgan’s).

2. The applicant/owner agrees to make a cash contribution to the City of Chesapeake for the expansion of classroom space in impacted public schools, including but not limited to, land acquisition for the expansion of public school facilities and construction of new schools and additions. The amount of the voluntary cash contribution shall be **$2,858.00 per residential dwelling unit**. The applicant/owner agrees to make the proffered cash contribution prior to issuance of Certificate of Occupancy for each residential dwelling unit. The applicant/owner acknowledges and agrees that the cash contribution may be deposited into the City of Chesapeake’s “lock box,” also known as the General Fund Reserve for School Capital Construction Costs and shall be subject to City Council approval prior to appropriation. In the event the cash proffer is not expended for land acquisition or classroom expansion within time constraints imposed by state law, the applicant/owner agrees that the cash proffer may be used for capital improvement projects for major repair, maintenance and renovation of public schools in the same school planning area as the rezoned property.

3. The applicant/owner agrees to make a cash contribution to the City of Chesapeake for capital improvements to public arterial and collector streets within the traffic shed impacted by the rezoning, including but not limited to, right-of-way acquisition, road design, road construction, project management, widening, paving, striping, adding turn lanes, adding acceleration or deceleration
lanes, installing or adjusting traffic control devices, installing curb and gutter, making ditch and shoulder improvements, and constructing or improving roadside drainage facilities. The amount of the voluntary cash contribution shall be $558.00 per residential dwelling unit. The cash contribution shall be in addition to any required or voluntary road improvements. The applicant/owner agrees to make the proffered cash contribution prior to issuance of Certificate of Occupancy for each residential dwelling unit.

4. The applicant/owner agrees to make a cash contribution to the City of Chesapeake for capital improvements to public libraries, including but not limited to, land acquisition; design, construction, expansion, renovation, and repair of buildings and appurtenances; and acquisition of capital assets necessary to the operation of public libraries. The amount of the voluntary cash contribution shall be $520.00 per residential dwelling unit. The applicant/owner agrees to make the proffered cash contribution prior to issuance of Certificate of Occupancy for each residential dwelling unit.

5. The applicant/owner agrees to make a cash contribution to the City of Chesapeake for capital improvements to public emergency service facilities, including but not limited to, land acquisition; design, construction, expansion, renovation, and repair of buildings and appurtenances; and acquisition of capital assets necessary to the provision of emergency fire and medical services to the citizens of Chesapeake. The amount of the voluntary cash contribution shall be $356.00 per residential dwelling unit. The applicant/owner agrees to make the proffered cash contribution prior to issuance of Certificate of Occupancy for each residential dwelling unit.

6. The applicant/owner agrees to limit the number of residential dwelling units to be built on this site to a maximum of 120 dwelling units.

7. The applicant/owner agrees that all residential units on the subject property shall be condominium units for sale or rent.

8. The applicant/owner agrees they will not request an Occupancy Permit for the 41st dwelling unit until after January 1, 2014, or after the completion and placement in service of the Volvo Parkway Turn Around project, whichever comes first. The Volvo Parkway Turn Around Project is due to be completed by January 2013.

9. The applicant/owner agrees that all interior property lines between parcels 1, 2, 5A & 6A to be vacated.

Based on the findings contained in this staff report, staff recommends that UP-12-08 be APPROVED with the following stipulations:

1. The approval of UP-12-08 is contingent on approval of R(C)-12-05.

2. The maximum building height shall not exceed seventy-five (75) feet.
MEMORANDUM

TO: Bill McKay, Planner, Planning

FROM: J.B. Tate, P.E., Director of Development and Permits

DATE: April 19, 2012

SUBJECT: APPLICATION REVIEW COMMITTEE

R(e)-12-05 Chesapeake Gateway Expansion
(between Tintern St & Battlefield Blvd, from B-3 to R-MF-2, 120 condo units in 3 buildings, 9.8 acres includes lake)

UP-12-08 Chesapeake Gateway Expansion
(height limit exception over 35' less than 75', 120 condo units, 9.8 acres)

The following comments pertain to the application/plan stamp-dated March 19, 2012 and proffer statement dated April 17, 2012:

A revised preliminary application WILL NOT be required to address the comments below.

