



## MEMORANDUM

**Date:** July 2, 2015  
**To:** Records Management  
**From:** The Planning Commission  
**Subject:** Planning Commission Minutes: 06/07/1999

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The following minutes for the Planning Commission of James City County dated 06/07/1999 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 06/07/1999, 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 06/07/1999

Robin Bledsoe  
Chair

Paul Holt  
Secretary

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

1. ROLL CALL

Martin Garrett, Chair  
John Hagee  
Don Hunt  
Wilford Kale  
Alexander Kuras  
Willafay McKenna  
A. Joe Poole, III

ALSO PRESENT

O. Marvin Sowers, Planning Director  
Leo Rogers, Deputy County Attorney  
Andrew Herrick, Assistant County  
Tammy Rosario, Senior Planner  
Chris Johnson, Planner

2. MINUTES

Upon a motion by Willafay McKenna, seconded by Alex Kuras, the minutes of the May 3, 1999 meeting were approved by unanimous voice vote.

3. DEVELOPMENT REVIEW COMMITTEE

Alex Kuras presented the report for the special DRC meeting held on May 19 for the Lightfoot Antique Mall-Weekend Flea Market regarding the landscape plan and Williamsburg Farms which requested the addition of two lots on 9.3 acres. He also presented the report for the DRC meeting held prior to the Planning Commission meeting on June 7 stating the cases, Midlands Limited Business and Kingsmill River Bluffs, Phase 1, were routine. He recommended approval of all four cases. John Hagee declared a conflict of interest for case SP-52-99, Kingsmill River Bluffs, Phase 1, and would not cast a vote. Willafay McKenna seconded the motion. In a unanimous voice vote, motion passed.

4. CASE NO. SUP-8-99. POULSTON MOTORCYCLE CUSTOMIZATION SHOP.

Tammy Rosario represented the staff report stating that at the April 5 and May 3, 1999 meetings, the Planning Commission unanimously voted to defer this case to allow the staff and applicant to further discuss the conditions. She stated that staff and the applicant had met and agreed to all but one of the conditions. Staff continued to find the application inconsistent with the Comprehensive Plan and believed that it would set a negative precedent for other business uses along that portion of the Richmond Road corridor. Staff recommended that the Planning Commission deny this application.

John Hagee asked Tammy to elaborate on the severability aspect of condition #11.

Tammy Rosario deferred to Leo Rogers who stated that the severability clause was a statement of intent that this SUP was intended to be issued with all of the conditions that were in it. In the past when challenged, attorneys argued that the SUP could be severable. One way of preventing the argument from happening was to have the statement of intent in the conditions of the SUP being issued.

Alex Kuras asked Leo Rogers to expand on that statement because he felt that the way it was written he could understand why an applicant might object to it.

Leo Rogers stated this statement was there only if someone challenged one of the conditions. If the condition were challenged and the condition was deemed to be void and unenforceable, then the rest of the SUP would be deemed void and unenforceable. If there were conditions the Commission did not want to impose on the applicant, he suggested they delete them at this time. He stated the only

way that condition #11 would come into play was if there was a court action.

Alex Kuras stated he understood, but was unsure if all the applicants understood. He suggested that they actually indicate some authority in the statement that might make it clearer.

Martin Garrett opened the public hearing.

Walker Ware, representing Charles Poulston, stated the applicant was pleased with the conditions except for his objection to condition #11. He felt that Leo Rogers mislead the Commission and explained that if a law came about stating there needed to be only a 90' buffer, then the applicant would be in violation of the SUP and would have to return to the Commission. He felt that condition #11 should be deleted or rewritten to say: "Should any provision of this SUP be held to be illegal, invalid, or unenforceable that finding should have no other effect on any other provision of this SUP." He stated he and the applicant spoke with Mrs. Moore, the property owner across the road who was opposed to this SUP, and said she was happy with what the applicant was now proposing. He stated that there were already fifteen businesses operating between Anderson's Corner and Lenexa and concluded that this area was a corridor in which small business opportunities would become greater and greater and the County should realize this. He requested the Commission approve this application.

Wilford Kale recalled that the applicant said he would not be doing any type of engine work and asked staff why condition #10 still remained.

Marvin Sowers stated that if the condition was to be removed, the applicant would have no restrictions if he decided to work on engines in the future. He said it was left in to protect the surrounding neighbors.

