



## MEMORANDUM

**Date:** July 2, 2015  
**To:** Records Management  
**From:** The Planning Commission  
**Subject:** Planning Commission Minutes: 07/02/1997

---

The following minutes for the Planning Commission of James City County dated 07/02/1997 are missing an approval date and were either never voted on or never presented for approval in the year surrounding these meetings.

These minutes, to the best of my knowledge, are the official minutes for the 07/02/1997, Planning Commission meeting.

They were APPROVED by the current Planning Commission at the July 1, 2015 meeting.

Please accept these minutes as the official record for 07/02/1997.

Robin Bledsoe  
Chair

Paul Holt  
Secretary

A REGULAR MEETING OF THE PLANNING COMMISSION OF THE COUNTY OF JAMES CITY, VIRGINIA, WAS HELD ON THE SECOND DAY OF JULY, NINETEEN HUNDRED AND NINETY-SEVEN AT 7:00 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101C MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

1. ROLL CALL

Alexander Kuras  
Jay Everson  
John Hagee  
Willafay McKenna  
A. Joe Poole, III

ALSO PRESENT

Leo Rogers, Deputy County Attorney  
Allen Murphy, Zoning Administrator/Principal Planner  
Paul Holt, Planner

ABSENT

Martin Garrett  
Donald Hunt

2. MINUTES

Upon a motion by Willafay McKenna, seconded by Jay Everson, the minutes of the June 2, 1997 meeting were approved by unanimous voice vote.

3. DEVELOPMENT REVIEW COMMITTEE REPORT

In the absence of Martin Garrett, Alex Kuras presented the DRC report and recommended approval. Upon a motion by Willafay McKenna and seconded by Alex Kuras, the Development Review Committee Report was approved by unanimous voice vote.

4. CASE NO. SUP-17-97. J. R. CHISMAN DEVELOPMENT / ACCESSORY APARTMENT

Paul Holt presented the staff report for a special use permit to allow an accessory apartment within a residence to be constructed at 169 Wellington Circle in St. Georges' Hundred Subdivision. He stated this case was deferred pending a determination by the County Attorney's office on whether or not the accessory apartment conflicted with the covenants of the subdivision. He added the County Attorney determined that since "single-family dwelling" was not defined within the documents of the Association, it was not possible to say whether or not the accessory apartment was consistent. He also stated that this matter would need to be resolved in a court of law. Staff had several recommendations for the Commission. 1. The Commission defer this case until their August 4 meeting. If the case was deferred until August 4, the Commission would have to make a decision due to statutory time limitations. Should a court decision not be reached, staff recommended the Commission deny this case or 2. If the Commission wished to vote on this case tonight, staff recommended the addition of two new conditions stated in the staff report.

Alex Kuras asked if a court decision could be reached by the Commission's next meeting since the complaint would need to be filed by the homeowners.

Leo Rogers stated that it would take time to get a declaratory judgment action resolved on this matter.

John Hagee asked why the staff was recommending deferral at this time.

Paul Holt stated staff recommended deferral because their preferred choice would be that a decision be made in a court of law as to whether or not a single-family dwelling was consistent.

Alex Kuras felt staff should have recommended approval of this application and then the homeowners, if they wished, could take legal action to have it disallowed.

Willafay McKenna asked Leo Rogers to read the definition of a single-family dwelling from the James City County Code Book.

Leo Rogers stated that the definition in the code book did not satisfy that definition because of the inclusion of the second kitchen, but was permitted as a single-family dwelling with an accessory apartment.

Alex Kuras opened the public hearing.

Jimmy Chisman, developer of St. Georges' Hundred, stated he had spoken to the property owners, Mr. and Mrs. Vegas. He said that Mrs. Vegas brother, Tom Trovato, was in attendance of this meeting. He said that they were in total agreement to have the new language added into their deed which when recorded would confine this residence to a "nuclear" family. He stated this was one more case of County staff having worked with him to make this a better subdivision. He again stated that he nor the homeowners wanted anything but a single-family subdivision. He requested that the Planning Commission approve this request, since he hoped to complete construction of this home within the next four to five weeks. He asked if the Commission had any questions.

John Hagee asked to see the architectural drawings.

Paul Holt stated that staff did not have plans of the exterior of the home but had a floor plan.

John Hagee asked if the developer had seen the elevations and if they met the architectural guidelines, maintaining the integrity of the building.

Jimmy Chisman stated that the only difference between this home and any other home built in the subdivision, was the wheelchair accessibility. He stated that running a wheelchair ramp, at 1" per 12' would extend into the yard, would not be conducive to the neighborhood, therefore, this home was built on a slab rather than have a crawl space.

