

A REGULAR MEETING OF THE PLANNING COMMISSION OF THE COUNTY OF JAMES CITY, VIRGINIA, WAS HELD ON THE FOURTH DAY OF APRIL, TWO-THOUSAND AND SEVEN, AT 7:00 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101-F MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

1. ROLL CALL

Planning Commissioners

Present:

George Billups  
Mary Jones  
Tony Obadal  
Jack Fraley  
Shereen Hughes  
Jim Kennedy  
Rich Krapf

Staff Present:

Marvin Sowers, Planning Director  
Adam Kinsman, Assistant County Attorney  
Tammy Rosario, Senior Planner II  
Jose Ribeiro, Planner  
Melissa Brown, Acting Zoning Administrator  
Jason Purse, Planner  
Kathryn Sipes, Planner  
Luke Vinciguerra, Planner  
Toya Ricks, Administrative Services Coordinator  
Ellen Cook, Acting Principal Planner  
Darryl Cook, Environmental Director  
Christy Parrish, Administrative Services Coordinator

Absent:

None

2. PUBLIC COMMENT

Mr. Kennedy opened the public comment period.

Hearing no requests the public comment period was closed.

3. MINUTES

A. March 7, 2007 Regular Meeting

Mr. Fraley motioned to approve the minutes.

Ms. Jones seconded the motion.

In a unanimous voice vote the minutes of the March 7, 2007 regular meeting were approved (7-0).

4. COMMITTEE AND COMMISSION REPORTS

A. Development Review Committee (DRC) Report

Ms. Jones presented the report stating that the DRC met on March 28, 2007. She stated that C-1-07 New Town Shared Parking was unanimously approved after property owner concerns and master plan inconsistencies were addressed. Ms. Jones also stated that SP-7-07 Williamsburg Community Chapel Nursery Wing was approved 3-0.

Mr. Fraley motioned to approve the report.

Mr. Obadal seconded the motion.

In a unanimous voice vote, the DRC report was approved.

B. Policy Committee Report

Mr. Fraley stated that the Policy Committee met on March 14 and March 21. He stated that on March 14 the Committee reconsidered the proposal to amend the Mixed Use Zoning Ordinance at the Commission's request. Mr. Fraley stated that Staff was directed to separate the housekeeping and technical aspects of the proposal and to make additional clarifications. He stated that on March 21 that Committee approved the revised proposal. Also, on March 21, the Committee approved the methodology and time table for the 2008 Comprehensive Plan update. Mr. Fraley stated that additional meetings were held to discuss an Ordinance amendment to allow direct sewage discharge. He stated that the item is still under consideration.

5. PLANNING COMMISSION CONSIDERATION

A. Initiating Resolution – Zoning Ordinance Amendment – Zoning and Subdivision Fees

Ms. Melisa Brown presented the staff report stating that the Initiating Resolution is necessary for consideration of an amendment to the Zoning Ordinance. She stated that adoption of the resolution does not approve nor deny the amendment. Approval of the resolution only allows consideration of the proposal. Staff recommended adoption of the resolution.

Mr. Fraley asked why the initiating resolution was being presented on the same night as the actual proposal.

Mr. Sowers stated that the normal process is to the present the initiating resolution at one meeting and the proposal at the meeting the following month. He explained that due to the item being connected to the County budget it was necessary to move both forward together.

Mr. Billups asked what impact the fee changes will have on the budget.

Mr. Sowers stated that Ms. Brown and Mr. Bill Porter, Assistant County Administrator, will present the proposal later in the meeting.

Mr. Billups motioned to approve the resolution.

Mr. Krapf seconded the motion.

In a unanimous voice vote, the Initiating Resolution was adopted (7-0).

B. Comprehensive Plan Methodology

Ms. Tammy Rosario presented the staff report stating that the proposed Comprehensive Plan methodology and time line use a similar framework to those used successfully in past utilizing Community Participation Team and a Steering Committee. Ms. Rosario stated that the proposal takes into consideration the Division's work programs for next six months with an official kick-off in October to begin the 20 month process. She also stated that the proposal incorporates recommendations of the Regional Issues Committee for simultaneous Comprehensive Plan Updates between James City County, York County, and the City of Williamsburg in 2010. Ms. Rosario said the Policy Committee recommended approval 4-0.

Mr. Krapf motioned to approve the proposal.

Mr. Billups seconded the motion.

In a unanimous voice vote, the proposal was approved (7-0).

