

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

1. ROLL CALL

A. Joe Poole
George Billups
John Hagee
Don Hunt
Joe McCleary
Wilford Kale
Peggy Wildman

ALSO PRESENT

Leo Rogers, Deputy County Attorney
Marvin Sowers, Planning Director
Karen Drake, Senior Planner
Christopher Johnson, Senior Planner
David Anderson, Planner
Christy Parrish, Zoning Officer
Matthew Arcieri, Development Management Assistant
Trey Davis, Development Management Assistant
Cynthia Grom, Administrative Services Coordinator

2. MINUTES

The Commission approved the minutes of the September 9, 2002 meeting as is with a unanimous voice vote.

3. COMMITTEE AND COMMISSION REPORT

A. DEVELOPMENT REVIEW COMMITTEE (DRC)

Mr. John Hagee presented the DRC report stating there were a few cases that passed with no incident and a submission concerning Phase I, section 2 of Colonial Heritage, US Homes project. There were a few items they still had to do, so the case was deferred until next month.

In a unanimous voice vote the Commission approved the DRC report.

B. DEVELOPMENT POTENTIAL ANALYSIS (DPA) COMMITTEE

Mr. Joe McCleary introduced Mr. Jack Bagby from Kimley-Horn Associates who did the 2002 Development Potential Analysis.

Mr. Jack Bagby briefed the staff and audience with how the DPA Committee developed the methodology to quantify the residential development potential of JCC within the PSA. Their goal was to produce a methodology that could also be used for future analysis.

Mr. Joe Poole expressed that having this methodology would be very useful in the future. He questioned whether or not other counties use this methodology.

Mr. Jack Bagby answered since other counties have different ideas about analysis, they would probably have a different methodology. He stated this was a unique situation.

Mr. Joe McCleary commented that the public that has studied the results of this analysis seem pretty happy with the result, and in agreement with it.

Mr. Joe Poole thanked Mr. Bagby for his presentation and everyone involved.

Mr. Joe McCleary commented that the Citizen's Participation Team was active for the 2003 Comprehensive Plan, and requested staff to invite Mr. Jeff Bara, a member of the team to come and talk at the December PC meeting about the Community Conversations.

Mr. Joe Poole agreed. He noted when the meetings for the Community Conversations would be held in November. He also noted that follow-up meetings would occur in the spring.

4. PUBLIC HEARINGS

A. CASE NO. SUP-18-01 WALTRIP TOWER

Mr. Christopher Johnson presented the staff report stating the applicant had requested a deferral until the November 4th meeting due to relocation of the proposed tower and to conduct a balloon test for the new location. Staff concurred with this request.

Mr. Joe Poole opened the public hearing.

Mr. Joe McCleary asked if a balloon test had been scheduled.

Mr. Johnson responded that a date had not been set but would be advertised.

Hearing no further questions, Mr. Poole continued the public hearing until November 4, 2002.

B. CASE NO. ZO-2-02 ZONING ORDINANCE AMENDMENT – MANUFACTURED HOMES

Mrs. Christy Parrish presented the staff report in regards to replacing a non-conforming manufactured home to ensure the consistency between the James City County Zoning Ordinance and the Code of Virginia. The Virginia General Assembly amended Section 15.2-2307, Vested rights not impaired; nonconforming uses of the Code of Virginia. This amendment permits the replacement of a valid nonconforming manufactured home with a comparable one that meets HUD standards. Due to this State Code change, localities can no longer require legislative approvals of such homes. Currently the James City County Zoning Ordinance requires the issuance of a special use permit by the Board of Supervisors for the replacement of a nonconforming manufactured home. Staff recommends approval of this amendment.

Mr. Joe Poole opened up questions to the PC members.

Mr. Donald Hunt inquired if a 30-year old trailer can be moved to a new location.

Mrs. Christy Parrish responded that it would have to be replaced in its same location, and would not be allowed to be transported to another location.

Mr. Joe Poole opened up the public hearing. Seeing no speakers, he closed the public hearing.

Mr. John Hagee made a motion to approve.

Mr. Joe McCleary seconded.

Mr. Joe Poole noted the motion was to approve. In a roll call vote, motion passed (7-0). AYE: Wildman, McCleary, Hagee, Hunt, Kale, Billups, Poole (7); NAY: (0).

C. CASE NO. Z-05-01 FORD'S COLONY PROFFERS AMENDMENT

Mr. Christopher Johnson presented the staff report stating that the applicant applied to rezone property from R-4, Residential Planned Community, with proffers, to R-4, Residential Planned Community, with amended proffers, to allow access to the proposed Ford's Colony,

Section XII development from Country Club Drive. The existing proffers prohibit access from Ford's Colony onto Lexington Drive and Country Club Drive. Mr. Johnson stated that the amended proffers offered by the developer sufficiently address the issues and concerns identified by staff, VDOT, and Williamsburg West Civic Association and the proposed development is consistent with surrounding zoning and the Comprehensive Plan. Staff recommends that the Commission approve this rezoning application.

