

PLN-REZ-2020-014

Elbow Estates

UPDATE



Project Proposal: A proffer amendment to allow the vacation of approximately 1.1 acres of right of way reservation for the Southeastern Expressway and the construction of no more than five (5) single family dwellings.

Proposed Land Use: Low-Density Residential

Existing Zoning: R-8, Residential District

Tax Map ID: 0383-003-000-002 & a portion of 0383-003-000-003

Existing 2035 Land Use Plan Designation: Low-Density Residential

Property Address / Planning Area: Appalachian Court, north of Teton Court/ Greenbrier

Applicant/Agency: Elbow Estates, LLC / Williams Mullen

Public Hearing Date: September 8, 2021
Staff Report Date: August 31, 2021

Owner: Elbow Estates, LLC

Project Planner:
Mark Hobbs, Principal Planner

STAFF RECOMMENDATION

- APPROVED APPROVED WITH PROFFERS CONTINUED DENIED

FINDINGS:

1. The proposed proffer amendment and vacation of right of way reservation is not consistent with the 2050 Master Transportation Plan, an element of the Chesapeake Comprehensive Plan.
2. The proposed proffer amendment would result in piecemeal development that circumvents the established Level of Service Policy.
3. A reasonably viable economic use of the subject property exists under the current zoning.

STAFF RECOMMENDATION:

Based on the findings contained in this staff report, staff recommends that **PLN-REZ-2020-014** be **DENIED**. However, if Planning Commission decides to approve this rezoning, the following proffers are provided for consideration:

1. The owner/applicant agrees that the subject property shall be developed substantially as determined by the Director of Planning, or designee, as shown on the "Centerville Commons - Conceptual Master Plan" revised October 20, 2010, planning date stamped November 22, 2010 (hereinafter referred to as the Concept Plan), prepared by Land Planning Solutions. However, the Concept Plan shall not be construed as being exact in presentation and shall be subject to preliminary subdivision review and approval. No more than 1046 residential dwelling units shall be constructed on the subject property. The residential units shall be single-family detached residential units only.
2. The owner/applicant agrees to record private covenants and restrictions that would create a Property Owner's Association and an Architectural Review Board which would adopt Architectural Design Standards required for residential construction in Centerville Commons. The Design Standards at a minimum shall include items a) through g) listed below and shall be reviewed and approved by the Planning Director or his designee prior to approval of the Final Subdivision Plan. The private covenants and restrictions shall include the Design Standards and shall not be recorded until after Final Subdivision Plan approval. The owner/applicant further agrees that at the time of application for a Building Permit, the applicant for the building permit shall provide evidence of Architectural Review Board approval to the Department of Development and Permits. The enforcement of said Architectural requirements shall be the sole responsibility of the Property Owner's Association.
 - a. The owner/applicant agrees that the materials to be used on the front, sides and rear of all residential structures shall consist of brick, masonry (stone) cement based siding or high quality vinyl siding or

substantially similar material, as determined by the Director of Planning, or designee. Vinyl siding shall be a minimum 0.044 inch thick lapped or beaded siding only. Dutch lap siding shall not be permitted.

- b. The owner/applicant agrees to offer a minimum of eight (8) elevations for sale within the subdivision and furthermore agrees that at least 3 of the offered elevations shall include brick or stone exterior features.
 - c. The owner/applicant agrees that only architectural style shingles shall be permitted; 3-tab shingles shall be prohibited.
 - d. The owner/applicant agrees that all residential dwellings must have a crawl space or raised/elevated slab. Concrete block shall be finished with brick, stone or stucco, and exposed block skirts shall not be permitted.
 - e. The owner/applicant agrees that each residential dwelling shall be provided with a minimum two-car garage and that garage doors may not encompass more than 40% of the total width of the front building elevation facing a public street. The owner/applicant also agrees that the front building elevation shall not include projections of building walls (snouts) forward of the front door of the building by more than eight (8) feet in length.
 - f. The owner/applicant agrees that one-story dwellings shall have a minimum of 1,800 square feet of heated living space, and two-story dwellings shall have a minimum of 2,200 square feet of heated living space.
 - g. The owner/applicant further agrees that all of the homes constructed within the subdivision shall have covered front porches. The width of all front porches shall be equal to a minimum of 20% of the overall width of the front elevation of the home.
3. The owner/applicant agrees that the ultimate subdivision of the subject property shall be as a Conditional R-8 Residential Subdivision generally as shown on the rezoning exhibit and that the density shall not exceed 3.0 dwelling units per developable acre (excluding the corridor for the Southeastern Expressway and that the average lot size shall be 10,000 square feet for the entire development with no lots smaller than 8,000 square feet per lot.

