

A REGULAR MEETING OF THE PLANNING COMMISSION OF THE COUNTY OF JAMES CITY, VIRGINIA, WAS HELD ON THE FIFTH DAY OF AUGUST, TWO-THOUSAND AND NINE, 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:

Deborah Kratter
George Billups
Joe Poole III
Reese Peck
Rich Krapf
Chris Henderson
Jack Fraley

Staff Present:

Allen Murphy, Director of Planning/Assistant
Development Manager
Angela King, Assistant County Attorney
Chris Johnson, Principal Planner
Melissa Brown, Zoning Administrator
Luke Vinciguerra, Planner
Terry Costello, Development Management Asst.

2. PUBLIC COMMENTS

Mr. Rich Krapf opened the public comment period.

There being no speakers, Mr. Krapf closed the public comment period.

3. MINUTES – JULY 1, 2009

Ms. Angela King had one correction to the minutes on page 7. The minutes stated that “it was defined in the County Code,” when it should have read “it was not defined in the County Code.”

Ms. Deborah Kratter moved for approval of the minutes with a second from Mr. George Billups.

In a unanimous voice vote, the minutes were approved (7-0).

4. COMMITTEE AND COMMISSION REPORTS

A. Development Review Committee (DRC)

Mr. Krapf gave the report for the DRC as Mr. Joe Poole was on vacation. He stated the DRC met on July 29, 2009 to review one case, SP-0060-2009, Pleasant Hill Station Carwash. The applicant proposed a modification to the roof color to a previously approved DRC case. There were no other changes proposed. Mr. Krapf stated the DRC approved the change with a 3-0 vote.

Mr. Chris Henderson moved for approval of the DRC actions with a second from Mr. Reese Peck.

In a unanimous voice vote, the DRC actions were approved (7-0).

B. Policy Committee

Mr. Henderson stated that the Policy Committee did not meet in July.

C. Other Reports

There were no other reports.

5. PUBLIC HEARINGS

A. SUP-0011-2009 7708 / 7710 Cedar Drive

Mr. Allen Murphy stated staff's concurrence with the applicant's request for a deferral to the March 2010 Planning Commission meeting.

Mr. Krapf continued the public hearing to March 2010.

B. Z-0002-2009 / MP-0002-2009 Governor's Grove Section III – Proffer and Master Plan Amendment

Mr. Murphy stated staff's concurrence with the applicant's request for a deferral to the September 9, 2009 Planning Commission meeting.

Mr. Krapf continued the public hearing to September 9, 2009.

Mr. Poole asked any Commissioners who were present at a community meeting concerning this case to send out issues or concerns that may have been addressed at that meeting.

C. SUP-0012-2009 – 101 Birch Circle

Mr. Luke Vinciguerra stated that Mr. Norman David has applied for a special use permit to allow for the renovation of his home's attic into an accessory apartment to be occupied by his daughter. The property is zoned R-6, Low Density Residential and is designated Rural Lands on the Land Use Map. He stated the proposed accessory apartment would add an additional 1,368 square feet of livable space to the existing 2,550 square foot home. He stated the requirements for an accessory apartment have been met; however, staff recommends denial of this application. Mr. Vinciguerra stated the reasons were the size of the apartment and the incapability with the R-6 district and Rural Lands designation. He said that the Zoning Ordinance states that the Commission and Board of Supervisors shall give "due regard" to the nature of adjacent uses and the probable effect of the proposed expansion on them. He stated that the plans call for a two-bedroom, two-bathroom apartment with a separate driveway and entrance, which staff finds more like a duplex than an accessory apartment. Mr. Vinciguerra stated that by adding four additional square feet, it would be considered a duplex which is not permitted in this residential

