

A REGULAR MEETING OF THE PLANNING COMMISSION OF THE COUNTY OF JAMES CITY, VIRGINIA, WAS HELD ON THE EIGHTH DAY OF DECEMBER, TWO-THOUSAND AND THREE, AT 5:30 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101-C MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

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| 1. <u>ROLL CALL</u>
A. Joe Poole, III
John Hagee
Donald Hunt
Joseph McCleary
Wilford Kale
George Billups | <u>ALSO PRESENT</u>
Leo Rogers, Deputy County Attorney
O. Marvin Sowers, Jr., Planning Director
Toya Ricks, Administrative Services Coordinator
Christopher Johnson, Senior Planner
Karen Drake, Senior Planner
Matthew Arcieri, Planner
Sarah Weisiger, Planner | <u>ABSENT</u>
Peggy Wildman |
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2. MINUTES

The Commission approved the appended minutes of the September 8, 2003 meeting with a unanimous voice vote.

3. COMMITTEE AND COMMISSION REPORT

A. DEVELOPMENT REVIEW COMMITTEE (DRC)

Mr. John Hagee, Chairman of the DRC, presented the report. The DRC granted a waiver to allow the sidewalk and fence of The Old Point National Bank, which will be located at Monticello Road and Ironbound Avenue, to encroach into a 50' setback. The setback will not exist after Ironbound Road is realigned. A sixty-eight lot section in the Wellington Subdivision was deferred until the January meeting to allow the applicant more time to address environmental issues. Colonial Heritage Phase 2, Section 1 was granted preliminary approval pending agency review and comments. The Wythe Will Distribution Company was granted approval for multiple entrances and a building larger than 100,000 square feet. An encroachment into the landscape setback by a stormwater basin was resolved by the relocation of key plant materials.

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

B. POLICY COMMITTEE

Mr. Wilford Kale, Chairman of the Policy Committee, notified members that a proposed by-law amendment was distributed with this month's packets regarding nominating procedures. The amendment will be considered at the January meeting. Members must have thirty days to consider any proposed changes. Mr. Joe McCleary, Chairman of the Nominating Committee, felt an amendment was needed to allow all members to participate in the nominating process.

C. OTHER COMMITTEES

Mr. McCleary, Chairman of the Comprehensive Plan Steering Committee, pointed out that Virginia Municipal League (VML) magazines were distributed to Commission members. The magazine highlighted the VML President's Award given to the County for the Comprehensive Plan update.

4. PUBLIC HEARINGS

- A. CASE NO. Z-9-03 Williamsburg Community Chapel Rezoning.
CASE NO. Z-12-03 Jamestown Hundred Proffer and Master Plan Amendment.
CASE NO. SUP-20-03 Jamestown Hundred Master Plan Amendment.

Mr. Arcieri stated that Mr. Craig Covey, on behalf of Williamsburg Community Chapel and Hampton Roads Development, has requested the case be deferred until the January 12th meeting of the Planning Commission. The applicants have been working to resolve issues with the residents of Jamestown Hundred. The applicants have not had time to revise and resubmit the proposal. Staff concurred and recommended deferral.

Mr. McCleary advised the Commissioners that the two sides have had two meetings to resolve their differences.

Mr. A. Joe Poole, III opened the public hearing.

Hearing no other requests to speak, Mr. Poole, III deferred the case until the January 12th meeting of the Planning Commission and kept the public hearing open.

- B. CASE NO. Z-11-03 & MP-11-03 Stonehouse Planned Community.

Ms. Karen Drake stated that staff recommended the case be deferred until the January 12th Planning Commission meeting. This will allow staff and the applicant to resolve outstanding issues regarding the Stonehouse Master Plan, Stormwater Management Master Plan, and Master Water and Sewer Plan and ensure coordination of responsibilities between the two primary property owners.

Mr. Kale asked for elaboration on the Master Plan problems.

Ms. Drake stated that the problems are due to a lack of materials not disagreement between staff and the applicant. The two parties have a meeting scheduled to discuss some of the issues.

Mr. A. Joe Poole, III opened the public hearing.

Hearing no other requests to speak, Mr. Poole, III deferred the case until the January 12th meeting of the Planning Commission and kept the public hearing open.

- C. CASE NO. Z-10-03 & MP-10-03 Hiden Property and Master Plan Amendment.

Mr. Christopher Johnson presented the staff report. Mr. Marc Bennett has applied on behalf of Powhatan Crossing, Inc. to rezone the Hiden property from PUD-R, Planned Unit Development, Residential, with Proffers to PUD-R, Planned Unit Development, Residential, with amended Proffers. The request seeks to amend the proffers and master plan to redefine the road alignment and acknowledge all streets as private in Area Two for the development of 400 age-restricted units.

The applicant has proposed changes to Proffer No. 4, Monticello Avenue Greenbelt, to allow selected hand clearing and trimming of trees and other plants, the planting of new landscaping, and the installation of landscaped berms within the 150-foot greenbelt subject to approval by the Planning Director. Also, in accordance with County Code the applicant proposed changes to Proffer No. 15, Private Streets, to include a note on the master plan, and provided a proffer to indicate that all streets within Area 2 shall be private and conform to Virginia Department of Transportation construction standards.

Staff found the revised proffers and master plan consistent with the surrounding zoning and developments and consistent with the Comprehensive Plan. Staff recommended approval of the master plan changes and acceptance of the amended proffers.

Mr. Poole asked for background on the select hand clearing request.

