

AT A REGULAR MEETING OF THE DEVELOPMENT REVIEW COMMITTEE OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD IN BUILDING A AT 4:00 P.M. ON THE 27th DAY OF MARCH TWO THOUSAND THIRTEEN.

ROLL CALL

Mr. Tim O'Connor
Mr. Rich Krapf
Mr. Chris Basic
Mr. George Drummond
Mr. Mike Maddocks

STAFF

Mr. Jose Ribeiro
Mr. Scott Whyte
Mr. Christopher Johnson

MINUTES

Following a motion by Mr. Basic, the DRC approved the minutes from the March 5, 2013 meeting as amended. (4-0) (Mr. Maddocks arrived to the meeting after the adoption of the minutes)

C-0011-2013, Marywood Subdivision Walking Trails Amendment

Mr. Scott Whyte presented the staff report and explained that the case was a consideration item at the March 5, 2013 meeting. He explained that Mr. Kenneth Stubenhofer had applied on behalf of the Marywood Homeowner's association to eliminate two existing trails by letting them revert back to their natural state for maintenance reasons. The provision of the trails was a request by the DRC at a 2005 meeting and was not an ordinance requirement. The case was a by-right application and was not subject to any proffers or SUP conditions.

Mr. Whyte showed the committee an exhibit showing the existing trails and the trails that were proposed to be eliminated.

Mr. Basic inquired if the plan had changed at all since the last meeting, and Mr. Whyte responded that it had not.

Mr. Krapf stated that he was reluctant to approve at the previous meeting, but that Mr. Basic and Mr. O'Connor's comments have convinced him that since this was an action requested by a resident controlled HOA, he is now comfortable with the proposal.

Mr. O'Connor stated that he would not be comfortable with the layout of the trails behind many of the units if he were a resident in this subdivision.

Mr. Basic stated that he still feels the same as he did at last month's meeting, and inquired whether or not the committee would vote on the case at this meeting.

Mr. Holt responded that the committee would cast a vote.

Mr. Basic then made a motion to approve and the committee approved the amendment by a vote of 4-1.

C-0018-2013, TYI Tender Home Child Care

Mr. Jose Ribeiro presented the staff report stating that Mrs. Butler had submitted a conceptual plan proposing to expand the current number of children enrolled in her in-home child care program from nine to twenty. Mr. Ribeiro stated that Mrs. Butler has been operating the business out of her residence at James Terrace Subdivision since 2005. Mr. Ribeiro stated that a SUP is required for a child day care center with more than 5 children. Mrs. Butler seeks to bring her child day care business into compliance with zoning regulations since she has not obtained a SUP to operate her business. If the request to allow the increase in number of children is approved by the Board of Supervisors, Mrs. Butler plans to move out from her current residence and transform the entire house into a child care center operating 24 hours a day, 7 days a week. Mr. Ribeiro clarified that this application is being considered by the DRC in order to provide the applicant feedback for the proposed child care expansion prior to submittal of a SUP application.

Mr. Drummond asked if the increase in the number of children would need to be approved by the State. Mr. Drummond also expressed concern with the day care overnight operation. Mrs. Butler stated that State license is required by square footage per child. Mrs. Butler also stated that she currently has 20 children enrolled in her program but she only cares for nine children at a time since this is what she is licensed for by the Virginia Department of Social Services. Mrs. Butler also indicated that she has never had a complaint from neighbors regarding her overnight child care operation. Mrs. Butler stated that her 24-hour child day care operation caters to families and individuals who work non-typical hours. She also works with parents who can't afford day care, single parents, and women from the Avalon shelter. Mrs. Butler also stated that she is affiliated with social services for families who receive subsidies to pay for child care, and with the court system. Mrs. Butler stated that she is licensed to care for children eleven months of age to twelve years old but she is looking to minimize the age range to infants to seven years old.

Mr. O'Connor asked if it was too early in the review process for staff to submit APOs. Mr. Ribeiro responded that APOs will be submitted a later time during the SUP process. Mr. Krapf asked if staff had any concerns regarding the application. Mr. Ribeiro stated that staff was concerned with the impact of the proposal into the residential neighborhood, particular, increased in traffic and maintaining the residential character of the neighborhood.