district. He stated that it is staff's opinion that a more appropriate design would encourage regular interaction between occupants of the principle dwelling and the accessory apartment. He stated that this proposal would increase the neighborhood's density and could set a precedent for similar size accessory apartments. Mr. Vinciguerra stated it was staff's opinion that approval of this application could begin to erode the low density nature of the neighborhood. He stated the owner has received a building permit for the additional living space in the attic and this is permissible by-right as the plan did not include a kitchen. A kitchen is the deciding factor whether this is considered additional living space or an accessory apartment. Mr. Vinciguerra stated that the applications for the building permit and the special use permit were submitted on the same day. During staff's site visit, it was observed that a considerable amount of work had been completed, such as framing, plumbing, and HVAC installation. The additional driveway and separate entrance was already built. Staff does not feel the County should be obligated to offer any concessions regarding the work already completed. Mr. Vinciguerra stated that should the Commission approve this application, staff has suggested several conditions listed in the staff report.

Ms. Kratter asked if this was the only two-story dwelling in the subdivision.

Mr. Vinciguerra answered that he did not know.

Ms. Kratter asked if the accessory apartment retains the same footprint as the original dwelling.

Mr. Vinciguerra answered that the conversion of the attic will not alter the footprint of the existing dwelling.

Mr. Krapf clarified that the only exterior changes were the deck, the dormer, and the exterior doorway.

Mr. Fraley asked if the square footage that was listed for the accessory apartment included the deck.

Mr. Vinciguerra answered that it did not. Decks are not included as livable square footage.

Mr. Krapf clarified the sequence of events. He stated the applicant applied for a building permit and a special use permit on June 1, 2009. Subsequently, staff made a site visit and noted that the framing was nearing completion and plumbing and HVAC had been installed. The building permit was issued on July 13, 2009. Mr. Krapf asked if there were any discussions with Code Compliance or any other agencies regarding the fact that accessory apartments are a specially permitted use in this zoning district and the process to obtain a special use permit.

Mr. Vinciguerra stated that before the applications were received, the applicant contacted a zoning officer who informed them that a special use permit would be needed if a kitchen was proposed.

Mr. Krapf clarified that the plan that was submitted for the building permit did not have a kitchen; it just contained additional living space.

Mr. Henderson asked if there was a general contractor involved in the project.

Mr. Vinciguerra answered that Mr. Paul White was the builder.

Mr. Henderson asked for clarification if the work had begun before the building permit was issued.

Mr. Vinciguerra answered that the site visit showed that a substantial amount of work had been completed prior to the issuance of a building permit.

Mr. Henderson asked if the builder has done work in the County before and should have been familiar with the County's building permit procedures.

Mr. Krapf stated that Mr. White requested to speak during the public comment period.

Mr. Billups asked if this were to be a multi-family unit.

Mr. Vinciguerra stated that this is not for a duplex but the plan is for an accessory apartment. The plan is that the apartment will be occupied by the applicant's daughter.

Mr. Krapf opened the public hearing.

Ms. Cathy David, owner of the property in question, spoke concerning the application. She stated the purpose of the application was to have her daughter move in during a time when she was facing some life changing circumstances. Another reason for this application was the ability of Ms. David and her husband to age in place. The apartment would allow for a caretaker and/or caregiver to live on the premises if necessary. Ms. David stated they are making every effort not to have to leave their home in the future and wanted to provide work for contractors and subcontractors during a slow economy. She checked with the covenants and restrictions for their subdivision and could not find any. Ms. David stated they obtained all of the necessary permits including the one for the driveway. She stated that there are accessory apartments in every subdivision in the County. They considered this living arrangement a result of the current economic conditions where adult children have to live with their parents and/or grandparents.

Mr. Norman David stated that there were three numbers that were mentioned for the square footage of the home. One figure was taken from the original drawing which states the residence is 2,659 square feet, County records state the house is over 3,000 square feet, and another record shows 2,550 square feet. He was unsure which record to use. Mr. David stated that they met all of the setback requirements. He did overlook the VDOT permit requirement for the driveway, but that situation has been rectified. He did not agree that his home, with the addition of an accessory apartment should be compared to a duplex. Mr. David showed pictures of the residence. He also stated that he has signed letters from his neighbors stating they have no objections to the apartment. He did not feel that this apartment would affect the character of the

subdivision. Mr. David stated they have been residents there for 18 years and have no future plans of moving. He stated that he has written a four page letter in response to the letter he received from the County concerning the special use permit.

