

A REGULAR MEETING OF THE PLANNING COMMISSION OF THE COUNTY OF JAMES CITY, VIRGINIA, WAS HELD ON THE FOURTH DAY OF NOVEMBER, 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, III  
George Billups  
John Hagee  
Don Hunt  
Joe McCleary  
Wilford Kale  
Peggy Wildman

ALSO PRESENT

Greg Dohrman, Asst. County Attorney  
Marvin Sowers, Planning Director  
Cynthia Grom, Administrative Services Coordinator  
Christopher Johnson, Senior Planner  
David Anderson, Planner

2. MINUTES

The Commission approved the minutes of the October 7, 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 four cases that were heard at the last meeting: the Ford's Colony Williamsburg West/Country Club Dr. Road Improvements, Ford's Colony Section 12, Colonial Heritage, Phase I, Section 2, and Colonial Heritage, Phase I, Sections 3 and 3A. For the Ford's Colony Proffers case, the DRC found the plans consistent with the preliminary intersection plan which was included with Case No. Z-5-01 and recommended that preliminary approval be granted subject to agency comments. The plans will be revised to fully address the conditions of approval submitted by the Williamsburg West Civic Association, including a note which states that the Ford's Colony HOA will assume responsibility for maintaining the landscaped median from Williamsburg West Drive to Lexington Drive. The DRC recommended preliminary approval of Sect 12, subject to agency comments. For the Colonial Heritage cases, there was concern about the safety of the roads, so all the cases were deferred to the November 26<sup>th</sup> meeting.

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

4. PUBLIC HEARINGS

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

Mr. Christopher Johnson presented the staff report stating the applicant had requested an indefinite deferral. Staff concurred with this request.

Mr. Joe Poole reopened and closed the public hearing. Hearing no further questions, the Planning Commission deferred the case indefinitely.

B. CASE NO. AFD-9-86 GORDON CREEK KANE ADDITION

Mr. David Anderson presented the staff report. In February of 1995 the Board of Supervisors approved the addition of the Kane property to the Gordon Creek AFD. The Kane property is comprised of five parcels totaling 164.33 acres and further identified as Tax Map Nos. (29-4)(1-3), (30-3)(1-7), (35-2)(1-7), (36-1)(1-1) and (36-1)(1-2). Four of the parcels are located off of Jolly Pond Road and one parcel is located off of Deerwood Drive. During the 2002 renewal period, Mr. Kane inadvertently withdrew his property from the Gordon Creek AFD. Upon realizing his mistake, Mr. Kane contacted the County immediately and requested the addition of his property back into the AFD. The proposed addition meets the minimum area and proximity requirements for inclusion into an AFD. The existing Gordon Creek AFD contains 3,111.340

acres. If the 164.33-acre addition is approved, the district will have 3,275.67 acres. At the October 23<sup>rd</sup> meeting, the AFD Advisory Committee voted 6-0 to recommend approval of the addition. Staff recommends the Planning Commission approve the Kane addition to the Gordon Creek AFD subject to the conditions of the existing district.

Mr. Joe Poole asked for questions from the Planning Commission members.

Mr. Donald Hunt asked how the applicant unintentionally withdrew his land from the AFD.

Mr. David Anderson replied that the client filled out the withdrawal form and sent it in without understanding what it was for. If they wanted to keep their land in the AFD designation, they didn't have to send it in.

Mr. Joe Poole opened and closed the public hearing.

Mr. Joe McCleary made a motion to approve.

Mrs. Peggy Wildman seconded.

In a roll call vote, motion passed (7-0). AYE: Wildman, McCleary, Hagee, Hunt, Kale, Billups, Poole (7); NAY: (0).

C. CASE NO. AFD-6-86 CRANSTON'S POND MARSTON ADDITION

Mr. David Anderson presented the staff report. This property is located at 308 Bush Springs Road and was part of the original Cranston's Pond AFD formed in 1986. During the 1998 renewal period, the property owner chose not to renew this parcel in the AFD. Therefore the property was subject to roll-back taxes covering the years 1993 to 1998. The owner now wishes to place the property back into the AFD. The proposed addition meets the minimum area and proximity requirements for inclusion into an AFD. The existing Cranston's Pond AFD contains 1,073.579 acres. If the 14.00-acre addition is approved, the district will have 1,087.579 acres. At the October 23<sup>rd</sup> meeting, the AFD Advisory Committee voted 6-0 to recommend approval of the addition. Staff recommends the Planning Committee approve the Marston addition to the Cranston's Pond AFD subject to the conditions of the existing district.

