HAMPTON VA

MEMORANDUM

TO: Hampton City Council
             Mary Bunting, City Manager

FROM: Terry O'Neill, Director of Community Development

DATE: December 4, 2017

SUBJECT: Rezoning Application No. 16-00008 - 56 Butler Farm Road

This rezoning application was heard by the Hampton Planning Commission at their November 16, 2017 meeting and will come before the City Council on December 13, 2017. Because the Planning Commission's deliberations ended in a tie vote, they will not be forwarding to you a recommendation regarding this application. Since this scenario is somewhat rare, I wanted to provide you with additional information and context surrounding this tie vote.

The proposal is by Jonah Z, LLC to rezone approximately 9.9$\pm$ acres of vacant land at 56 Butler Farm Road, from One-Family Residence (R-11) to Limited Commercial (C-2) with seven (7) proffered conditions. The applicant would like to store excess new vehicles that will be sold at an off-site dealership location, Tysinger Automotive Family (2712 Magruder Boulevard). Approval of this application would permit an accessory storage lot for "New Vehicle Sales" to include 711$\pm$ parking spaces.

For additional context, attached to this memo is the concept plan submitted with the rezoning application that depicts three (3) sections of the proposed parking lot. If approved, the applicant stated, they intend to implement the parking lot construction in three (3) phases based on their projected vehicle inventory demands, which means a timeline for the development of each phase is unknown. Phase 1 is located on the northeast section of the subject property, adjacent to Tarrant Road, and a vacant lot. Phase 1 contains approximately 289$\pm$ parking spaces and could accommodate the applicant's needs for about five (5) years. After five (5) years, the applicant will likely need to construct phase 2, containing roughly 149$\pm$ parking spaces. Phase 2 is located closer to Butler Farm Road adjacent to a residence, with additional residences across the street. Phase 3 is located closest to the animal shelter and the future Coliseum Drive extension; it contains an estimated 273$\pm$ parking spaces. Staff does not question the applicant's intent; however, Council should be aware that the phasing or timing of phasing is not enforceable through zoning.

Since September 2017, the applicant's attorney has met with adjacent property owners to address their concerns regarding the proposal as it relates to noise, visual impacts, and security. The applicant has proffered conditions that address these issues; however, there are homeowners adjacent to the subject property along Butler Farm Road who oppose the proposal. At the Planning Commission public hearing there were four (4) speakers that spoke in opposition of the proposal. Some of the speakers expressed a desire to develop the subject property for single family homes, maintain the property as a wooded lot, and/or provide a use that benefits the neighborhood and not develop the site as a parking lot.

Staff's recommendation for the proposal is approval because of its consistency with the Air Installation Compatible Use Zone (AICUZ) overlay zoning district and the Hampton-Langley Joint Land Use Study (JLUS). The JLUS provides guidance to prevent encroachment from incompatible land use developments to the military installation. Generally, uses that attract more individuals to a site (e.g. residential) that is within the JLUS study area or AICUZ zone are discouraged. The proposed use is far more land intensive than people intensive as it functions as storage for large goods (cars).   In accordance with the policy set forth in the JLUS, staff contacted Langley Air Force Base (LAFB) personnel to inform them of this rezoning application, and they have no objections to the proposal. Additionally, the proposal is consistent with the Hampton Community Plan (2006, as amended) because it recommends business/industrial uses for the majority of the subject parcel and details the importance of retaining existing businesses to achieve the city's economic development goals.

After the close of the public hearing, a motion for approval of Rezoning Application No. 16-00008 with seven (7) proffered conditions was made by Commissioner Pete Peterson and seconded by Commissioner Ruthann Kellum. During the vote three (3) ayes came from Commissioners Kellum, Southall, and Peterson. Three (3) nays came from Chairman Carter, Commissioner Coleman, and Commissioner Garrison; Commissioner Gray was absent. The motion failed due to a lack of a majority vote. No alternate motion was offered for consideration; therefore, there is no recommendation from Planning Commission. There was some discussion around options for moving forward which included: providing an alternate motion; deferring the application to the December 2017 Planning Commission so that all seven Planning Commissioners could potentially be present for the public hearing in order to have an odd number vote and avoid a tie; and for the applicant to continue to work with the citizens and explore a different phased development approach than the one proposed.

Some Planning Commissioners also believed that changing the order in which the parking lot could be developed or further changes to the proffered conditions was not going to change the citizens' minds about supporting the proposal. In the end, the applicant requested that Planning Commission not defer the application to the December 2017 Planning Commission public hearing and move forward to the December 13, 2017 City Council public hearing as scheduled. Planning Commission agreed and therefore, this application comes to you with no recommendation from the Planning Commission. As with all land use applications, City Council may choose to approve, deny, or defer this application. City Council may also choose to refer the application back to the Planning Commission.

I hope this information gives you a more complete sense of the discussion and deliberations that occurred at the Planning Commission Public hearing. Please let me know should you have any questions.