Mr. White, builder for the project, stated that he felt this would not set a precedent since the last accessory apartment approved in this subdivision was in 1989. There is a permit to put bathrooms, a living area, bedrooms, and a fireplace in the apartment. He felt it was unreasonable not to allow a stove when a full size refrigerator, wet bar, and cabinets were allowed.

Mr. Poole asked the applicant if they would be agreeable to having a condition that allows for the occupant of the apartment to be limited to a blood relative or single caregiver.

Ms. Norman stated that such a condition would negate the fact that aging in place was important to them. She stated that this condition would hurt them financially. It was not the intention to have a caregiver/caretaker when the initial building started. It was after the discovery of how much this would cost that the idea of aging in place came to be. Ms. Norman stated that any further restrictions imposed on them would have to be discussed before agreeing to them.

Mr. Billups asked if there was an ordinance governing the number of overnight workers that would be allowed to stay in a home.

Ms. King stated that she was not aware of any.

Ms. Kratter asked the applicants how many individuals would be occupying the apartment initially.

Ms. Norman answered that initially it would be just her daughter. On occasion there may be a family member staying there who may be visiting the area.

Ms. Kratter asked the applicants if they would be comfortable with the restriction that would prohibit the apartment from being rented for profit.

Ms. David stated she did not believe that this was a restriction in the covenants. She stated it would be nice if the investment paid off at some point. She stated their initial intention was not to have it as a rental, but with the idea of aging in place it may become one at some point. Ms. David stated that this restriction may be a problem.

Mr. Krapf asked why the kitchen area was crossed out when the original plan was submitted for a building permit. He then asked why did the work begin and progress as it did before a building permit was issued.

Mr. David answered that the work began before the permit was issued so that Mr. White's workers could begin the work, which was needed due to the slowdown in the economy. Once the permit was applied for, the kitchen was crossed out on the plans due to the fact that they were told at that time that a special use permit would be required. He stated that they did

not realize a special use permit was needed until they applied for a building permit. Mr. David stated the first permit that was received was for the deck and dormer. He stated that people were available to begin work on the apartment so construction began for that. He stated that they applied for a building permit a few weeks later.

Mr. Peck asked Mr. White if the cabinets, refrigerator, and additional space could still be utilized if the stove was not allowed. He asked if the only thing that would not be allowed is the electrical hookup for a stove.

Mr. White answered that a full size refrigerator and a wet bar with cabinets would be allowed. The only thing that would not be allowed would be a 220 hookup for a stove.

Mr. Peck asked if a microwave oven would be allowed.

Mr. White answered that he believed that it would be.

Ms. Melissa Brown stated that normally when accessory apartments are not allowed, a wet bar with a small sink and small cabinets have been allowed. A full size refrigerator and stove would not be allowed as that would be associated with a kitchen.

Mr. Peck asked if there were any specific restrictions as to the size.

Ms. Brown stated that there are no specific restrictions but that it was handled on a case-by-case basis.

Mr. Peck asked if a full size refrigerator would be allowed.

Ms. Brown answered that in the past these have not been allowed.

Mr. White stated that he felt there was nothing illegal about having a full size refrigerator. He felt that the cabinets did not necessarily designate a kitchen. He felt that the issue was concerning the stove. He also stated that some wet bars come with small refrigerators.

Mr. Billups asked if there was any restriction against a gas stove.

Ms. Brown answered that all stoves are treated the same way. It does depend on the overall design of the facility, which is why she stated it is determined on a case-by-case basis.

Mr. Billups asked if denying this application would impose a hardship on the family.

Mr. Murphy answered that the Zoning Administrator is lawfully required to make a decision as to whether or not a given structure is designed and intended to be used as a dwelling. She must use her discretion absent any specificity in the County's regulations in order to make that determination. Mr. Murphy stated it does depend on the circumstances, and the design and layout of the structure.

