



COUNTY OF ALBEMARLE
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November 30, 2009

Anne Pinion
Department of Environmental Quality
Office of Environmental Impact Review
629 East Main Street, Sixth Floor
Richmond, Va. 23219

Subject: EIR: DCR-Biscuit Run Tract Acquisition (DEQ # 09-217S)

Dear Ms. Pinion:

County staff has reviewed the subject EIR document and is offering the following comments.

Background – The report does not mention that 825 of the 1,200 acres being offered to the state is an area that Albemarle County has designated for development in its Comprehensive Plan and that the property was subject to a 2007 rezoning for which a development consisting of 3,100 residential units, 150,000 sq. ft of commercial area, a school site, and a 400 acre park within the Rural Area portion of this property was approved.

Topography – The report neglects to describe that significant parts of this property have been classified as critical slopes by the County, meaning the grade is 25% or steeper. It is noted that the Soils section indicates that slopes steeper than 15 % are considered more erodible, but the report does not describe the parts of this land that include these slopes.

Soils – The description of the soils does not address how much of the property is considered to be more erodible. As part of Albemarle County's zoning of this property, specific proffers were accepted to assure erosion and sediment control measures in excess of DCR's minimum standards for any land disturbance. These measures included a commitment to provide additional controls to achieve a sediment removal rate of 80% for the property, to revegetate with permanent vegetation all denuded areas not otherwise permanently stabilized or under construction with an approved building permit within 9 months after the start of grading under an erosion and sediment control permit. The County recommends that the EIR include enhanced erosion and sediment control measures that exceed DCR's minimum standards to mitigate the erosion and sediment impacts resulting from development on the property.

Ground and Surface Water – It is noted the description focuses on the possible well capacity, but the description of the property indicated the property is served by public water and sewer. County staff notes that 825 acres of this property falls within the County's Jurisdictional Areas for providing public water and sewer service. The report offers no indication if public water and sewer service will be used for this property. With respect to stormwater, County staff notes that specific proffers were accepted to assure stormwater management for this property would far exceed DCR's minimum standards, including

monitoring. These enhanced standards were in part to address Biscuit Run's and the downstream Moores Creek's stressed condition. These proffers required the owner, to the maximum extent practicable, to provide additional stormwater management to achieve a removal rate 20% better than would otherwise be required under the County's stormwater management regulations, up to a maximum removal rate of 80%. The County recommends that the EIR include enhanced measures that exceed DCR's minimum standards to mitigate stormwater impacts resulting from any development on the property.

Wetlands – Protection of the wetlands on this property was addressed as part of the proffers and the general development plan associated with the rezoning. The proffers and the plan provided for the creation of a 120-acre greenway composed of streams, flood plain and stream buffers that would be dedicated to public use. In addition, the plan limited the number of stream crossings on the property, and the stream crossings were to be designed to span the stream or floodway. The County recommends that the EIR include enhanced measures to assure the protection of the wetlands on the property.

Floodplains - Please refer to comments on the Chesapeake Bay Preservation Areas.

Chesapeake Bay Preservation Act – The report is in error. While Albemarle County does not have mandated resource protection areas under the Chesapeake Bay Preservation Act, it has exercised the local option to adopt resource protection areas, which includes 100' each side of all perennial streams in the County's Development Areas and 100' each side of both perennial and intermittent streams in the County's Rural Areas. As this property includes both Development Areas and Rural Areas land, the streams fall under two different standards, depending on which part of the property the stream is located.

Solid and Hazardous Waste – The report should clearly specify whether a Phase 2 Environmental Report has been recommended and whether this report would be available for public review prior to any development activity.