Wilford Kale asked if there was a structure there now and, if not, shouldn't condition #2 read proposed structure rather than existing structure. He also asked if this was to be the applicant's home and only a 700 sq ft. area was to be used for his business, why was staff requiring that an addition to the rear of his home be approved by the Planning Director.

Tammy Rosario stated the proposal for the commercial aspect of the structure was less than 700 sq. ft. and staff was allowing for some expansion in the future. She stated the condition referring to additions or expansions was intended for an expansion of the commercial operation.

Wilford Kale suggested rephrasing the conditions to read: "later modifications or additions to the proposed structure involving the commercial area would require the Planning Director's approval." He did not feel that the residential portion of the home needed to be reviewed by the Planning Director.

Leo Rogers stated that if it were for solely residential purposes, that that would be sufficient. He suggested stating: "additions for solely residential purposes."

Wilford Kale agreed with the suggestion offered by Leo Rogers and asked if the other Commission members if they concurred.

Leo Rogers commented on a statement by Walker Ware stating this SUP was not a contract and that condition #11 indicated that it was a single piece of legislation.

Martin Garrett asked if the Commission understood the intent of conditions #11 as explained by Leo Rogers.

The Commission members were in agreement of this understanding.

Charles Poulston, the applicant, stated he agreed to all the conditions except for conditions #11 and said that, the way he read it, anything could be used to shut down his business. As far as the engine repair, he said he would not be doing any work in his shop and had no problem with condition #10.

Alex Kuras felt the sixteen-square foot sign was quite large. He suggested a four-square foot sign.

Charles Poulston stated that was the size suggested by the Commission and that staff allowed for a even larger sign.

Willafay McKenna commented on condition #11's invalidation clause. She stated that it would take an act of the court or agency or someone deciding that there was something invalid about the SUP. It was not the intention to be aimed specifically at the applicant and felt that it was consistent with Leo Rogers' comments.

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

Willafay McKenna made a motion, seconded by Wilford Kale, to recommend approval with the changes suggested by Wilford Kale.

Joe Poole stated that back in April he was opposed to this application and that an inordinate amount of time had been spent on this application. He stated he did not want to discount this application, but from a Comprehensive Plan standpoint he still opposed this application. He also was concerned about the precedent it would set since this was not a rehabilitation of an existing building but a new structure and parcel that was subdivided from a larger parcel.

Alex Kuras supported this application and felt it fell within the Comprehensive Plan because it would look like a private structure and the amount of traffic would not be any more than a typical active residential dwelling.

In a roll call vote, motion passed (5-2). AYE: McKenna, Hagee, Hunt, Kale, Kuras (5); NAY: Poole, Garrett (2).

5. CASE NO. Z-4-99. GREENSPRINGS PLANTATION PROFFER AMENDMENT.

Christopher Johnson presented the staff for an amendment to the existing Greensprings Plantation Proffer Agreement to provide for a single-family recreation center in Land Bay S-1 and delete the requirement that all single-family recreation areas be open to all single-family owners in Greensprings Plantation. Staff found that the rezoning request was consistent with the approved master plan for Greensprings Plantation, the surrounding zoning and development and the Comprehensive Plan. Staff recommended the Planning Commission approve this rezoning application and accept the voluntary proffers.

Martin Garrett opened the public hearing.

Vernon Geddy, representing the applicant, asked if the Commission had any questions.

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

Willafay McKenna made a motion, seconded by Joe Poole, to recommend approval. In a roll call vote, motion passed (7-0). AYE: McKenna, Hagee, Hunt, Kale, Poole, Kuras, Garrett (7); NAY: (0).

6. CASE NO. SUP-12-99. UNICORN COTTAGE.

Tammy Rosario presented the staff report stating that on March 10, 1997 the Board of Supervisors approved a special use permit for Sharon Dennis to operate a child day care center from an existing facility located on the grounds of the Williamsburg Unitarian Universalist Church which limited the number of children to 30. The applicant was proposing to amend the special use permit to allow for an additional 14 children in the existing facility and to allow for the expansion of the day care center to the church nursery which would allow room for 20 more children. Staff found the proposal to be consistent with the surrounding properties, uses, Comprehensive Plan, and with the previous actions taken by the Board of Supervisors. Staff recommended the Planning Commission approve this applications with the conditions as outlined in the staff report.