4. The owner/applicant agrees that it shall dedicate, to the City of Chesapeake, as public right-of-way that property generally depicted on the rezoning exhibit as "80' right-of-way Dedication for Connection to Future School Site" (the "School right-of-way Dedication"). Such dedication shall occur by plat and accomplished concurrently with the recordation of the subdivision plat that dedicates the northernmost access road into the subdivision. The timing of this dedication will be determined during detailed construction plan review by the City. The area dedicated is not intended for recreational use and the applicant/owner shall post no trespassing signs on the School right-of-way Dedication area.

5. The owner/applicant agrees that it shall reserve, as public right-of-way, that property generally depicted on the rezoning exhibit as "Future Southeastern Parkway 300' right-of-way Reservation", to the City of Chesapeake for the ultimate construction of the Southeastern Parkway. Such reservation shall be shown and recorded on the subdivision plat for the development. The owner/applicant further agrees that the final subdivision plat shall contain verbiage stating that the reservation, for the ultimate construction of the Southeastern Parkway, may be acquired by the City at pre-zoning value when the Southeastern Parkway becomes a funded project. In addition, the City agrees to vacate the reservation administratively if either of the two conditions are met: (1) The Southeastern Parkway is removed from the 2050 Master Transportation Plan or (2) it is determined that the Southeastern Parkway will not be constructed at this location.
 - a. Furthermore, the owner/applicant agrees to own and maintain the reservation area and that no dwellings shall be constructed on the reservation area until the City releases the reservation area, as stated in Proffer 5 above.
 - b. At the time the final subdivision plat is submitted for recordation, the owner/applicant agrees to record a deed of reservation and shall also note the reservation on the subdivision plat.

Notwithstanding the foregoing, by accepting this proffer modification, PLN-REZ-2019-016, City Council hereby authorizes the City Manager or designee to execute and record a subdivision plat or other acceptable instrument to release the above-referenced reservation on tax parcels 0383003000002 and on the portion of 0383003000003 depicted on the exhibit prepared by Site Improvement Associates, Inc. date received March 10, 2021. In addition, the applicant/owner agrees to prepare a plat to vacate the excess right of way reserve for the cul-de-sacs depicted on Map Book 156 Page 94 on Appalachian Court, subject to the review and approval of the Director of Development and Permits or designee. The approved plat shall be recorded by the applicant/owner either prior to or concurrent with any future subdivision.

6. The owner/applicant agrees that it shall extend an appropriately sized waterline, as determined by the Department of Public Utilities, from its existing terminus at Elbow Road and Butts Station Road, to the property subject to this rezoning, and will extend a waterline connection within public right-of-way to the property line common with the future school site prior to the issuance of the first Certificate of Occupancy. A hydraulic analysis will be performed by the applicant to verify water main sizes necessary for the fire and domestic demands for the subject project and the school site prior to Final Site Plan approval.
7. The owner/applicant agrees to construct a City standard wet well/dry well or suction lift pump station on the property subject to the rezoning and in conjunction with the development of this property, in accordance with Public Utility Policy prior to the issuance of the first Certificate of Occupancy. The location and type of pump station and service area will be coordinated with and approved by the Department of Public Utilities prior to Final Site Plan approval.
8. The owner/applicant 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 voluntary cash contribution shall be \$711.77 per residential lot. The owner/applicant agrees to make the proffered cash contribution on a lot by lot basis as certificates of occupancy are issued.
9. The owner/applicant 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 voluntary cash contribution shall be \$481.76 per residential lot. The owner/applicant agrees to make the proffered cash contribution on a lot by lot basis at the time that any certificate of occupancy is issued.
10. The owner/applicant agrees to make a cash contribution to the City of Chesapeake for capital improvements to public works within the Greenbrier Planning District for public roads, including but not limited to, land acquisition, design, construction, expansion, renovation. The amount of the voluntary cash contribution shall be \$930.00 per residential lot. The owner/applicant agrees to make the proffered cash contribution on a lot by lot basis prior to issuance of a certificate of occupancy.
11. The owner/applicant agrees that the following improvements to Centerville Turnpike will be designed and constructed with the final subdivision construction plans for this development, prior to subdivision plat recordation:

- a. At the proposed northern development entrance, design and construct a left turn lane and right turn lane to serve the entrance as required by City of Chesapeake Standards in the Public Facilities Manual.
 - b. At the proposed southern entrance, design and construct a right-in right-out only access. This will include construction of raised median of sufficient length to prevent left vehicle movements.
12. The owner/applicant agrees that the area labeled "Emergency Access" will be preserved as a right-of-way reservation to connect Elbow Road to the proposed cul-de-sac. An access easement over the reservation must be dedicated for the benefit of emergency vehicles. The final subdivision plat shall contain a statement that this area may be acquired as a right of-way dedication to be provided upon demand to the City at no cost to the City, should the Southeastern Parkway project require closure of the proposed southern entrance on Centerville Turnpike.

UPDATE:

City Council adopted a resolution on May 11, 2021, requesting the Planning Commission to make recommendation on the removal of the Southeastern Parkway from the 2050 Master Transportation Plan. This amendment, PLN-COMP-2021-001 has been placed on the September 8, 2021, Planning Commission agenda with staff's recommendation of approval. This application, PLN-REZ-2020-014, Elbow Estates is being allowed to track concurrently with the comp plan amendment.

Staff's recommendation of denial remains unchanged for this application. The link to the full staff is provided below, version dated February 24, 2021. The first finding, that the proposed vacation of existing right of way reservation for the Southeastern Parkway is inconsistent with the Master Transportation, becomes moot, if City Council approves the comp plan amendment. The second finding, that the proposed proffer modification that allows for the subdivision of five (5) additional lots constitutes piece meal development and circumvents the Level of Service Policy, remains valid. Staff has suggested that the applicant take a more comprehensive approach and develop a community plan that includes the entire area of right of way reservation instead of the area shown for the five (5) lot subdivision. This should include the construction of a 10' multi-use trail running the length of the reservation area as required by the 2050 Master Trails Plan.

Attachments:

1. Revised Exhibit date received March 10, 2021

PREVIOUS STAFF REPORTS AND UPDATES:

[Version dated August 3, 2021](#)

[Version dated May 3, 2021](#)

[Version dated February 24, 2021](#)

[Version dated February 2, 2021](#)

[Version dated January 5, 2021](#)

No.	Date	Description

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LOT AREA TABLE

LOT #	AREA (S.F.)
102	9,708
103	8,975
104	9,224
105	9,075
106	8,855

OWNER:
 CENTRALETT, LLC
 3700 WILSON DRIVE
 VIRGINIA BEACH, VA 23462-2886

SITE DATA:
 1. CONVEYANCES (PARCELS A) & CONVEYANCES (PARCELS B-1) - SEE ATTACHED CONVEYANCES.
 2. SETBACKS: 5 FEET FROM ALL SIDES.
 3. SIDEWALKS: 5 FEET WIDE FROM THE CURB TO THE PROPERTY LINE.
 4. DRIVEWAYS: 10 FEET WIDE FROM THE DRIVEWAY TO THE PROPERTY LINE.
 5. PROPOSED LOT SHALL BE LAYED OUT IN FLOOD ZONE "X".
 6. AREA OF FLOOD ZONE "X" IS SHOWN ON THE PLAN.
 7. PANEL 51004-0000 DATED 12/16/2014.

Curve Table

Curve #	Length	Radius	Delta	Tangent	Chord	Bearing
C1	21.06'	495.00'	232.32'	153.4'	S 21.040° E	21.07'
C2	32.07'	24.00'	72.911°	1.60'	S 83.700° E	32.07'
C3	34.29'	202.500'	258.13°	17.10'	S 23.740° E	34.29'
C4	158.24'	1975.00'	433.26'	75.15'	N 23.013° W	158.20'
C5	23.29'	503.00'	232.32'	11.62'	N 21.040° W	23.29'

