

MINUTES OF THE CITY COUNCIL MEETING
NOVEMBER 12, 2019 6:00 P.M.
WORK SESSION
Council Chambers

PRESENT: The Honorable W. Eugene Hunt, Jr., Mayor
The Honorable Carey L. Freeman, Vice Mayor
The Honorable Herbert R. Green, Jr.
The Honorable Thomas J. Cannella II
The Honorable David A. Hux
The Honorable Charles M. Southall III
The Honorable Jana D. Andrews

J. Randall Wheeler, City Manager
Evie Insley, City Clerk
D. Wayne Moore, City Attorney

ABSENT: None

Mayor Hunt opened the work session at approximately 6:00 p.m. in Council Chambers.

1. Legacy of Poquoson – Wally Horton

Director of Community Development Wally Horton presented Council with a review of the proposed revisions for the Legacy of Poquoson project.

The Planning Commission conducted Public Hearings on six (6) requests on September 16, 2019 and voted to postpone recommendation on all six (6) of the requests until October 21, 2019. By that date buffer modification #2 had been withdrawn by the applicant therefore, the Planning Commission only considered five (5) of the requests.

1. Request for a proffer amendment to change the timeline in which the community clubhouse and pool must be constructed from prior to the 80th single family and/or townhome building permit to prior to the 147th single family and/or townhome building permit. Council received a letter on November 12, 2019 to modify their request of 147th single family and/or townhome building to 120th.
2. Request for a rezoning amendment to approve townhome elevations that were not submitted with the original set of approved elevations.
3. Request for a buffer modification to Area #1 on the submitted Legacy of Poquoson Master Plan to reduce the 40-foot perimeter buffer to 10 feet, which area may be included in recorded lots, but which shall remain undisturbed.
4. Request for a buffer modification to Area #3 on the submitted Legacy of Poquoson Master Plan to reduce the 40-foot perimeter buffer to 5 feet in order to provide room for the development of the commercial space located along a portion of the Victory Boulevard frontage as well as the required parking to serve this commercial space.
5. Request for a buffer modification to Area #4 on the submitted Legacy of Poquoson Master Plan to reduce the 40-foot perimeter buffer to 5 feet in order to provide for a "I"

turnaround at the terminus of Street A as shown on the Master Plan. The 5' buffer would be maintained as grass.

The Commission discussed the following Key Points for Proffer Amendment:

- The result of this Proffer Amendment, if granted, will be to effectively postpone construction of the clubhouse and pool until a future Phase of the project containing townhome or single-family development, which the application lists as Phase II.
- Depending on the order of site plan and/or development plan approvals, this could be a significant amount of time.
 - There is no timetable provided for construction of Phase II or any Phase incorporating townhome and/or single-family dwellings.
- There is no guarantee that Phase II or any Phase will be built.

The Planning Commission, at its October 21, 2019 meeting, voted 4-2 to recommend approval of this request to the City Council.

The Commission discussed the following Key Points for Rezoning Amendment:

- The townhomes that are part of this application will provide more variety or mix of Ryan or H. H. Hunt townhome types. It is unclear what that mix would be.
 - There is no indication of where the differing townhome types will be placed within the townhome area.
 - There is no indication of what numbers of what designs will be built within the townhome area.
- “Composer Rear Load” and “Composer Front Load” Townhomes lack features included on the H. H. Hunt Townhome submitted and approved on 8/24/15.
- Additional models presented are closer to the original H.H. Hunt model submitted and approved on August 24, 2015, though lacking several features, most principally the open air porches.

The Planning Commission, at its October 21, 2019 meeting, voted 6-0 to recommend approval of this request to the City Council.

Origins of Modification Requests:

Section 8.4-5.a.

Waivers are governed by this Section,

- Requires a 40-foot wide landscaped or naturally wooded buffer around the perimeter of the project area and can be included in the open space requirement.
- Can be waived by City Council if the proposed district's perimeter boundary lies adjacent to property subject to the same PUD-MU district designation in the comprehensive plan.
- This is the case with buffer modification #3 and #4. The developer has chosen the modification option under Section 8.2-2 in order to provide some exchange in return for buffer reduction.

Section 8.2-2

- The last part of the second paragraph of 8.2-2 allows for additional waivers or modifications of the requirements of the zoning, subdivision, site plan and sign

ordinances subsequent to the approval of the master plan. These must be reviewed by the Planning Commission and City Council pursuant to Sections 8.2-7 and 8.2-8.

Therefore, in accord with Section 8.2-2, three modifications are requested related to the required 40' buffer with rationale for each. A public hearing by the Planning Commission (for recommendation) and City Council (for final decision) is required.

The Commission discussed the following Key Points for Modification #1:

- No additional lots over the limit of 238 single-family units, 108 townhome units and 11 Cottages established by approval of the Master Plan on 8/24/15
 - Attempt to limit the loss of at least 8 lots due to buffers
- Adjacent to R-1 area, residential use likely.
- If the option to landscape the buffer area is taken in accord with Ordinance provisions; this modification could result in more trees/wooded area being preserved.
 - No definition of “landscape” in City Ordinances
 - Ten Foot (10') undisturbed area proposed.

The Planning Commission, at its October 21, 2019 meeting, voted 5-1 to recommend denial of this request to the City Council.

The Commission discussed the following Key Points for Modification #3:

- Attempt to limit the loss of Commercial building and parking lot for the same.
- Abuts Research and Development (R&D) zoned property that is within the PUD-MU Overlay District.
- The commercial element of the project is a principle part that makes the project “mixed-use”.
- The aesthetics of the Legacy project from Victory Boulevard would likely be disrupted by a change in building design.
- 40' required buffer along the Oxford Run drainage will be unaffected by this modification.
- The only way to eliminate space for parking would be to provide for a relocation of spaces, which does not appear to be feasible.
- Any relocation would necessitate a reworking of the Phase I plans still under review and would further jeopardize the profitability of the entire project.

The Planning Commission, at its October 21, 2019 meeting, voted 6-0 to recommend approval of this request to the City Council.

The Commission discussed the following Key Points for Modification #4:

- No additional lots over the limit of 238 single-family units, 108 townhome units and 11 Cottages established by approval of the Master Plan on 8/24/15
 - Attempt to limit the loss of 1-2 townhome lots due T-turnaround location.
- 40' required buffer along the Oxford Run drainage will be maintained elsewhere along the east side of Phase I plans.

- In the Phase I plans, the location of Street “A” has remained with no turnaround in order to account for the 40’ buffer.
- The granting of the modification would allow for the T-turnaround in basically the same area as depicted on the original Master Plan, approved on 8/24/15.

The Planning Commission, at its October 21, 2019 meeting, voted 5-1 to recommend denial of this request to the City Council.

After brief question/answer session Council was informed the Buffer will be taxed to the homeowner or the HOA depending on who owns the property. Buffers owned by homeowner would be maintained by homeowner and the same if it is owned by HOA.

A concern was noted that if Council denied the Buffer the lack of a definition of “Landscape” in the Code could allow for the clear cutting of the trees and replanting with grass or some other desirable plants.

ADJOURNMENT:

There being no further business, the work session was adjourned at approximately 6:59 p.m.