Mr. George Billups stated that he was concerned that about access issues involving Bazzle Apartments. He was concerned that Mr. Bazzle might still have objections to the plans.

Mr. Christopher Johnson replied that the changes to the medians adjacent to Bazzle Apartments are required by VDOT. He added that Mr. Bazzle was involved in all discussions between staff, the applicant, and VDOT and had voiced no objections to the plan.

Mr. Joe Poole opened the public hearing.

Mr. Vernon Geddy III, on behalf of Realtec, Inc, stated that this application has been under review for nearly a year but the final product has been worth the wait. He added that the proffers address the concerns expressed by adjacent property owners and the final plan was fair to all parties.

Ms. Anna Garrett of 106 Country Club Drive spoke on behalf of the Williamsburg West Civic Association. She stated that the Association agreed in principle to the proposed entrance location identified on the plan referenced in the proffers and was withdrawing their objections to the proposal. She added that the Association submitted a letter to staff identifying eight items of concern and asked that the record note that items 2, 3 and 8 were not addressed in the plan referenced in the proffers. She asked the DRC to ensure that the concerns raised in the letter be addressed.

Mr. Vernon Geddy III stated that the plans would be submitted to staff within the week and would address the concerns raised by the Association.

Mr. Wilford Kale asked for clarification of the proffer language referencing curbing consistency and location.

Mr. Vernon Geddy replied that the curbing referenced in the proffers would be of a consistent material throughout the entire length of the proposed roadway improvements and would extend from Williamsburg West Drive along Country Club Drive all the way to Lexington Drive.

Mr. Wilford Kale stated that he met with a group of residents in Williamsburg West to discuss their concerns. He was concerned that the integrity of the Williamsburg West subdivision be maintained and added that he was pleased that the current plans reflected the input of all interested parties. He expressed concern that the proposed entrance columns would not be uniform.

Mr. Drew Mulhare of Realtec, Inc. stated that he was aware of the issue and the columns would be shown on a landscape plan that would be submitted to staff. He added that he informed staff last week of the need to revise the column locations on the final site plan.

Mr. Wilford Kale stated that he was concerned because the plan referenced in the proffers needs to be revised to address the column issue.

Mr. Christopher Johnson stated that the plan referenced in the proffer did not need to be revised and assured Mr. Kale that the column issue would be resolved during the DRC review.

Mr. Wilford Kale stated that the old right-of-way for Longhill Road is another alternative to the entrance proposed on Country Club Drive and asked why this alternative had not been pursued.

Mr. Christopher Johnson stated that the applicant investigated a number of alternative access locations to Section XII including the old Longhill Road right-of-way. He added that the right-of-way is located on the Crossroads property and would not have been able to meet VDOT requirements.

Mr. Leo Rogers added that the old Longhill Road right-of-way meanders between the Crossroads property and the church property and would need significant work to upgrade it to VDOT standards.

Mr. Wilford Kale stated that he was voicing his concerns so that the DRC would be aware of the issues he discussed with residents in Williamsburg West.

Mr. Joe McCleary stated that the DRC would address Mr. Kale's concerns during their review of the final plans.

Mr. Joe Poole asked staff for the date and location of the DRC meeting.

Mr. Marvin Sowers stated that the next DRC meeting would be on Wednesday, October 30, at 4:00 pm. in the Building E Conference Room. He added that the residents would be notified of the DRC meeting.

Mr. Wilford Kale made a motion to approve this case.

Mr. George Billups asked if the owner of Bazzle Apartments approved the changes to the entrances to his property required by this proposal.

Mr. Ernie Bazzle stated that he was aware of the proposed median changes and supported this proposal.

Mr. Joe Poole stated that a motion to approve this application was on the floor.

Mr. John Hagee seconded the motion.

Mr. Joe Poole commended staff, the applicant, and the adjacent property owners for their hard work in resolving their differences and finding a positive solution that all parties could support.

Ms. Peggy Wildman seconded Mr. Poole's statement.

Mr. Joe Poole asked for a roll call in support of Mr. Kale's motion to approve this application. In a roll call vote, motion passed (7-0). AYE: Wildman, McCleary, Hagee, Hunt, Kale, Billups, Poole (7); NAY: (0).