Mr. Billups thought there may be a way to creatively design the apartment with the gas line that will be installed.

Mr. Krapf believes that another issue is that all the hookups and set up can be installed for a kitchen set, and once the certificate of occupancy is issued, a kitchen could be established. A kitchen space is what separates additional living space from an additional dwelling unit.

Mr. Peck asked if permits were needed to install cabinets or counter tops.

Ms. Brown stated no. She stated these would be looked at by Zoning when an application was made for a building permit. She stated that plumbing and electrical work would need permits.

Mr. Henderson stated he felt the issue was the separate entrance in that it appears to be a separate dwelling unit. He asked whether it would still require a special use permit if there was a shared entrance and it appeared to be one unit.

Ms. Brown stated that as long as it is designed to include a kitchen unit, it would still be considered as an accessory apartment.

Mr. Henderson asked if the Commission would be subject to suit if the application was denied.

Ms. King answered that the Commission would not necessarily be subject to suit, it just may be difficult to defend your actions in the future based on specific applications that come before the Commission.

Mr. Murphy stated that consistency would be important in order to avoid being arbitrary and capricious.

Mr. Fraley asked Mr. White if he was familiar with the permitting process in the County.

Mr. White stated he was aware of the regulations.

Mr. Fraley asked why the work began before the permits were obtained.

Mr. White answered that permits had been obtained for the deck, stairs, and dormer.

Mr. Fraley asked staff to clarify the sequence of events leading up to the building permit being obtained.

Mr. Vinciguerra answered that staff conducted a site visit after receiving the special use permit application in order to determine whether the amount of livable area exceeded ordinance requirements for accessory apartments. At the time of the site visit, staff observed that much of the work had already been completed.

Mr. David stated that while it may appear that much of the HVAC work was completed prior to issuance of a building permit, many ducts and pipes were moved in preparation for the additional work to begin. He stated the plumbing is not completely installed. Some work has been done to run it upstairs and down through the closets, but it was not connected to the downstairs plumbing at the time of staff's visit.

Ms. David stated that the subcontractors informed them that they did work in the beginning that was allowed without a building permit. She felt that they did everything the way that it should be done. They obtained permits at the time the subcontractors informed them that permits were needed to continue. The work has since stopped until all of this is resolved.

Mr. Fraley asked if the oven was still planned for the apartment.

Ms. David answered they would like to have a stove in the apartment.

Ms. Kratter clarified that the building permit has been issued and everything that was submitted to add the additional living space is approved except for the oven / stove, which is requires a special use permit.

Ms. David stated that was correct.

Mr. Vinciguerra stated that a building permit has been issued for everything except the kitchen area. Should this application be denied, a kitchen would not be allowed and the space would need to be used for another purpose.

Mr. Chris Johnson stated this application deals with more than just the issuance of a permit for a stove and a refrigerator. A secondary driveway has already been installed. An exterior staircase and entrance has already been constructed facing the main entrance road within the subdivision. The driveway and entrance contribute to the appearance of a second dwelling unit on the property. He stated that if the special use permit is denied, they can still have the additional living space. The additional living space could not include a kitchen.

Mr. Peck asked if the applicants would be required to remove the separate entrance way.

Mr. Johnson answered that the separate entrance was properly permitted and could remain. Staff would have preferred that entrance be located on the opposite side of the structure to make it less visible from the main entrance road.

Mr. Peck asked what the physical additions to the structure would be if the application was denied.

Mr. Johnson answered that the applicant would have to show what would be located in the area where the kitchen was proposed. The rest of the addition shown on the plan could be constructed.

Ms. Kratter asked if the County imposes any kind of penalty for work that begins before

getting a building permit.

Ms. King answered that there are code violations for work that has been done without a permit. She stated that typically the builder is contacted and steps are taken to get the appropriate permits before proceeding with any other action. In this case, the permit is now in place, so typically the requirement is satisfied.

Mr. Johnson stated that Code Compliance can issue a notice of violation letter and the County Code allows for a doubling of the permit fee.