There is no objection to the Use Permit for height limit exception.

**Development Engineering Comments:**

Traffic Engineering Review: The proposed rezoning is exempt from the LOS test for adequate road facilities. The planned multi-family residential district R-MF-2 will not increase traffic more than would be generated under the existing B-3 highway business district.

**Development Engineering Advisory:**

1. The Combined Phase I&II ESA has been reviewed by the City of Chesapeake Environmental Specialist (October 2006). No further action is required at this time.

2. Internal property lines shall be vacated prior to final site construction plan approval.

3. The final site construction plan will indicate future pedestrian access to Battlefield Blvd. through TMN 027000000880. The future private pedestrian easement through this parcel to the south to be obtained by the City at future development of this gas station site.

JBT/mdb

Cc: Steve Froncillo, P.E., Traffic Engineering (PDF)

File 2 – Preliminary/Binder

"The City of Chesapeake adheres to the principles of equal employment opportunity. This policy extends to all programs and services supported by the City."
April 15, 2012

Bill McKay, Planner
Planning Department
City of Chesapeake
P.O. Box 15225
Chesapeake, Virginia 23328

Re: R(C)-12-05 Chesapeake Gateway Expansion

Dear Mr. McKay,

I am writing regarding the March 15, 2012 R(C)-12-05 application and the associated April 13, 2012 Proffer Statement requesting a conditional zoning reclassification. Please find below information reflecting the impact this application will have on schools. It is important to note that the LOS and fiscal impact analysis is based on City Council’s approved 75% proffer expectation level of the 2005-06 formula and per unit cost figures.

Impact on Student Enrollments

<table>
<thead>
<tr>
<th>SCHOOLS</th>
<th>PORTABLES 2011-2012</th>
<th>CAPACITY¹ 2011-2012</th>
<th>ENROLLMENT 9/2011</th>
<th>PROJECTED² # OF STUDENTS FROM ALREADY APPROVED PRELIMINARY PLANS</th>
<th>PROJECTED # OF STUDENTS FROM PROPOSED REZONING</th>
<th>PROJECTED TOTAL ENROLLMENT</th>
<th>PROJECTED % CAPACITY BASED ON LOS</th>
</tr>
</thead>
<tbody>
<tr>
<td>B.M. Williams Primary</td>
<td>5</td>
<td>700</td>
<td>794</td>
<td>21</td>
<td>9</td>
<td>824</td>
<td>117.7%</td>
</tr>
<tr>
<td>Crestwood Intermediate</td>
<td>5</td>
<td>700</td>
<td>789</td>
<td>21</td>
<td>9</td>
<td>799</td>
<td>114.1%</td>
</tr>
<tr>
<td>Crestwood Middle</td>
<td>5</td>
<td>700</td>
<td>555</td>
<td>13</td>
<td>10</td>
<td>578</td>
<td>82.6%</td>
</tr>
<tr>
<td>Oscar Smith High</td>
<td>19</td>
<td>1900</td>
<td>2124</td>
<td>102</td>
<td>14</td>
<td>2240</td>
<td>117.9%</td>
</tr>
<tr>
<td>TOTALS</td>
<td>36</td>
<td>4000</td>
<td>4242</td>
<td>157</td>
<td>42</td>
<td>2201</td>
<td></td>
</tr>
</tbody>
</table>

¹ Capacity estimates are rounded to the nearest 25.
² Enrollment projections are based on the Chesapeake Public Schools average grade distribution of 43.3% in grades K-5, 32.8% in grades 6-8, and 32.8% in grades 9-12 for the 2011-12 school year.