6. PUBLIC HEARINGS

A. SUP-35-06 Kenneth Brook's Contractor's Warehouse

Mr. Sowers stated that the applicant has withdrawal their application.

Mr. Kennedy closed the public hearing.

B. Z-1-06/MP-12-06/SUP-36-06 The Candle Factory

C. A-Stat Restoration Services

Mr. Sowers stated that the applicants for The Candle Factory and A-State Restoration Services requested deferral.

Mr. Kennedy opened the public hearings.

Hearing no requests the public hearings were continued to the May 2, 2007 meeting.

D. ZO-1-07 Zoning Ordinance Amendment – Mixed Use Ordinance

Ms. Ellen Cook presented the staff report stating that the proposal seeks to amend and reordain JCC Code, Chapter 24, Zoning, Article V, Districts, Division 15, Mixed Use, MU, Section 24-527, Setback requirements, to clarify the following: when a setback is required, the conditions of when a setback can be modified and the procedure to request a modification. Ms. Cook said the Policy committee recommended approval of the proposed change by a vote of 3-1.

Mr. Obadal asked if Ordinance paragraph A currently applies to both internal and external roads.

Ms. Cook stated that it currently does not specify and has been interpreted by staff as external given other language elsewhere in the section.

Mr. Obadal asked if paragraph C specifies internal roads.

Ms. Cook stated that it refers to the location of the mixed use district in relationship to the overlaying comprehensive designation.

Mr. Obadal asked if that has consistently been staff's interpretation.

Ms. Cook said that was correct.

Mr. Kennedy opened the public hearing.

Hearing no requests, the public hearing was closed.

Mr. Obadal stated his concern that higher densities be confined to mixed use areas to manage growth and suggested alternative wording.

Mr. Fraley said there are mixed use developments other than housing redevelopment focus areas. He stated that any mixed use rezoning has to have legislative approval. Mr. Fraley also stated that the proposal specifies additional criteria which must be met before a setback modification request can be made.

Mr. Billups stated his concern that the proposal conflicts with the Comprehensive Plan. He stated that there are other ways to address the issue.

Mr. Krapf stated that there are mixed use zoned districts that are internal to mixed use areas designated by the Comprehensive Plan and some mixed use zoned districts that are internal to areas with a different Comprehensive Plan designation. He stated the proposal's intent to clarify this distinction and add additional criteria for those outside of mixed use designated areas.

Mr. Fraley stated that the proposal does not change setbacks, only the criteria for requesting waivers to setbacks.

Mr. Obadal disagreed. He stated that internal setbacks are eliminated. Mr. Obadal stated that the setbacks were designed to create a roadblock in order to manage density.

Mr. Kennedy stated his inclination to hear a motion with Mr. Obadal's suggested language and a separate motion on the proposal as presented by Staff.

Mr. Obadal stated his appreciation for the time staff and Commissioners have given to considering this amendment. Mr. Obadal read his proposed change, which was to include Housing Revitalization Areas, along with Mixed Use Designated areas, as eligible for the setback waiver.

Ms. Cook showed on the overheard where she believed Mr. Obadal's suggested language would be inserted.

Mr. Sowers asked if it was Mr. Obadal's intent to delete the additional criteria for projects outside of mixed use designated areas.

Mr. Obadal said the additional criteria would not be necessary.

Mr. Fraley explained the Policy Committee's reasons for the additional criteria. He stated that Mr. Obadal's suggestion would not address a solution for most cases.

Mr. Kennedy stated that the Commission could vote on Mr. Obadal's proposal first and if it does not carry, they can vote on the proposal presented.

Mr. Fraley asked for clarification of Mr. Obadal's intent concerning the additional criteria.

Mr. Obadal said setback waivers should not be easily available to cases outside of mixed use designated areas and stated that the additional criteria are not necessary.

Mr. Kinsman suggested the Commission vote on Staff's proposal as presented first. He stated that if that doesn't pass the Commission could recess to allow him and staff to consider the affect of Mr. Obadal's suggestions on the Ordinance language.

Mr. Billups stated his concerns of adding additional terminology to the Ordinance.

Mr. Kennedy asked for a motion.

Ms. Jones made a motion to approve the proposal as presented by staff.

Mr. Fraley seconded the motion.

In a roll call vote the application was recommended for approval (4-3). AYE: Fraley, Hughes, Jones, Krapf (4); NAY: Obadal, Billups, Kennedy (3).