Ms. David displayed a picture of the residence from the front of the property. It showed where the main driveway was on the right side of the residence. The separate stair entrance is on the left side. She stated it would be efficient to have the stair entrance on the same side as the driveway. Due to the design of the additional living space, a door would not fit there. There are trees that shield any full view of the staircase from the neighbor's view across the street.

Mr. David stated that they did look at putting the entrance at the back end of the home. This was not feasible because there is a swimming pool in the back yard. There was no choice of where to put the stair entrance except where it is currently located.

Mr. Fraley stated he could sympathize with the applicants. He stated that he felt the design made the apartment appear to be a separate residence. He believed that the point staff made was that the design in its entirety has the appearance of a separate residence. Mr. Fraley asked if there were any regulations or policies about renting accessory apartments to third parties.

Ms. Brown answered that there are no ordinance requirements or policies that relate to leasing to third parties. This could only be addressed where conditions are applied, such as through a special use permit.

Mr. Fraley asked the applicants to comment on his interpretation of the plan that the additional living space appears to be a totally separate living unit.

Ms. David stated that when adult children live with parents, there has to be some independence. She felt that this was an important goal.

Mr. Krapf read the definition of an accessory apartment in the Zoning Ordinance. He asked for clarification with the wording that an accessory apartment is "clearly secondary to a single family dwelling."

Ms. Brown stated that there is no definition of secondary but that it is a judgment call. In this instance, there are additional requirements for accessory apartments including that the location be at the side or rear of the building and that the floor area not exceed 35% of the total square footage of the house. She stated that the proposal needs to be looked at as a whole and not just to what is being added. She stated staff made the determination that the requirements for an accessory apartment were met; however, the Zoning Ordinance states that the Planning

Commission and the Board of Supervisors may provide due regard for additional considerations such as the Comprehensive Plan, the surrounding uses, and conditions over and above the minimum requirements.

Mr. Fraley asked whether the minimum requirements would be met if a stove was included in the plan with an approved special use permit.

Ms. Brown stated yes it would.

Mr. Henderson questioned the amount of livable space in the addition, which was calculated at 1,368 square feet, with the home already being 2,659 square feet.

Ms. Brown stated that when floor area is calculated on a second story addition, it excludes areas below the eaves, stairwells, and HVAC areas. When these areas are excluded, the addition is just under the 35% maximum allowed. The square footage that was used in the calculation was the one that was on the original building permit.

Mr. Henderson asked how many unrelated individuals can occupy a dwelling unit.

Ms. Brown stated that with the definition of a family, no more than three unrelated individuals could occupy a single dwelling unit.

Mr. Henderson stated that potentially with a special use permit, there could be six unrelated individuals living on the premises.

Ms. Brown answered yes, with the approved special use permit. Otherwise it would be limited to three.

Mr. William Kniss, 203 Elmwood Avenue, stated that he received notification as an adjacent property owner after the work had started.

Mr. Krapf stated that these notifications are mailed out after the application has been received by the Planning Division.

Mr. Kniss stated that this subdivision was not set up to have two-family dwellings on one piece of land. This will bring in more traffic and cause more water to be used. He also felt that the entire neighborhood should have been notified, not just the properties adjacent to the applicant. If this application is approved, he felt that many more owners in the subdivision will do the same. He believed that this addition was for the applicant's daughter, but he was not aware of the separate entrance. Mr. Kniss did not want to see this addition as a paid rental unit or see other apartments in his neighborhood.

Mr. David stated that the zoning of the subdivision does not prohibit an accessory apartment, but there are certain criteria that have been established.

Mr. Raymond Dillis, 201 Elmwood Avenue, did not object to the applicant's daughter

living in the addition. He would not like to see this living unit used as a rental.

There being no further comments, Mr. Krapf closed the public hearing.