Mr. Joe Poole asked for questions from the Planning Commission members. Hearing none, he opened then closed the public hearing.

Mr. John Hagee made a motion to approve.

Mr. Donald Hunt seconded.

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. The covenants governing the Gatehouse Farms subdivision do not restrict accessory apartments. Therefore, staff recommends the Planning Commission approve the special use permit with the attached conditions.

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

Mr. Joe McCleary questioned the enforceability of the conditions, particularly limiting the renting only to one person.

Mr. Donald Hunt inquired about the owner occupied condition.

Mr. David Anderson stated the owner must live in the home in order to rent the accessory apartment.

Mr. John Hagee noted that enforceability of limitation of renters is not enforceable in any part of the county, even in rental apartment complexes.

Mr. Marvin Sowers noted the county would have to rely on a complaint basis.

Mr. Joe McCleary commented even in that event, it is still very hard to enforce because one can claim the extra person was a guest.

Mr. John Hagee asked if there was some kind of provision that could be put on the special use permit to void it out if the owner sold the property.

Mr. David Anderson replied that we are unable to do that.

Mr. Joe Poole opened the public hearing.

Mr. Reed Wier, the President of the Gatehouse Farms Home Owners Association, spoke on behalf of the neighbors that signed a petition not in favor of the accessory apartment. The list represented about 75% of the neighborhood. He urged the planning commission members to take into consideration their opinions.

Mr. Shane Reed, a member of the Gatehouse Farms Home Owners Association, also spoke on behalf of all the home owners in the neighborhood. They believe that granting the special use permit would be negative in many ways and listed the negative impacts they felt this would have on the neighborhood, such as traffic, privacy and trash concerns, affect on the property value of the homes, the unenforceability of the owner occupied condition and the alteration of the character of the neighborhood.

Mr. Vance Elkins, the applicant, presented the background on how this case came about and why he wanted to build the accessory apartment. He also addressed many of the negative impacts that Mr. Reed had spoke about, such as property upkeep and improvements, since he has to live with the renter, has no desire to rent to an undesirable person, that the Gatehouse Farms covenants were not being violated, and that he was not looking to make a profit, only wanted to help out someone in need. He also noted that there were a few houses in the neighborhood that were rental properties.

Mr. Joe Musica, a resident of Gatehouse Farms, voiced his concern about what happens when Mr. Elkins leaves and sells his property, or if someone else decides they want to build an accessory apartment in their home also.

Mr. Joe Poole closed the public hearing.

Mr. Wilford Kale asked if property owners could ask for an elimination of a special use permit.

Mr. Greg Dohrman answered that it was possible, but they would have to go through the process to amend the special use permit.

Mr. Donald Hunt asked if you can put an expiration date on a special use permit.

Mr. Greg Dohrman answered that a sunset clause could be put on as a condition of the

special use permit, especially if the applicant asks for it and agrees to it.

Mr. Billups asked about what the justification for denial would be if another special use permit came up again. He questioned the equity of treatment of these types of cases.

Mr. Donald Hunt answered that the Planning Commission's function is oversight, and that they make judgments on individual cases.

Mr. Joe Poole stated that he thought the conditions as is were good with the addition of the sunset clause. He proposed to add a five year sunset clause to the special use permit.

Mr. Joe McCleary noted that the Planning Commission members had all been involved with drafting the Zoning Ordinance. A special use permit needs a special reason for why it should be approved. He stated that he was not comfortable with this.

Mr. Donald Hunt made a motion to approve the special use permit with the inclusion of a five year sunset clause.

Mr. Wilford Kale seconded.

Mrs. Peggy Wildman noted that she was not in agreement with it, being that the property is zoned R-1.

Mr. Joe Poole noted that the motion and seconded for approval of the special use permit with the five conditions was on the floor.

Mr. Marvin Sowers listed the five conditions.

Mr. Joe Poole called for a roll call vote. In a roll call vote, motion passed (4-3). AYE: Hagee, Hunt, Kale, Poole (4); NAY: Wildman, Billups, McCleary (3).