E. Z-9-06/MP-10-06 Ironbound Square Redevelopment

Mr. Jose Ribeiro presented the staff report stating that Mr. Rick Hanson of the James City County Office of Housing and Community Development has applied to rezone approximately 9.34 acres of land along Ironbound Road from R-2, General Residential, to MU, Mixed Use zoning district, with proffers. The development proposed with this rezoning will create up to 51 single-family affordable and mixed-income residential lots and three new streets. The properties are designated Low Density Residential on the 2003 Comprehensive Plan Land Use Map and can be further identified as Parcel Nos. (1-105), (1-104), (1-103), (1-102), (1-101), (1-99), (1-97), (1-96), (1-95), (1-94), (1-93), (1-92), (1-90), (1-89), (1-88), (1-87), (1-86), (1-85), (1-84), (1-83), (1-82), (1-81), (1-80), (1-79), (1-78), (1-77), (1-76), (1-75), (1-75A), (1-75B), (1-74), (1-73), (1-72), (1-71), (1-70), (1-69), (1-68), (1-67), (1-66), and (1-65), on JCC RE Tax Map No. (39-1). Low Density Residential areas are suitable for development with gross densities of one to four dwelling units per acre. This phase of the proposed development would have a gross density of approximately 5.4 dwelling units per acre. The gross density of the entire development will be 3.6 dwelling units per acre. Mr. Ribeiro outlined the changes since the March 7, 2007 Planning Commission meeting.

Ms. Hughes asked the location of the proposed landscape and setback waivers.

Mr. Ribeiro showed the locations on an overhead map.

Mr. Kennedy opened the public hearing

Mr. Doug Powell, Manager of Community Services highlighted the development of the project since 1995. He described the property acquisition process.

Mr. Aaron Small, AES Consulting Engineers represented the County and presented three alternatives for the proposed road and cul-de-sac that the Commission expressed concerns about at their last meeting.

Mr. Fraley asked the scale of the drawings.

Mr. Small stated that he was not sure of the scale.

Ms. Hughes asked about the road width in the alternative number one.

Mr. Small said it is the standard 50 feet.

Ms. Hughes asked the width of the paved surface.

Mr. Small said the distance is 26 feet curb to curb.

Mr. Fraley asked for an explanation of the differences from the previous proposal.

Mr. Small said it shifts the road 50 feet to the south. He also stated that a waiver from VDOT (Virginia Department of Transportation) will be necessary for alternative one. Mr. Small presented alternatives two and three. He also showed the areas that will be affected by the planned VDOT roadway expansion.

Mr. Fraley confirmed that with the alternatives, the County would only need to acquire 25 feet of the rear of the three parcels instead of the 50 feet originally proposed.

Mr. Small said that was correct.

Mr. Powell concluded his presentation by stating the proposal will provide thirty-nine affordable single family homes. He also stated that a minimum of twenty of the homes would be sold to low-to-moderate income households.

Ms. Hughes asked the applicant to consider using Better Site Design principles such as reduced road widths.

Ms. Jones asked if a County representative had attended the VDOT meetings concerning the Ironbound Road roadway expansion.

Mr. Rick Hanson, Housing and Community Development stated that he and others from his Department attended along with some Planning staff.

Ms. Jones asked if any of the County's representatives had made suggestions and if those suggestions had been incorporated in the final proposal.

Mr. Hanson said they did make suggestions and that some of them had been included.

Ms. Jones asked if the County-owned property next door to Mr. and Mrs. Tucker had been improved.

Mr. Powell said they met with some property owners who expressed that concern. He said they are committed to addressing that issue as soon as possible.

Mr. Fraley asked about the request for landscape modifications.

Mr. James Peters, AES Consulting Engineers, said they received direction concerning street tree planting and road construction from the Board of Supervisors where a reduced street width request had been taken before that body.

Mr. Fraley asked how that affected landscaping.

Mr. Small explained how the proposed street width reductions along Carriage Road and Watford Lane necessitate the need for the waiver request to install more trees than required.

Mr. Fraley confirmed that the applicant would be planting more trees than required.

Mr. Billups asked the price range for the twenty homes that will be offered to low-to-moderate income households.

Mr. Hanson said \$120,000 to \$140,000. He also stated that some houses built by non-profit organizations will be offered at prices lower than that.

Mr. Billups asked about the prices for workforce housing.

Mr. Hanson said up to \$200,000.

Mr. Fraley asked if any of the displaced property owners had applied for the new homes and been denied.