Mr. Johnson indicated that the proposed hours of operation are difficult for staff to evaluate and that, typically, day care centers have more traditional hours of operation such as from 6 a.m. to 7:00 p.m. Staff does not typically support commercial uses in residential areas especially ones with such extended hours of operation.

Mr. Krapf stated that according to the staff report, Mrs. Butler is seeking to move out from her current residence if the SUP is approved for the requested increase in enrollment. Mr. Krapf asked staff if the change of use from residential to commercial would trigger any structural alterations. Mr. Ribeiro stated that he is currently working with Mr. Tom Coghill in order to identify if any changes will be required.

Mr. Maddocks stated that he would like the applicant to inform all adjoining neighbors of the proposal. Mrs. Butler indicated that she had letters of recommendation from clients and neighbors.

Mr. Johnson stated that the three-year review sunset clause recommended by the Planning Commission policy is to recognize that neighbors move and conditions can change over time. The SUP runs with the property, not the existing owner or operation. Mr. Drummond stated that he could relate to the applicant as he lived across an in-home day care center and he did not feel there was an increase in traffic or noise.

Mr. Basic stated that he felt comfortable with the language of the Day Care Center within Subdivision Policy as it gives the Planning Commission flexibility to review it on a case by case. However, Mr. Basic was concerned that if Mrs. Butler were to move out of her residence then the day care operation would become strictly commercial in a residential neighborhood. Mrs. Butler stated that Social Services would not allow her to reside and care for more than twelve children in the same location she resides.

Mr. Basic asked staff if there is a way to reduce costs for the applicant to re-apply for a SUP every three years. Mr. Johnson replied that there is a SUP amendment process in place with reduced fees.

Mr. Johnson indicated that he thought it would be helpful for the application if the DRC provide input to Mrs. Butler's based on the applicant's desire to move out of her current residence and turn it into a day care center for up to twenty children and based on Social Services limiting the number of children to twelve and maintaining her residence in the home.

Mr. Drummond asked the applicant if she was associated with day care programs for military personnel. Mrs. Butler indicated that she was not.

Mr. O'Connor stated that he was concerned that should the day care center increase the capacity of children enrollment to twenty may not be in keeping with the intent of the zoning regulations for the R-2, residential district. Mr. Maddocks stated that he would feel comfortable with the proposal if the applicant could notify and get approval from all the neighbors.

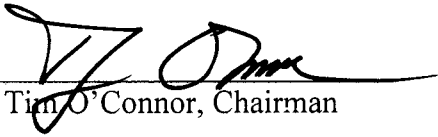
Mr. Krapf was also interested in adjacent property owner's feedback. Mr. Krapf indicated that ideally the owner would still occupy the dwelling and provide the services. However, Mr. Krapf indicated that a day care center, as listed under the permitted/SUP uses in in the Zoning Ordinance for R-2 districts, does not specify if it is a residential facility providing the care or a commercial facility. Mr. Krapf also noted that Mrs. Butler residency is not located deep into the neighborhood and therefore its impact, particularly traffic, to the neighborhood may be minimal.

Mr. Basic stated that the zoning ordinance did not make any differentiation between an in-home day care and a commercial day care grouping both as a use which require a SUP. Mr. Basic also agreed with Mr. Maddock's statement that support from the neighbors would be very important to this application. Mr. O'Connor asked Mrs. Butler if she planned to have the maximum number of kids in any point in time. Mrs. Butler stated that she would like to have twenty children enrolled into her program but that she would not care for all children at the same time.

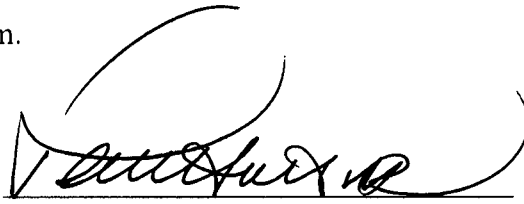
No vote was taken or decision made since it was a consideration item. Mr. O'Connor made a motion to adjourn.

ADJOURNMENT

The meeting was adjourned at __4:55__ p.m.



Mr. Tim O'Connor, Chairman



Mr. Paul Holt, Secretary