Tom Trovato of 151 Wellington Circle stated his family members were moving into the home at 169 Wellington Circle. He stated it was not their intent to turn St. Georges' Hundred into an area that apartments could be attached onto homes. He felt the wording of an "accessory apartment" was not what they intended. He explained the circumstances of his parents handicap. He said one of the homeowners stated the accessory apartment would lower the value of the homes. He explained that the home being built was either one of the most or the most expensive in the area which he felt would not bring down, but rather bring up the value. He also stated that anyone moving into a neighborhood could bring the value of a property up or down whether there was an accessory apartment or not. He concluded that his family was in full agreement with the conditions staff added to the Special Use Permit. He asked that the Commission approve this application.

There being no other speakers, the public hearing was closed.

Willafay McKenna stated that as a community we had a sensitivity to promote this type of living arrangement for the elderly. She said she was satisfied with the proposed conditions and supported granting the Special Use Permit.

Joe Poole stated he did not see this as a precedence setting situation and felt the conditions were specific to this property and agreed with Willafay McKenna in supporting this application.

Alex Kuras felt this application would not decrease property values and should not be deferred any longer as recommended by staff. He supported the proposal as presented with the conditions. He also stated that if the Homeowners Association felt this was not an allowable use under their covenants they had the right to oppose this action under the court system.

Jay Everson asked for clarity on the additional requirements for the Special Use Permit pertaining to the covenants.

Leo Rogers stated that the covenants were very clear in that they limit the development to single-family dwellings. Whether this was a single-family dwelling under the covenants, was something that the County could not determine.

Jay Everson asked what would be done if a future homeowner rented out the accessory apartment inconsistent with the Special Use Permit.

Leo Roger stated that if a complaint were filed with the County, it would be investigated and the County would take action if they found any violations.

Willafay McKenna explained to several homeowners in the audience who had questions of concern for this application that the motion before them was for a single-family dwelling with an accommodation for the unusual circumstances of this family and not for a multiple-family dwelling or an apartment. Under the specific conditions of this application the Commission was considering granting a Special Use Permit that had conditions that would remain with the property.

John Hagee asked how the home appeared from the exterior.

Several homeowners in the audience stated that from the front of the home there was no difference but, as you came up the street, the side of the home appeared to have two distinct looking buildings.

John Hagee stated what typically was the spirit of covenants regarding single-family versus multi-family dwellings. He stated the architectural guidelines apparently reinforced the covenants as far as the home looking like a single-family dwelling on a single lot. He said that if the kitchen were taken out, then it would fit the definition of the County for a single-family dwelling. He concluded by stating staff had tightly controlled this special use permit adding that only the immediate family could use the accessory apartment.

Jay Everson asked one of the homeowners if he could support this application with the new conditions.

The homeowner responded that he felt the new conditions were restrictive enough to protect the neighborhood and could support this application.

By a roll call vote, motion passed. AYE: McKenna, Hagee, Everson, Poole, Kuras (5).

5. PLANNING DIRECTOR'S REPORT

Allen Murphy stated he had no additional information other than what was presented in the packet and asked if any Commission members had any comments or questions, he would forward them to Marvin Sowers.

Joe Poole commented on the communications towers. He said he was made aware that VDOT and PrimeCo had an arrangement to place towers at Exit 227 and 231 within the I-64 right-of-way interchange. He said, with all the procedures the County had undertaken with other jurisdictions, the process of developing an ordinance, he was concerned that VDOT felt compelled to proceed without any review or input from the County.

Leo Rogers stated that there had been a lot of work by staff on this. He stated that there had been no review by the County but there was a stop-work order placed on the project. Through this stop-work order, the County was able to get assurances from both VDOT and PrimeCo that the base conditions the County would request on a tower would be done on those two towers.

Joe Poole asked Leo Rogers if staff was now satisfied that some of the concerns the Commission might have had had been addressed.

Leo Rogers stated that there were six or seven assurances given the County, including paying the fees for our consultant, landscaping, multiple uses, County use of the tower and the assurance the tower would be taken down to the maximum height VDOT would require if it was no longer used for telecommunications purposes. A copy of the letters sent to both VDOT and PrimeCo would be given to the Commission members.


Joe Poole felt that even though there were negotiations, we ask anyone else to come through a normal review process and VDOT just proceeded to allow these towers to be placed within main entry ways into the County. He requested to make it a matter of record that the County was not involved in the towers' approval or placement.

Jay Everson stated that if the telecommunication companies are going to have regulatory issues that could take a lengthy amount of time, as they have experienced, or go to VDOT and have them placed within a matter of days, the County needs to take another approach that will help both the County and telecommunication companies.

6. ADJOURNMENT

There being no further business, the July 7, 1997 Planning Commission meeting adjourned at approximately 7:45 PM.

  
\_\_\_\_\_  
Alexander Kurvas, Chairman

  
\_\_\_\_\_  
O. Marvin Sowers, Secretary