Mr. Hanson said no. He said they are encouraged to apply for those homes.

Mr. Billups asked if property owners are being relocated to comparable homes.

Mr. Hanson stated that if a homeowner could not purchase a comparable home for the amount they received from the County for the home the County purchased, then additional money is provided to the homeowner.

Mr. Kennedy confirmed that homeowners who owned their homes outright would not have a mortgage on their new homes.

Mr. Hanson said that is correct if they select a comparable home and were not upgrading.

Mr. Tim Cleary, 101 Lands End Drive, stated the importance of affordable housing. He stated that this project does not use innovative land use planning and would require redevelopment every ten to twenty years. He urged the Commission to deny the application.

Mr. Philip Chapman, 4335 Casey Blvd, stated his concerns with the condemnation. He also stated that several of the homeowners had not received a copy of their appraisal. Mr. Chapman said the Canadys have not been apprised of the status of the effort to clean up of the County owned property.

Ms. Marion Payne, Housing and Community Development, stated that Mr. Canady has not been contacted because his property will not be affected. She stated that owners of all the properties they intend to purchase received appraisals along with offers to purchase.

Mr. Billups asked if the original grant application included the potential for condemnation or was the term acquisition used.

Ms. Payne stated that the application to Virginia Housing and Community Development specified that houses would be acquired.

Mr. Hanson stated that it included acquisition and funds for relocation

assistance.

Mr. Billups asked if the term 'condemnation' or 'acquisition' was used.

Mr. Hanson said the application stated that a redevelopment plan, in accordance with state law, which authorizes condemnation for acquisition would be part of the project.

Mr. Billups asked for confirmation that the word 'condemnation' was used.

Mr. Hanson said the phrase 'redevelopment plan that authorizes acquisition, if necessary, by eminent domain' was used.

Mr. Obadal asked if the first application was made in 1999.

Mr. Hanson said yes and explained that the Virginia Housing and Community Development office disbursed the HUD (Housing and Urban Development) funds.

Mr. Obadal asked when the appraisals were performed.

Mr. Hanson said they were conducted over time starting after 2002 and occurred at the time of the offer.

Ms. Payne explained that the four properties they are currently acquiring were appraised in December of last year and January of this year with offers being made in those same months.

Mr. Obadal asked about the differences in assessed and appraised valuation.

Ms. Payne stated that the possible difference between the two is the reason an independent, certified appraiser was hired to establish fair market value which was offered.

Mr. Hanson said it is typical for assessments to be lower than appraised value.

Mr. Billups asked if homeowners were made aware of the market value.

Ms. Payne said that the independent appraiser establishes that value and explained how comparable sales are used.

Mr. Obadal asked if the appraiser had taken into account the development of New Town across the street from the community.

Ms. Payne said yes.

Mr. Hanson explained that the values would change over time and were higher in general for the later acquisitions because property values in James City County had increased.

Mr. Kennedy asked the percentage of increase.

Ms Payne answered approximately 40%.

Mr. Kennedy asked the difference in assessed values since the first acquisition since 2003. He stated that the value of his property went up 200% and asked how this area could not feel that same growth.

Ms. Payne explained that for homes that had to be reappraised because negotiations for the purchase of those homes took a year or two to complete the values went up by 40%. She stated that she did not have any historical data on the increase in assessments for that area as a whole.

Mr. Krapf asked if Better Site Design Principles such as clustering or higher density were considered.

Mr. Hanson stated that the plan represents feedback from members of the Ironbound Square community. He said they expressed a desire for single family homes.

Ms. Jones asked for clarification that appraised value was used instead of fair market value.

Mr. Hanson said generally it was appraised value. He stated that if homeowners provided data to support a higher value or if they counter offered those were taken into consideration and in some cases received compensation greater than appraised value.

Mr. Obadal asked if the applicant negotiated directly with the homeowner or if the homeowners had representation.

Ms. Payne said primarily with the homeowners but some did have legal representation.

Mr. Obadal asked if Mr. Hanson considered the area to be blighted.

Mr. Hanson said it was a blighted area prior to the initiation of the redevelopment. He said improvements are still needed.

Mr. Obadal asked how many homes were torn down.

Mr. Hanson said twenty-four homes were torn down. He stated that thirteen of them had been occupied and the rest vacant.

Mr. Kennedy asked if the purchase prices had taken into consideration the density being proposed or the current density.

Mr. Hanson said the appraisal considered the potential development under the zoning in place at that time.