As shown in the chart above, this property is located in the attendance areas for B.M. Williams Primary, Crestwood Intermediate, Crestwood Middle, and Oscar Smith High schools. While this application requests a Multifamily Residential District (R-MF-1) designation for condominiums, it is not proffered as for sale condominiums. It is important to note that this development is an extension of the adjoining “The Morgans” apartment complex, originally submitted as condominiums, but now marketed as apartments. For that reason, estimates are based on 120 apartment units, and indicate that R(C)-12-05 will require approximately 42 student stations or

The Chesapeake Public School System is an equal opportunity school system. The School Board of the City of Chesapeake also adheres to the principles of equal opportunity and, therefore, prohibits discrimination in terms and conditions of employment on the basis of race, sex, national origin, color, religion, age, or disability.
Fiscal Impact on Capital and Operating Budgets
The capital projects required to house students resulting from the development of R(C)-12-05 will have an initial non-interest fiscal impact of $891,877.20 (based on City Council's 75% proffer expectation of 2005-06 costs). The continuing operational budget costs to educate all the resultant pupils will be $187,698.96 yearly (based on 2011-12 costs).

Relationship of Proffers to the Fiscal Impact on Education
The developer of R(C)-12-05 has made a $342,960 cash proffer ($2,858.00 per unit) to help offset the above stated capital costs for education that will be generated by the proposed development, leaving the remaining amount to be met by tax revenue.

<table>
<thead>
<tr>
<th>R(C)-12-05 Chesapeake Gateway Expansion Fiscal Impact Summary</th>
</tr>
</thead>
<tbody>
<tr>
<td>Initial Non-interest Capital Cost</td>
</tr>
<tr>
<td>Cash Proffers to Offset Capital Costs</td>
</tr>
<tr>
<td>% of Capital Costs Offset</td>
</tr>
<tr>
<td>Initial Non-interest Capital Costs To Be Met By Tax Revenue</td>
</tr>
</tbody>
</table>

Citywide Relationship of Proffers to the Fiscal Impact on Education
Based on the city's proffer policy, the chart below indicates the full cash proffer amount required to offset the school's fiscal impact from approved rezoning applications. The chart also indicates since Jan. 1, 2006, the actual cash proffer contributions offered by the development community and approved by City Council has not met the required school fiscal impact (excluding this impact statement).

<table>
<thead>
<tr>
<th>Citywide Proffer Summary January 2006 - Present</th>
</tr>
</thead>
<tbody>
<tr>
<td>Full Cash Proffer Amount Required to Offset Fiscal Impact</td>
</tr>
<tr>
<td>$53,288,144</td>
</tr>
</tbody>
</table>

Should you have any questions or comments regarding the above information, please feel free to contact me at 547-0580.

Sincerely,

John Bertocchi, Senior Planner

¹The fiscal impact is equivalent to $7,432.31 per apartment unit.
MEMORANDUM

To: Bill McKay, Planner
   Planning Department

From: Raymond Wharton, Acting Director
   Parks and Recreation Department

Date: March 26, 2012

RE: Chesapeake Gateway Expansion – R (C)-12-05

Per your request, please find the following information

♦ Park Sites in Area of Chesapeake Gateway Expansion by Census Tract – See Attached
♦ Schools in the Greenbrier areas – See Attached
♦ Parks and Recreation Standards – See Attached
♦ Standard Park Amenities and Costs – See Attached

Since this development would provide only an estimated .7 acres, it is requested that the per unit fee be provided in lieu of providing a park site. The funds received will be used to update existing equipment and facilities at other city park sites.

Currently the population of Greenbrier is 27,010 as of January 2011. With 208.7 acres of park land in the Greenbrier area, the per capita is 7.7 acres per thousand of population. This total doesn’t include school facilities.

Currently we do not have any homeowners association maintaining any public parks.

The Parks and Recreation Department will continue to pursue park sites that will compliment our existing inventory in areas where subdivisions are being developed.