Joe Poole asked, if, as part of this application, there would be no requirement for a left turn lane.

Tammy Rosario stated that this proposal was marginal and VDOT did not require any improvement but gave staff notification that any future increase in traffic from this site by another expansion would most likely call for road improvements.

Joe Poole asked if there was any indication from the applicant that the increase would be forthcoming.

Tammy Rosario stated she had not gotten that indication from the applicant.

Martin Garrett opened the public hearing.

Dr. Randolph Becker, minister of the Unitarian Universalist Congregation, spoke in favor of staff's report and said he would answer any question the Commission might have.

Willafay McKenna asked for a point of clarification that Ms. Dennis was not the only one taking care of the children at this facility.

Dr. Becker stated that the child care center was a fully licensed, state certified operation, with multiple staff. Dr. Becker continued with answering the concern of Joe Poole regarding the left turn lane. He stated he understood that any other use of the property on a regular basis would probably mean a change in the alignment of the road. At this point there was a sidewalk planned but he did not know when that project would begin. At such time that there would be an expansion of the church, they would have to address all the issues regarding left turn lanes and additional entrances. He added that the congregation had no plans for any expansion.

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

Joe Poole made a motion, seconded by Willafay McKenna, to recommend approval of this application. In a roll call vote, motion passed (7-0). AYE: McKenna, Hagee, Hunt, Kale, Poole, Kuras, Garrett (7); NAY: (0).

7. PLANNING DIRECTOR'S REPORT.

Martin Garrett commented that he felt there should be some type of definition of what can and cannot be located in areas of the County where the Comprehensive Plan may not be consistent with the zoning. He did not feel that the Commission should wait until the next revision of the Comprehensive Plan and asked if the Policy Committee would come up with some type of guideline for these areas.

Marvin Sowers felt his suggestion was well taken. He stated that staff would be visiting the R-8 section of the zoning ordinance which was the main district where this type of issue occurred. He said it was the County's old rural residential district, previously an agricultural district, and it did have a wide range of residential and commercial uses. The other area where the staff saw this type of thing was the rural lands areas, outside the PSA. Staff was now working on a strategy and process for that area. He stated these were opportunities to match what the Comprehensive Plan stated with our ordinances or policies. He suggested that, instead of sending it to the Policy Committee at this time, they let the processes, the ZO update and the rural lands study deal with these issues.

Martin Garrett stated he did not disagree but felt the process regarding the rural areas would be at least a year before a recommendation would occur. He questioned whether the Commission wanted to wait a full year or longer.

Alex Kuras felt the Policy Committee might be able to come up with some type of interim criteria/guidelines.

Joe Poole felt that was Alex Kuras's suggestion was a good one and he supported it.

Don Hunt asked if they were specifically speaking of the area around Anderson's Corner.

Martin Garrett stated it would be for the entire County. He felt that staff was sticking strictly to the Comprehensive Plan, which he didn't necessarily disagree with, but felt it was obvious that some areas did not fit the Comprehensive Plan.

Martin Garrett suggested that the Policy Committee meet and see what they can come up with.

John Hagee asked if they would be looking at areas, referring to the Horvath SUP, to see what type of uses were acceptable in residential areas and what would be the criteria/threshold.

Willafay McKenna said that an approach focusing on the Comprehensive Plan should be the first process, then how to work out the different areas. She felt the Commission should not be looking for the Comprehensive Plan and zoning to be an exact match because they serve different purposes. She felt it would be a good challenge for the Policy Committee.

Alex Kuras made a brief comment regarding the Community Character Committee. He felt that 50 feet was a very small right-of-way for Community Character Corridors and asked if they could come up with a policy to increase that to 80 feet which could also include some buffer area.


Both Joe Poole and John Hagee, who serve on the Community Character Corridor Committee, felt the committee would not want to discuss this issue again.

Wilford Kale thanked staff for the letter that he asked to be sent to VDOT regarding the construction on Centerville Road. He also asked if Martin Garrett or Jack Edwards, Board Chair, responded to the letter received by Mr. Richardson regarding property on Olde Towne Road.

Martin Garrett stated he did not respond and was unsure if Jack Edwards responded.

There being no further business, the Planning Commission adjourned at approximately 8:05 pm.

  
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Martin A. Garrett, Chair

  
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O. Marvin Sowers, Jr., Secretary