Mr. Kennedy asked how many times each acre is proposed to be divided.

Mr. Hanson said approximately eight.

Mr. Kennedy asked the prices in James City County for a lot.

Mr. Hanson said it would vary.

Mr. Kennedy stated that he understands it to be \$150,000 - \$250,000.

Ms. Jones asked how many of the parcels owned by the County are currently blighted.

Mr. Hanson stated that the properties need to be tended to and are not acceptable. He stated their plans to improve the properties.

Mr. John Bailey, 4344 Ironbound, stated that the offer he received was for less than the taxes he pays for the property. He also stated that he was told he would not be compensated for any future improvements he made to the property.

Ms. Laura Chapman, 4335 Casey Blvd, stated that one of the property owners received a written offer by mail. She stated that the property owner was not contacted in efforts to negotiate.

Hearing no other requests the public hearing was closed.

Mr. Fraley asked what version of the proposal the Commission was being asked to consider.

Mr. Powell asked that alternative three of the road layout be voted on.

Ms. Jones stated her concerns that in 2002 the project changed from revitalization to redevelopment which resulted in 40 parcels falling under condemnation, that taking property from citizens to build homes for other citizens does not make sense, and that citizens are also being impacted by the Ironbound Road expansion. She stated that she will not support the application.

Mr. Billups stated his disagreement with the Ordinance Amendment approved earlier that was predicated on the necessities of this proposal. He also stated that the community members involved in drafting this plan are being excluded from the benefits of the project. Mr. Billups expressed his concerns that property is being taken away from African-Americans who are being offered low prices and the use of the words "substandard" and "dilapidation" to apply to their living conditions. He said he would not support the application.

Mr. Obadal stated that the proposal should be denied so that an equitable solution can be arranged and to consider better site design. He also suggested a recommendation for an inquiry as to whether or not pressure was used to force citizens to make decisions they were not ready to make.

Mr. Fraley stated his concerns with how and where eminent domain has been applied. He stated that citizens who cannot afford an attorney are being displaced who will find it difficult to replicate their living conditions somewhere else at the same price. He stated that the design is boring and he cannot support a proposal that takes property from one group to provide homes for another group at a higher density for more money.

Mr. Krapf stated that although the proposal meets some of the goals and strategies of the Comprehensive Plan he cannot support it due to the concerns raised by citizens and the lack of Better Site Design Principles.

Ms. Hughes said she agreed with other Commissioners regarding taking land from private homeowners. She also pointed to the lack of Better Site Design initiatives.

Mr. Kennedy stated his concerns that the Board of Supervisors will approve the proposal and with the use of condemnation. He stated his opinion that this project represents the poor subsidizing the poor and apologized for how citizens are being impacted. Mr. Kennedy urged citizens to contact the Board of Supervisors and said he will not support the proposal.

Ms. Jones made a motion to deny the application.

Mr. Obadal seconded the motion.

In a unanimous roll call vote the application was recommended for denial (7-0). AYE: Obadal, Fraley, Hughes, Billups, Jones, Krapf, Kennedy (7); NAY: (0).

Mr. Obadal asked that his recommendation for an inquiry be forwarded to the Board of Supervisors.

The Commission took a five minute break and reconvened at 9:10 p.m.

F. ZO-2-07 Zoning Ordinance Amendment – Zoning and Subdivision Fee Changes

Ms. Melissa Brown presented the staff report stating that the County Administrator's Budget recommends increases in selective fees within the Zoning and Subdivision Ordinances. These increases and additions will help offset costs associated with operating expenses without increasing property taxes in accordance with the pathways established by the County's Strategic Management Plan.

The proposed zoning ordinance amendments will adjust the fees for appeals to the Board of Zoning Appeals and administrative variances and adjust the acreage fees associated with rezoning requests. In addition to these adjustments, staff is requesting the approval of new fees for deferral of public hearing cases at the applicant's request, zoning verification letters, conceptual plans and review of site and subdivision plans after the second resubmission. These fee changes represent an effort to satisfy Pathways included in the County's Strategic Management Plan by evaluating service and delivery costs and promoting revenue alternatives to the increase of property taxes. The changes are estimated to generate the \$60,000 in additional revenue included in the FY08 budget proposed to the Board of Supervisors to support Planning Division operations.