RW/II
Attachments
PARKS AND RECREATION STANDARDS

DEFINITION

In determining the acres of park land we need, we use area standards which are expressed as a minimum number of acres per thousand of population. The area standard for local recreation and park sites is ten (10) acres per thousand of population.

Three major local park classifications are used in meeting the 10-acres per thousand area standard. They are: the neighborhood park, the community park, and the district park. Each of these categories has its own unique function and service radius within the locality. In addition to these three major park classifications, we also define linear parks (trails) and other special facilities.

Neighborhood Park
Ranges in size up to 20 acres with a primary service radius of ½ mile to 1-1/2 mile or 5-15 minutes of walking distance. Activities which may be included are: playground, picnicking, sport fields or courts, trails, etc. The area standard for the neighborhood park is 3 acres per 1000 population.

Community
Ranges in size from 20-50 acres with a primary service radius of 5 miles or 15 minutes of driving time. It may include both active and passive recreational activities which could include: playgrounds, picnicking, sports fields or courts, trails, natural areas, fishing and swimming areas, parking, recreation center, etc. Three acres per 1000 population is the area standard for the community park.

District Park
Ranges in size from 50+ acres with a primary service area of 5-15 miles and 15-25 minutes driving time. A wide variety of facilities may be designed and included under the community park classification. The area standard for the district equals 4 acres per 1000 population.
<table>
<thead>
<tr>
<th>Park Amenities</th>
<th>Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>Playground</td>
<td>$40,000</td>
</tr>
<tr>
<td>Fencing</td>
<td>$1,000</td>
</tr>
<tr>
<td>Signage</td>
<td>$500</td>
</tr>
<tr>
<td>Landscaping</td>
<td>$5,000</td>
</tr>
<tr>
<td>Tables (4)</td>
<td>$2,000</td>
</tr>
<tr>
<td>Trash Receptacles</td>
<td>$200</td>
</tr>
<tr>
<td>Shelter</td>
<td>$14,000</td>
</tr>
<tr>
<td>Grills (2)</td>
<td>$600</td>
</tr>
<tr>
<td>Bike Racks</td>
<td>$300</td>
</tr>
<tr>
<td>Total</td>
<td>$63,600*</td>
</tr>
</tbody>
</table>

*Does not include site preparation
CHESAPEAKE GATEWAY EXPANSION

<table>
<thead>
<tr>
<th>Park</th>
<th>Type of Park</th>
<th>Acres</th>
<th>Available Funds</th>
<th>Status</th>
<th>Mileage</th>
<th>Census Tract</th>
</tr>
</thead>
<tbody>
<tr>
<td>Oak Grove Lake Park</td>
<td>District</td>
<td>130</td>
<td>-0-</td>
<td>Developed</td>
<td>.9</td>
<td>208.03</td>
</tr>
<tr>
<td>Oakbrooke Park</td>
<td>Neighborhood</td>
<td>3.7</td>
<td>-0-</td>
<td>Developed</td>
<td>8.1</td>
<td>208.04</td>
</tr>
<tr>
<td>Chesapeake City Park</td>
<td>District</td>
<td>75</td>
<td>-0-</td>
<td>Developed</td>
<td>8.9</td>
<td>208.05</td>
</tr>
<tr>
<td><strong>TOTALS</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td><strong>208.7</strong></td>
</tr>
</tbody>
</table>

**SCHOOLS**

<table>
<thead>
<tr>
<th></th>
<th>MILEAGE</th>
<th>CENSUS TRACT</th>
</tr>
</thead>
<tbody>
<tr>
<td>Greenbrier Middle School</td>
<td>7.9</td>
<td>208.03</td>
</tr>
<tr>
<td>Greenbrier Primary</td>
<td>8.3</td>
<td>208.03</td>
</tr>
<tr>
<td><strong>Average Driving Distance</strong></td>
<td><strong>8.1</strong></td>
<td></td>
</tr>
</tbody>
</table>