D. CASE NO. SUP-17-02 GATEHOUSE FARMS ACCESSORY APARTMENT

Mr. David Anderson presented the staff report. Mr. Vance Elkins has applied for a special use permit to allow an accessory apartment in an R-1, Limited Residential District. The accessory apartment would be located within an existing single-family structure at 112 Smokehouse Lane in the Gatehouse Farms subdivision. The property is further identified as parcel (7-40) on James City County Real Estate Tax Map No. (47-3). Staff finds the proposal compatible with the surrounding residential properties, since it will maintain the appearance of a single-family residence and will retain the residential character of the area. Staff also finds the

proposal consistent with the Comprehensive Plan since the Comprehensive Plan encourages accessory apartments. Therefore, staff recommends the Planning Commission approve the special use permit with the attached conditions. Two additional letters not included in the original PC packet were handed out by Mr. Anderson and are from concerned residents within the Gatehouse Farms subdivision.

Mr. Joe Poole opened up the questioning from PC members.

Mr. Joe McCleary wanted to make it known for the public's knowledge as to how long the special use permit would be active. It goes with the land, not with the applicant and is in effect forever. The restriction that the apartment rental be limited to one person is unenforceable, unless the neighbors make the effort to make sure this is the case.

Mr. David Anderson responded that these statements are correct and added that the restriction was added in case a problem occurred, since it would give the neighbors a way to report a violation.

Mr. Joe McCleary asked whether or not if the applicant wanted to sell the house after having the accessory apartment installed, if the person who buys it would be able to rent out both sides of the house.

Mr. Leo Rogers affirmed that this could legally occur. He suggested that the SUP can have a condition added to make a portion of the residence restricted to owner occupancy.

Mr. Joe McCleary expressed his concern that if a family moved in to the house, it would become much more densely populated than it currently is.

Mr. George Billups asked if there was a full bathroom in the accessory apartment.

Mr. David Anderson stated it was a fully self contained.

Mr. Joe Poole inquired as to how many specially permitted accessory apartments there are in James City County, and where they are.

Mr. David Anderson stated that the last SUP granted was in 1998, and there are not that many of them. In some circumstances, accessory apartments are a regularly permitted use, so they don't come up that often.

Mr. Joe McCleary stated in some of the newer neighborhoods, the developer puts in conditions so that accessory apartments cannot be permitted.

Mr. Joe Poole opened the public hearing.

Mr. Vance Elkins, the applicant, stated that he lives on a restricted income, so the apartment become a way of supplementing his income, and he didn't even plan on making an accessory apartment until a friend, in need of an assisted living facility was unable to find one in James City County. Since he is single, and doesn't use the rooms that would be converted into the apartment, he felt it would be a nice thing to do for someone in need.

Ms. Sue Millards, resident across the street of 112 Smokehouse Lane, expressed her concern that others in the neighborhood will also want to put in accessory apartments. She also wondered why other residents in the subdivision did not receive the APO letter.

Mr. David Anderson explained that the letter is sent only to adjacent property owners, and not everyone in the subdivision would get one, and actually a few extra ones were sent out to residents who weren't required to receive one.

Mr. Marvin Sowers asked Ms. Millards to call the Planning Division with the names and addresses of the residents who didn't receive a letter.

Ms. Sharon Reed of 124 Smokehouse Lane, expressed her concern that the entire neighborhood will be effected, not just the adjacent property owners. She is concerned about the extra traffic, extra noise and carelessness of the renter, in regards to taking care of the property. She wanted clarification on whether or not this would allow anyone in the neighborhood to build an accessory apartment.

Ms. Peggy Wildman clarified that this would not automatically allow anyone in the neighborhood to have an accessory apartment. They would have to apply for a special use permit just like Mr. Elkins did and be granted approval.

Ms. Sharon Reed expressed concern that the precedent would be set in the neighborhood if this SUP was approved.

A woman from the audience, who didn't identify herself, except that she was a resident of Gatehouse Farms, was concerned about the precedent set. She was concerned at the type of person the rental would attract, and since she, and many others, have small children, the effect of the renter on their safety. She asked that the permit not be passed.

Mr. Joe Poole closed the public hearing and asked for questions or comments from the Planning Commission members.

Mr. John Hagee suggested that a condition be added for an owner occupied scenario.

Mr. Vance Elkins expressed that he was not opposed to this.

Mr. John Hagee commented that Mr. Elkins would be the first to be concerned about noise and the care of the property. Since he would be on site, these issues would be taken care of by him before it became a problem to an adjacent property owner. He commented that this type of growth was encouraged by the county's Comprehensive plan.

Mr. Donald Hunt commented that accessory apartments were encouraged because it makes better use of the infrastructure and although it increases density, it is basically a benign intrusion.

Mr. Joe Poole asked if there were additional questions or comments even though the public hearing is closed.

A member of the audience asked that the decision be proponed until all adjacent property owners could make comments.

Ms. Sharon Reed commented that the changes that were suggested do not cover her concerns.

Mr. Joe McCleary noted that the County does put out the big red sign that notifies residents that a special use permit is under consideration, and there is one at the address of the applicant.