In preparing this proposal staff surveyed several local governments including: Albemarle, Chesterfield, Fauquier, Hampton, Hanover, Henrico, Newport News, Prince

George, Loudon, Williamsburg and York. The recommended increases are based on a general comparison with these jurisdictions, current and anticipated staff work load. Even with these proposed increases, the Division will only recoup a portion of the County's actual operating costs which include advertising, transportation, copying and postage costs which have increased over the last several years. In addition, proposed increases in the complexity of the zoning and subdivision ordinances will also place new demands on staff time associated with review of all case types.

Ms. Brown also stated York County's rezoning fees according to their fee schedule because it was brought to her attention that information for that particular fee was left out of the report.

Ms. Jones asked if it was standard procedure that fee increases were included in the proposed budget before they are approved.

Ms. Brown and Mr. Sowers stated that it was common practice.

Mr. Kennedy opened the public hearing

Hearing no requests to speak the public hearing was closed.

Mr. Fraley discussed his concerns about the BZA fees. He stated that 95% of these hearings coming from ordinary citizens. An example of this type of request would be a deck that encroached two feet into the setback for various reasons. The proposed BZA fees increased 100% and the Administrative Variance fee increased 150% over current fee charges. These rates of increase are out of line.

Mr. Fraley also discussed that the fee increases are not competitive with our surrounding jurisdictions such as York County and the City of Williamsburg.

Ms. Hughes stated that there is a cost of doing business that increases yearly.

Mr. Fraley stated that he was not against raising fees but is against increasing a fee 100% in one year for a hard working citizen. However, he suggested phasing in the fees over two years, splitting the difference or adding advertising costs to the fee.

Mr. Krapf asked why staff selected these particular fees to increase.

Ms. Brown stated that staff looked at the fees currently in place, workload indicators, amount of time required for staff review and expenditures such as copying and advertising. Staff used other jurisdictions fee schedules as a benchmarking tool.

Mr. Obadal asked which cases staff spends the most time on.

Ms. Brown stated public hearing cases, site plan review and subdivision review.

Mr. Obadal asked whether these fee increases reflect the value of staff's time.

Mr. Sowers stated that these fees do not reflect staff hours. For example, a rezoning goes through multiple reviews and expends many staff hours over and above what is captured by fees.

Mr. Obadal stated that generally fees should be incorporated within the assessed taxes and not as a separate charge for the common homeowner. However, larger rezonings should be charged a larger fee.

Mr. Billups stated he would like to see fees in line with York County and the City of Williamsburg.

Ms. Brown stated that the Strategic Management Plan encourages County departments to seek revenue sources other than tax increases.

Mr. Obadal motioned to approve all the proposed fee increases except the Administrative Variance fee and Board of Zoning Appeal fee to be phased in over two years and to recommend the Administrative Variance fee be raised to \$175.00 and the Board of Zoning Appeals fee to be raised to \$375.00.

Ms. Hughes seconded the motion.

In a unanimous roll call vote the ordinance was recommended for approval (7-0). AYE: Obadal, Fraley, Hughes, Billups, Jones, Krapf, Kennedy (7); NAY: (0).

G. Croaker AFD – Ballard Addition

Mr. Jason Purse presented the staff report stating that Mr. Thomas Ballard has applied to add 21.13 acres to the existing Croaker Agricultural and Forestal District (AFD-2-86). The properties are located at 5325 and 5375 Riverview Road and are identified as Parcels No. (1-32) and (1-35A) on JCC Tax Map (15-3). The parcels are zoned A-1, General Agricultural and are located in the Stonehouse District.

Mr. Kennedy opened the public hearing.

Hearing no requests the public hearing was closed.

Ms. Jones motioned to approve the application.

Ms. Hughes seconded the motion.

In a unanimous roll call vote the application was recommended for approval (7-0). AYE: Obadal, Fraley, Hughes, Billups, Jones, Krapf, Kennedy (7); NAY: (0).

H. SUP-2-07 Accessory Apartment in Page Landing

Ms. Kathryn Sipes presented the staff report stating that Mr. Marv Evans has applied for a special use permit to allow an accessory apartment of approximately 800 square feet. The property is located at 4721 Captain John Smith Road and can be further identified as JCC RE Tax Map No. 5510300014. The property is zoned R-1, Limited Residential and is designated Low Density Residential on the Comprehensive Plan Land Use Map.

Mr. Kennedy opened the public hearing.

Hearing no requests the public hearing was closed.

Mr. Obadal motioned to approve the application.

Ms. Jones seconded the motion.

In a unanimous roll call vote the application was recommended for approval (7-0). AYE: Obadal, Fraley, Hughes, Billups, Jones, Krapf, Kennedy (7); NAY: (0).