Ms. Kratter stated that the accessory apartment as proposed does meet Ordinance requirements. She does not believe there would be an influx of accessory apartments proposed given that the last one was approved twenty years ago. She stated that one of the goals of the Comprehensive Plan is to have more affordable housing units and she feels that the addition of an accessory apartment works towards that goal. Ms. Kratter felt that most people who convert their attic to living space do so with the intent of family members living there. She stated she could support this application.

Mr. Poole stated he was appreciative of the applicant's situation and was mindful of the neighbor's concerns. He understood the applicant's desire to age in place and was mindful of the fact of adult children needing to have an independent living space apart from the parents. He stated he would be comfortable recommending approval of this application with the condition that the apartment be occupied by a blood- or marriage-related family member, being one person, or a single care giver. Mr. Poole stated that when there is a turnover in occupants, such as a tenant situation, he was uncomfortable in approving this application. He does not feel that the structure as proposed resembles a multi-family dwelling.

Ms. King cautioned against placing such restrictions on the special use permit application. There would be issues of enforceability and, as staff has mentioned, violations would be handled on a complaint basis.

Mr. Murphy stated that Mr. Poole's suggestion of a condition was not part of the application. After conferring with staff and the County Attorney's office, there would be problems with enforcing such restrictions.

Mr. Fraley stated that the Ordinance states that as long as the accessory apartment is rented, the owners must occupy the remainder of the dwelling.

Mr. Peck stated that he raised this issue during one of the Planning Commission work sessions. It has been shown that the idea of aging in place has raised issues concerning accessory apartments. He mentioned an article in *Smart Money Magazine* that specifically stated that localities will have to address these issues in their ordinances. Mr. Peck feels uncomfortable approving applications on an ad hoc basis, particularly because he feels that this issue will increasingly need to be addressed. He stated he was inclined to support staff's recommendation until uniform policies are developed in this area.

Mr. Billups stated that the original intent of the applicant to have a separate unit for their daughter is an ongoing condition that faces many people today. He felt that the idea of setting a precedent should not be a reason to deny this application. There is no way to know if there would be an influx of applications for accessory apartments, or to know whether a unit would be a rental in the future. Mr. Billups stated he would support this application.

Mr. Henderson stated that this issue is more complex than originally envisioned and felt that it has some serious policy implications. He agreed with Mr. Peck that this issue warrants further discussion and possibly some guidelines that could be followed in the future. The big concern for him was not so much the family status, but what could potentially occur in the future (for example, the unit becoming a rental). Mr. Henderson stated he would support staff's recommendation.

Mr. Fraley agreed that the application met the minimum requirements of the ordinance with regards to accessory apartments. He had concerns with this application fitting in with the low density residential zoning. He was unsure if it was compatible with the definition of Rural Lands. He would have preferred to see a smaller scale apartment with a shared driveway, and also with a capability of inhabitants of both units being able to interact. Mr. Fraley felt that it was designed to be two separate units with the capability of being rented. He understands that it is not the intention of the applicant to have a rental unit, but it is designed that way. He was concerned of the impacts to the neighborhood if this unit was rented out in the future. Mr. Fraley stated that he will reluctantly support staff's recommendation.

Mr. Krapf felt that this was not a clear cut issue. He thought it was important to note that this zoning district, R-6, was only one of two zoning districts where a special use permit is required for accessory apartments. He read the intent of the R-6 zoning district, which is to stabilize and protect the existing low density residential character from encroachment by non-residential or high density uses. Mr. Krapf stated that the apartment proposed is not secondary in use, as is stated in the definition of an accessory apartment. He felt that this was not consistent with the intent of the zoning district. He felt that without the special use permit, the applicants could still provide additional living space for their daughter. Mr. Krapf also stated that the size of accessory apartments that have been approved in the County previously have been significantly smaller than the one proposed. He would support staff's recommendation for denial.

Mr. Fraley moved to support staff's recommendation for denial.

Mr. Peck seconded the motion.

In a roll call vote the motion was approved 5-2. (AYE: Poole, Fraley, Henderson, Peck, Krapf; NAY: Billups, Kratter.)

Mr. Billups wanted it stated for the record that the original issue for this application was the stove.