Mr. Joe Poole commented that he was leaning towards deferment so that all adjacent property owners can have the chance to express their opinions. He noted the Planning Division does have in place a notification process that is followed with every case. He liked the idea of the owner occupied condition and wanted it added to the special use permit. He questioned Mr. Rogers if the special use permit would become void if the conditions were violated.

Mr. Leo Rogers responded that yes, it can happen, but it is not something that occurs automatically.

Mr. Donald Hunt made the motion to defer for a month, in order to give more notice to adjacent property owners.

Ms. Peggy Wildman seconded.

Mr. John Hagee wanted clarification on who the extra notifications should go to.

Mr. Joe Poole commented that the letters might have inadvertently been discarded and asked that they be sent out again to the adjacent property owners.

Mr. Marvin Sowers suggested that the subdivision's Home Owners Association contact the Planning Division and we would be happy to work with them to send notifications.

Mr. David Anderson mentioned that he received a phone call today from the former Home Owner's Association President today, and that they had held a meeting regarding this case on Friday.

Members of the audiences who claimed to be residents of Gatehouse Farms expressed they had no notification of the Home Owner's Association meeting or were not invited.

Mr. Joe Poole noted there was a motion on the floor to defer.

Mr. Joe McCleary noted that he welcomed the insertion of the owner occupied conditions and the voiding of the special use permit if the conditions were broken.

Mr. Joe Poole commented that he wanted the case to be heard by those whom it affected. He called for a roll call vote. In a roll call vote, motion passed (7-0). AYE: Wildman, McCleary, Hagee, Hunt, Kale, Billups, Poole (7); NAY: (0).

5. PLANNING COMMISSION CONSIDERATION

A. INITIATION OF CONSIDERATIONS OF AMENDMENTS TO THE ZONING ORDINANCE – PLANNING COMMISSION CASE REVIEW PERIOD

Mr. Marvin Sowers explained that the zoning ordinance amendment is a result of the State Code being amended to extend the Commission review period from 90 days to 100 days. Depending on how a case fell on the calendar, some cases could be considered at 2 meetings while others at 3 meetings. It has become an issue about once a year. Various members of the development community have been contacted about this change. Staff recommends approval of the resolution.

Mr. Leo Rogers added that in speaking with the development community, they liked the fact that this would make the rules consistent for each case, and take away the unequal treatment of applicants. He noted that there was a positive reaction to this amendment.

Mr. Joe McCleary noted that once an application is presented at a hearing, even if the case is not heard because of deferment, the time for review does not extend.

Mr. Leo Rogers clarified that when a case first comes up for action and deferred, the next time it comes up and it is beyond the ninety day period that starts at the first hearing, the case may not be able to be granted deferment again and the Commission needs to act at that meeting.

Mr. Joe Poole asked the Commission for questions.

Mr. John Hagee noted that this was to benefit both the Commission and the applicants, in case there was a need for deferment again.

Mr. Donald Hunt commented that the only reason we usually defer is if there are questions that cannot be answered by staff.

Mr. Joe McCleary suggested that the ordinance be taken to the November meeting.

Mr. Joe Poole asked for a motion.

Mr. Joe McCleary made a motion to approve the resolution to bring an ordinance amendment to the November meeting.

Mr. Donald Hunt seconded the motion.

In a unanimous voice vote the Commission approved the motion.

6. PLANNING DIRECTOR'S REPORT

Mr. Marvin Sowers noted that Senior Planner, Jill Schmidle would be leaving us at the end of the week to return to Buffalo, NY, and mentioned what a strong asset she has been. He also mentioned that a new hire was in the works.

Mr. Joe Poole said to express the Commission's collective thanks and appreciation to Jill, and to the rest of the Planning staff. He was grateful for all of the dedication.

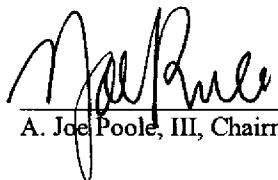
Ms. Peggy Wildman questioned Mr. Sowers when the balloon test for the Waltrip Tower would occur. She also wanted to know the new location of the tower, since it was moved 700 feet to the west.

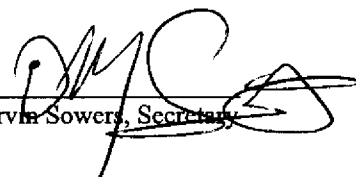
Mr. Marvin Sowers answered that they do not know at this time, but that public hearing notices would go out. The location of the tower is now pushed back from the ridge, towards Lake Powell Road.

Mr. Joe Poole commented on the various ways citizen participation and feedback is being accumulated for the new Comprehensive Plan.

7. ADJOURNMENT

There being no further business, the October 7, 2002, meeting of the Planning Commission was adjourned approximately at 8:40 p.m.


A. Joe Poole, III, Chairman


Marvin Sowers, Secretary