I. Z-1-07 Sheldon Rezoning

Mr. Luke Vinciguerra presented the staff report stating that Mr. Howard Sheldon has applied to rezone a 1.29 acre parcel from B-1, General Business, to R-1, Limited Residential to build a home on the site. The property is located at 3425 Old Stage Road, Parcel (12-2) on JCC Tax Map (1-11B). The property is designated Low Density Residential on the Comprehensive Plan.

Mr. Obadal asked if Staff had received a response from its notification of other property owners of the apparent inconsistent zoning.

Mr. Vinciguerra stated that both adjacent property owners have submitted conceptual rezoning applications.

Mr. Kennedy opened the public hearing.

Ms. Gillian Sheldon, 149-A N. Mt. Vernon Avenue, stated that the applicant will build a home on the property. She requested that the other properties be rezoned to residential as well so that they do not end up living next to commercial establishments.

Hearing no other requests the public hearing was closed.

Mr. Fraley motioned to approve the application.

Mr. Krapf seconded the motion.

In a unanimous roll call vote the application was recommended for approval (7-0). AYE: Obadal, Fraley, Hughes, Billups, Jones, Krapf, Kennedy (7); NAY: (0).

J. Z-8-06/SUP-36-06/MP-9-06 Williamsburg Pottery Factory

Mr. Jason Purse presented the staff report stating that Mr. Vernon Geddy has applied to rezone a 18.86 acre parcel located at 6692 Richmond Road, JCC RE Tax Map No. 2430100024, from M-1, Limited Business Industrial, and A-1, General Agricultural, to M-1, Limited Business Industrial, with proffers, and with a commercial Special Use Permit. The rezoning proposes redevelopment of the existing property to include 161,000 square feet for a new retail shopping center. The site is shown as Mixed-Use, Lightfoot Area on the 2003 Comp. Plan Land Use Map. Recommended uses for Mixed-Use, Lightfoot Area include transit oriented mixed-use development with a mixture of limited industry, commercial and moderate density housing. Mr. Purse stated that since the last Planning Commission meeting the applicant has submitted an updated master plan, proffers and design guidelines.

Ms. Hughes asked for clarification of the setback modification request.

Mr. Purse explained that an average reduction of 20 feet therefore allows an average buffer width of 30 feet.

Ms. Hughes asked if the number of parking spaces was based on gross retail space.

Mr. Purse said that is his understanding

Ms. Hughes asked if the traffic study indicated the level of service at the traffic signal.

Mr. Purse said it is addressed in the traffic study and deferred to the applicant.

Mr. Kennedy opened the public hearing.

Mr. Vernon M. Geddy, III representing the applicant outlined the changes in the proposal since the last presentation.

Mr. Krapf commended the applicant on the improvements. He asked if the applicant considered LEED certification.

Mr. Geddy stated that the applicant was not comfortable including the certification in a proffer due to the varied technical aspects.

Mr. Krapf confirmed that although the applicant did not intend to seek LEED certification they would apply as many of the techniques as possible.

Mr. Geddy agreed.

Mr. Fraley stated that Prime Outlets recently agreed to proffer LEED certification.

Mr. Geddy stated that the two are very different projects. He stated that Prime is a large national retailer with a greater ability to dictate to their tenants than the applicant whose desire is to attract local businesses.

Mr. Obadal asked about the parking calculations.

Mr. Geddy stated that the parking requirements are based on gross and net retail operations.

Mr. Obadal stated his concern about the maintenance of the trees and other landscaping.

Mr. Geddy stated that the owner is required to maintain the landscaping.

Mr. Obadal asked if the applicant would be willing to proffer that.

Mr. Geddy agreed.

Mr. Obadal commended the applicant on the improvements.

Mr. Fraley asked who maintains the landscaping in the median.

Mr. Geddy said the applicant will maintain the area and has an agreement with VDOT to do so.

Mr. Rich Costello, AES Consulting Engineers, stated that when the Pottery opens there will be a level of service A at both traffic signals and in 2017 a level of service B at both signals.

Mr. Kennedy asked about the funding for the signals.

Mr. Geddy stated that the County has asked that they have some discussions with Colonial Heritage to share in the costs. He stated that those conversations are on-going.

Mr. Kennedy asked for an assurance that the signal will be installed.

Mr. Geddy stated that both this applicant and Colonial Heritage have proffered that the signal be installed.