Other Issues – The report should include a discussion of the following County impacts:

1. Consistency with Albemarle County's Comprehensive Plan - Land Use Plan. The County's primary growth management goal is to direct development into designated Development Areas (only 5% of the County's land area) and conserve the balance of the county as Rural Areas for resource protection (agricultural/forestry, natural, historic, and scenic resources). The 825 acres of this property located within the Development Area, particularly now that it has been rezoned consistent with the Land Use Plan, constitutes a very important area in achieving the growth management goal and its loss could place pressure on other parts of the County to absorb future development (either through Development Area expansion elsewhere or by-right development in the Rural Areas). Loss of this area as part of the Development Area also conflicts with County intentions in establishing this as an Urban Development Area (UDA) consistent with Section 15.2-2223.1 of the Virginia Code. This is an area in close proximity to transportation facilities, available public water and sewer and the City of Charlottesville with plan designations (and existing zoning) that permit densities of development and traditional neighborhood design consistent with that called for in the Code. In summary, locating a state park within the Development Area portion of this property is not consistent with the growth management goal of the County's Comprehensive Plan. However, such a park located within the Rural Area portion of the property is consistent with the County's Comprehensive Plan and is, in fact, provided for through a proffer that is part of the current zoning of the property.
2. Albemarle County Fiscal Impacts – This property currently pays over \$325,772 per year in property taxes to the County. The loss of this revenue at a time of severe state and local budget constraints will adversely impact Albemarle County. Additionally, this report does not include any discussion of the eventual loss of County revenue from the developed property as currently zoned.
3. Albemarle County Capital Improvements – While the removal of this property reduces anticipated demands for infrastructure, it also eliminates critical improvements and funding

sources. The proffers associated with the Biscuit Run rezoning were evaluated by staff and found to provide a value in excess of \$ 38 Million. This includes over \$13 Million in cash, a \$5 Million park in the County's Rural Areas, and \$20 Million of other improvements. More particularly, some of the proffered improvements cannot be replaced at the estimated value. For example, this project included a proposed road connection between Route 20 and South 5th Street, which is valued at its construction cost. However, if this connection is lost, the alternatives will likely cost much more and is needed for the County to meet the response times it has established for Fire/Rescue in the Development Areas.

4. The Virginia Outdoors Plan does recommend that a State Park be established in Region 10. Pat Mullaney, Director of Albemarle County's Department of Parks and Recreation, has provided the following comments regarding the Virginia Outdoors Plan recommendation and proposal for a State Park on this property:

Not knowing the ultimate development plan for the proposed State Park at Biscuit Run limits our ability to make comments at this time. That being said we know that a state park in region 10 has been listed as a need in the Virginia Outdoors Plan for the past 15 years. This property at 1200 acres is twice the minimal size of a state park. The standard for state parks is 10 acres per 1,000. While region 10 does not meet this standard with a state park facility, I would point out that we have a very unusual local park system with several parks approaching the minimum acres required to be included in the state park system and having development similar in character to a state park. We are currently providing over 30 acres/1,000 population with our local park system. This acreage is well in excess of any stated standards and is significantly more than the average benchmarked community in the state (10.26 acres) and best practice community nationally (19.09 acres). This acreage does not include the City's McIntire and Pen Parks or the Ragged Mountain Reservoir property. **Considering this, while I believe local residents will certainly enjoy the availability of a state park, the need for a traditional state park in this region is not an urgent one due to the availability and character of our local park system.**

A state park would be good for tourism. It is estimated in the 2007 Virginia Outdoor Plan that visitors to the 34 state parks in the current system add \$157 million to the state's economy. **The type of development will of course help determine the tourism potential.** A significant water feature is usually a typical anchor for a state park and I don't know what potential Biscuit Run has to provide that feature. A nice campground area (which we don't provide in our local parks) and hiking/mountain biking and equestrian trails would be good features for both local residents and tourists.

Finally we were hoping that the Biscuit Run proffer to the County would help us meet our local need for providing additional high quality athletic fields. I see that the EIR mentions that the master plan for the new park will make recommendations for innovative initiatives such as cooperative management agreements. **I would recommend that the City and County Parks and Recreation Directors both be involved in the master planning of this park. Consideration should be given to the athletic field development potential of the growth area portion of this property. There may be tremendous potential to develop a complex of fields which is ideally situated to serve both our local athletic needs and to host statewide tournaments and take advantage of that tourism market in addition to the typical draw of a state park. The field complex could be developed and operated by the state or could be a responsibility of the City and/or County through a cooperative management agreement.**

Thank you for the opportunity to provide comments. Should you want us to clarify or provide additional information, we would be happy to do so. Additionally, we would appreciate the opportunity to review responses to all of the EIR comments.

Sincerely,

Mark B Graham

Mark B. Graham, P.E.
Director of Community Development