7. PLANNING DIRECTORS REPORT

Mr. Murphy had no additional comments.

Mr. Henderson asked if there was any follow up or comment from the Board of Supervisors concerning the Policy Committee's recommendation for the Capital Improvements Program (CIP) review.

Mr. Murphy answered that he would like to consider their silence in an optimistic fashion. There will be the opportunity to get their input during the next review process.

8. COMMISSION DISCUSSIONS AND REPORTS

Mr. Krapf stated the Commission's representative to the Board of Supervisors for August was Mr. Poole. He then noted that the Planning Commission will be having a work session to discuss the Comprehensive Plan on Thursday, August 6, 2009 beginning at 6:30 p.m.

Mr. Fraley asked if there would be public comment periods at this meeting.

Mr. Krapf stated that there would not be, but that there will be a public comment period when the vote is taken by the Commission to present the Comprehensive Plan to the Board of Supervisors. He felt that there were ample public comment periods during the process of gathering information over the last several months. He also felt that the work sessions scheduled already have compact agendas. Mr. Krapf stated that the public is always welcome to submit written comments.

Mr. Henderson stated that in response to staff's request, he has submitted a topic for discussion at tomorrow's work session concerning the Jamestown Road corridor. He felt that in light of recent applications that there needs to be a reconsideration of looking at the corridor more thoroughly.

Mr. Krapf stated that if time constraints do not allow it to be discussed, then it will be discussed at some future work session, but it will be addressed at some point.

Mr. Billups asked about the changes suggested in the wording of some of the action items so as to reduce the amount of discretion used by staff in making recommendations.

Mr. Krapf stated that there are plans to initiate review of the Zoning Ordinance once the Comprehensive Plan is approved. This most likely will be a comprehensive review that could take a year or two to complete.

Mr. Murphy stated that this is correct and this review would include an examination of the language and a re-examination of where discretionary language is and is not appropriate.

Mr. Peck agreed that more specific rules would benefit the Commission as far as making decisions, or at least outline the considerations that may be used in making professional judgments. It would be helpful if the Commission has some additional guidance when making these decisions. He did ask staff whether a schedule would be proposed for the next five years in reviewing the Zoning Ordinance.

Mr. Murphy answered that the goal is to do a comprehensive review of the Zoning Ordinance and Subdivision Ordinance once the Comprehensive Plan is approved.

Mr. Peck asked if there was going to be a specific timeline.

Mr. Murphy stated there will be a timeline and a methodology.

Mr. Henderson mentioned a case that the DRC reviewed several times concerning a change in roof color. He understood that the DRC was to review this because the applicant did not agree with the decision by the Planning Director. He questioned whether more diligence should be taken when these cases are referred to the DRC so that a plan is not reviewed multiple times by that Committee. Mr. Henderson felt that it was an unnecessary delay due to a color change.

Mr. Krapf said that the proffer stated that when elevations and other drawings are submitted, that the decision could be appealed to the DRC if the applicant does not agree with the Planning Director's decision. He felt that it was due diligence on the part of the applicant to have that proffer in the original application.

Mr. Murphy stated that the DRC made their decision based on a proposal that was brought before the Committee. So if facts changed that were pertinent to the DRC's decision, the case should be reviewed again by the DRC.

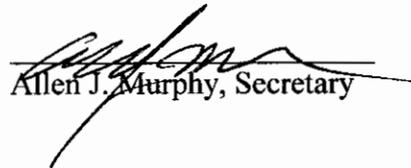
Mr. Poole stated that before last week, the elevations were reviewed at the same time as the CVS at Norge case. There was an extensive discussion on the exterior color palette of the CVS building and the freestanding signage. The consensus was not to allow a change without any sample palette from the other applicant, although the Committee could sympathize with the applicant.

9. ADJOURNMENT

Mr. Henderson moved for adjournment, with a second from Mr. Fraley.

The meeting was adjourned at 8:45 p.m.


Rich Krapf, Chairman


Allen J. Murphy, Secretary