Mr. Kennedy asked that a condition requiring a compromise be reached before the cases in heard by the Board of Supervisors.

Mr. Geddy explained what each entity has already agreed to do and stated that the County is assured that the light will be installed.

Mr. Obadal stated his concern with placing the beginning of this project in the hands of another private party who does not have the same pressures.

Mr. Kennedy stated his desire for assurance that there are not problems later.

Mr. Adam Kinsman stated that the light will be installed regardless of the agreement between the parties. He explained that Colonial Heritage has proffered to install the signal when warranted.

Mr. Kennedy asked if the parties were close to an agreement.

Mr. Geddy said he did not know the state of the negotiations. He stated that between the Colonial Heritage and the Pottery proffers the light will be installed and the costs will be shared.

Mr. Sowers said there is an SUP condition attached to this application which requires the signal be installed prior to complete build out.

Mr. Doug Gebhardt, 3609 Corey Abbey Circle, stated that the Williamsburg Pottery Factory has been a long-standing contributor to local economy. He stated that circumstances have lead to the Pottery having to reinvent itself. He also stated that unlike Prime Outlets, a major national retail developer with access to capital, the Pottery is locally owned and operated. Mr. Gebhardt said the Economic Development Authority supports this application.

Mr. Tom Wishart, 4759 Winterberry Court, stated that the residents of Colonial Heritage support the application.

Ms. Diana Luzinski, 110 Alwoodley, said she is pleased with the changes to the proposal. She stated that it is in the County's best interest to ensure the beautification of Richmond Road and environmental mitigation.

Hearing no other requests the public hearing was closed.

Mr. Fraley complimented the traffic study and the applicant.

Ms. Hughes stated that she was pleased with the changes. She recommended the applicant consider reducing the amount of parking and increase the Community Character Corridor buffer area in section 3.

Ms. Jones motioned to approve the application.

Mr. Billups stated that it is a commendable project and he did not have any objections. He stated his support.

Mr. Purse reminded the Commission of the landscape modification request.

Mr. Sowers asked if the motion included the rezoning, master plan, and special use permit and landscape modification request.

Ms. Jones said yes.

Mr. Fraley stated his desire to forward Ms. Hughes' comments concerning the parking and buffer area as a recommendation to the Board of Supervisors.

Mr. Obadal said he did not want to see the parking fall below 5 spaces per gross foot of retail space. He stated his concern that a landscape maintenance agreement be mandatory.

Mr. Fraley stated that a landscape maintenance agreement should be included in the recommendations.

Mr. Obadal said he did not think it necessary to include a recommendation.

Mr. Kinsman confirmed that the motion included amending the conditions to allow the County Attorney's office and the applicant to draft a condition mandating the agreement.

Ms. Hughes seconded the motion.

In a unanimous roll call vote the application was recommended for approval (7-0). AYE: Obadal, Fraley, Hughes, Billups, Jones, Krapf, Kennedy (7); NAY: (0).

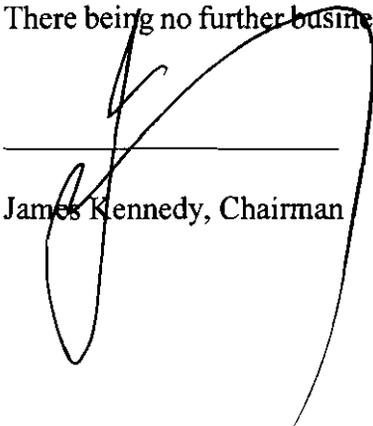
7. PLANNING DIRECTOR'S REPORT

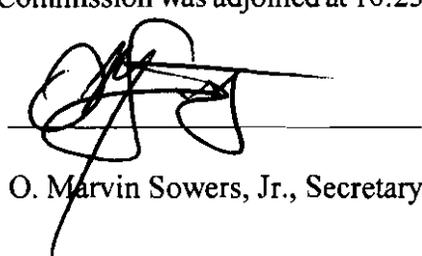
Mr. Sowers presented the report stating that a seminar, Legal Parameters Surrounding Planning, will be held on May 7<sup>th</sup> in Charlottesville. He asked Commissioners to contact him if they are interested in attending.

Mr. Billups said it is an excellent seminar and recommended everyone attend at some point.

8. ADJOURNMENT

There being no further business the Planning Commission was adjourned at 10:25 p.m.

  
James Kennedy, Chairman

  
O. Marvin Sowers, Jr., Secretary