E. CASE NO. SUP-18-02 WELLSRING ADULT DAY CARE CENTER.

Mr. Christopher Johnson presented the staff report. Ms. Linda Tompkins has applied on behalf of Wellspring United Methodist Church to operate an adult day care center out of the existing church building at 4871 Longhill Road. The adult center would be operated by professionals currently working with senior adults. The center would provide a safe environment for elderly adults, allowing their children and care providers to keep their employment and provide a much needed break for families who provide round-the-clock care. Given the growing retired and elderly population in the area, the demand for adult day care centers will likely increase in the coming years and facilities such as the one proposed clearly meet this growing community need. Staff finds the proposed use consistent with surrounding zoning and development and consistent with the Comprehensive Plan and recommends that the Planning Commission recommend approval of this application with conditions.

Mr. Joe Poole opened the public hearing.

Ms. Margaret Kutz, Pastor of Wellspring Church, stated that the day care served two purposes, one for the church's own use and second for the community's use. They were very excited about the prospect of this day care center and comfortable with the conditions set forth by staff.

Mr. Wilford Kale asked her if any building additions were needed. He also noted that he lives in the adjacent neighborhood and neighborhood reaction has been very positive.

Ms. Margaret Kutz answered that it looked like no changes would be needed.

Mr. Joe McCleary noted that he visited the facility and it is very well set up.

Ms. Lynn Warner, one of the two registered nurses that will be running the day care

center, stated that the day care center was licensed by the Department of Social Services and it would be strictly regulated.

Hearing no further questions, Mr. Poole closed the public hearing.

Mr. Joe McCleary made the motion to approve.

Mr. Wilford Kale seconded.

In a roll call vote, motion passed (7-0). AYE: Wildman, McCleary, Hagee, Hunt, Kale, Billups, Poole (7); NAY: (0).

F. CASE NO. SUP-19-02 JCSA WATER TREATMENT FACILITY CONCENTRATE MAIN.

This case was withdrawn per the request of the James County Service Authority. Mr. Greg Dohrman, Assistant County Attorney, stated that the property owner failed to sign the application. On behalf of the applicant, Mr. Dohrman withdrew the application.

G. CASE NO. Z-03-02 US HOMES PROFFERS AMENDMENT.  
CASE NO. Z-04-02 BOY SCOUT PROPERTY REZONING.  
CASE NO. MP-01-02 US HOMES AMENDED MASTER PLAN.

Mr. Christopher Johnson presented the staff report and requested a deferral of this application until the December 2<sup>nd</sup> meeting. The applicant notified staff that they would not be present this evening. Staff will continue to work with the applicant to address outstanding issues and areas of concern and anticipates being able to offer a recommendation at the December meeting.

A general discussion ensued about concerns the Planning Commission members had that they wanted to be covered when the case came to the next meeting. Questions were asked about the previous proffers, the Greenway master plan, extension of the PSA, and development of the Boy Scout property.

Mr. Joe Poole opened the public hearing and noted it would be continued in December.

H. CASE NO. ZO-03-02 ZONING ORDINANCE AMENDMENT – PLANNING COMMISSION CASE REVIEW PERIOD.

Mr. Marvin Sowers presented the staff report, and indicated the Planning Commission had approved the initiating proposal to amend the Zoning Ordinance at the last Planning Commission meeting in October to extend the Commission's review period from 90 to 100 days for public hearing cases.

Mr. Joe Poole asked for questions from the Planning Commission members. Hearing none, he opened and closed the public hearing.

Mr. John Hagee made the motion to approve.

Mr. Wilford Kale seconded.

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. 2003 PLANNING COMMISSION CALENDAR

Mr. Joe Poole suggested the December 1<sup>st</sup> meeting be moved to December 8<sup>th</sup>.

Mr. Wilford Kale suggested the July 7<sup>th</sup> meeting be moved to July 14<sup>th</sup>.

Mr. Joe Poole asked if there were any objections to these suggestions.

Everyone agreed and the 2003 calendar was adopted.

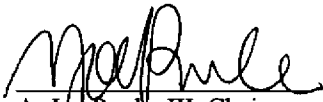
6. PLANNING DIRECTOR'S REPORT


Mr. Marvin Sowers touched on a few topics that were in the report, including hiring Sarah Weisiger to replace Jill Schmidle, the Comprehensive Plan Community Conversations meetings, the starting up of the Steering Committee meetings and the continuance of the CPT meetings.

Mr. Joe Poole urged people to attend the Community Conversations meetings.

7. ADJOURNMENT

There being no further business, the November 4, 2002, meeting of the Planning Commission was adjourned approximately at 9:00 p.m.

  
A. Joe Poole, III, Chairman

  
Marvin Sowers, Secretary