***Mileage Computed using MAP QUEST via the Internet***
Fire Department Review Comments

Date: April 10, 2012

To: Bill McKay, Planner

From: D. Bruce Lee, Deputy Fire Marshal

Planning Application #: R(C)-12-05 Project Name: Gateway Expansion

The application named above is approved by the Fire Department contingent upon meeting the fire protection requirements of the Public Facilities Manual (PFM) which shall be addressed at the time of the final subdivision or site plan approval process. This criteria is contained in PFM Volume I, Chapter 13 - Fire Protection, as applicable, and in particular the section as follows and that is provided in detail on-line at: http://www.cityofchesapeake.net/services/depart/pub-wrks/engineer-publicfacilitiesmanual.shtml

Section III. - FIRE SERVICE AND PROTECTION FEATURES

A. Emergency Access
B. Water Supplies for Fire Fighting
C. Automatic Fire Protection Systems
D. Hazardous Processes (if target hazards apply requiring a Fire Code Operational Permit)

Comments:

In addition, the following shall apply as applicable when indicated by checkmark:

___ Residential Rezoning - A Fire/EMS proffer has been determined and approved by City Council at the following rates per unit:

☐ Single Family Attached = $519.89
X Multi-Family = $474.77,
☐ Single Family Detached = $642.34
☐ Age Restricted Senior Housing = $1,986.48.

___ All other Rezoning - any other type of rezoning are approved by Fire in regard to the actual rezoning, however, as an advisory comment any future development as proposed through the Public Works site plan process must conform to the PFM Volume I, Chapter 13, Section III as referenced above.

D. Bruce Lee, Deputy Fire Marshal, Inspector/Investigator/Plan Reviewer
Chesapeake Fire Marshal's Office
"Anticipating the safe, positive and successful completion of your project or need for service"
(757) 382-6566 off. (757) 382-6791 fax email: dlee@cityofchesapeake.net

"The City of Chesapeake adheres to the principles of equal employment opportunity. This policy extends to all programs and services supported by the City."
### SUMMARY OF CUMULATIVE FISCAL IMPACTS ($01,000)

RJ-C-12-05 FISCAL IMPACT ANALYSIS
4/27/2012

<table>
<thead>
<tr>
<th>Source</th>
<th>Total Revenue</th>
<th>Total Operating Cost</th>
<th>Total Capital Cost</th>
<th>NET TOTAL IMPACT</th>
<th>AVERAGE ANNUAL IMPACT</th>
</tr>
</thead>
<tbody>
<tr>
<td>GENERAL FUND</td>
<td>$5,261</td>
<td>$4,084</td>
<td>$1,177</td>
<td>($586)</td>
<td>($29.29)</td>
</tr>
<tr>
<td>SCHOOL BOARD</td>
<td>$2,416</td>
<td>$2,152</td>
<td>$360</td>
<td>($86)</td>
<td>($4.31)</td>
</tr>
<tr>
<td>COMBINED RESULTS</td>
<td>$7,677</td>
<td>$6,236</td>
<td>$2,537</td>
<td>($672)</td>
<td>($33.69)</td>
</tr>
</tbody>
</table>

**Cumulative Net Surplus/Deficit**

- Years 1-20: ($672)
- Years 21-30: $0
- Years 31+: ($672)
Chesapeake Gateway Expansion  

**APPLICANT:** ROC Industrial Associates, LLC  
**AGENCY:** Site Improvement Associates, Inc.  
**PROPOSAL:** A conditional zoning reclassification of three parcels totaling 9.21 acres from B-3, Highway Business District to R-MF-2, Multifamily Residential District to allow a condominium development.  
**PROPOSED COMP LAND USE / DENSITY:** High Density Residential  
**EXISTING COMP LAND USE / DENSITY:** High Density Mixed Use  
**LOCATION:** South of I-64 between Tintern Street and Battlefield Boulevard N  
**TAX MAP SECTION/PARCELS:** 0270000000774, 0270000000770, 0270000000778  
**BOROUGH:** Washington