Mr. Johnson said that the request was due to the number of down trees caused by Hurricane Isabel and reminded members the clearing would be subject to Planning Director approval.

Mr. A. Joe Poole, III opened the public hearing.

Mr. Vernon Geddy represented the applicant and stated the applicant agreed with Mr. Johnson's report.

Mr. George Billups asked the applicant if they had received feedback from the Friends of Powhatan Creek regarding changes to the conservation area.

Mr. Geddy said that this amendment does not change the conservation area.

Hearing no other requests to speak, Mr. Poole, III closed the public hearing.

Mr. Hagee made a motion to approve the application.

Mr. McCleary seconded the motion.

Mr. Poole was pleased that there would be oversight by the Planning Director of the hand clearing.

In a unanimous roll call vote the application was approved (6-0). AYE: Poole, McCleary, Hagee, Hunt, Kale, Billups (6); NAY: (0). Absent: Wildman

D. CASE NO. SUP-19-03 Christian Life Center.

Ms. Karen Drake presented the staff report. Mr. Marc Bennett has applied on behalf of the Christian Life Center for a Special Use Permit to allow for a two phased expansion of the church's facilities. A Special Use Permit is required for houses of worship in R-8, Rural Residential Districts. The Phase I expansion includes the construction of a separate two-story, maximum 5,000 square foot/floor building for youth fellowship. Phase I also includes construction of thirty-one additional parking spaces and a second exit from the property onto Longhill Road. The Phase II expansion includes a three-story, maximum 20,244 square foot/floor expansion of the existing three-story church facility where the main sanctuary is located. The Phase II building expansion would provide additional classroom, nursery and fellowship space.

Staff found the Christian Life Center's proposed expansion to be consistent with the existing church, surrounding development, zoning and the 2003 Comprehensive Plan. Staff recommended approval with the conditions listed in the staff report.

Ms. Drake also pointed out changes to two of the special use conditions that were distributed to members before the meeting.

Mr. Kale questioned the need for an additional thirty-one parking spaces.

Ms. Drake said the new spaces would accommodate growth at the church.

Mr. Kale stated concern that the right-only turn lane did not allow for traffic to merge. He asked if there had been any consideration given to this issue.

Mr. Bennett, AES Consulting Engineers, stated that there was a need to have that lane as close as possible to the existing lane from Lafayette High School. Mr. Bennett also stated a willingness to discuss that issue with the Virginia Department of Transportation.

Mr. McCleary asked if the present entrance in front of Lafayette High School was signalized.

Mr. Bennett answered no. He did not know when or if it would be.

Mr. Billups wanted to know if the intended use of the second building had been outlined.

Ms. Drake said the second building would be used for youth fellowship activities. If the Center decided to expand to provide full-time day-care or school facilities they would require a new special use permit application.

Mr. Bennett added that there have been some discussions about having a daycare center sometime in the future. However, the applicant understood the requirement for a new application at that time.

Mr. A. Joe Poole, III opened the public hearing.

Hearing no other requests to speak, Mr. Poole, III closed the public hearing.

Mr. Hagee made a motion to approve the application.

Mr. McCleary seconded the motion.

Mr. Poole was pleased with the addition of condition Number 4 regarding the landscape buffer and appreciated the applicant's flexibility on that issue.

In a unanimous roll call vote the motioned passed 6:0. AYE: Poole, McCleary, Hagee, Hunt, Kale, Billups (6); NAY: (0). Absent Wildman.

E. CASE NO. SUP-22-03 & HW-2-03 Busch Gardens Oktoberfest Expansion.

Mr. Matthew Arcieri stated that Mr. Ronnie Orsborne, on behalf of Busch Entertainment Corporation, requested deferral of the case until the January 12th meeting to resolve some uncertainties regarding the specifics of the proposed building. Staff concurred with the recommendation.

Mr. A. Joe Poole, III opened the public hearing.

Hearing no other requests to speak, Mr. Poole, III deferred the case until the January 12th Planning Commission meeting and kept the public hearing open.

F. CASE NO. SUP-21-03 Milanville Kennels.

Mr. Matthew Arceiri presented the staff report. Mark and Elizabeth Illman applied for a special use permit to construct and operate a kennel at the rear of their existing residence on 2878 Monticello Avenue. Approval of this case would allow the applicant to construct a 7,000 square foot, single story kennel which would contain a maximum of eighty dogs and twenty cats. Operating hours for the kennel would be 7:00 a.m. to 7:00 p.m., Monday through Saturday and 3:00 p.m. to 5:00 p.m. on Sunday.

The new kennel would be constructed to match the existing single family residence. The nearest residence is approximately 400 feet south of the proposed kennel. Much of the noise impacts on this site have been mitigated by placing the kennel on a large property distanced from most nearby residences. In addition the applicant has proposed several other ways to address noise that have been reflected in the conditions.

Staff found the proposal to be consistent with the surrounding zoning and development and, with the proposed conditions, consistent with the Comprehensive Plan. Staff, therefore, recommends approval of this application with the attached conditions.

Mr. A. Joe Poole, III opened the public hearing.

Mr. Greg Davis, Kaufman and Canoles, represented the Illman's. The proposed kennel would be relatively small according to the American Board and Kennel Association standards.

Mr. Davis recognized neighbors in the audience in support of the application as well as a petition contained in the staff report.

Mr. Davis stated that the applicant objects to the condition requiring an Archeological study. The disturbed area would be less than ½ acre and the cost of the study would be capital intensive.

Mr. Poole asked how many estimates were sought to perform the study.

Mr. Davis said three consultants gave estimates.

Mr. McCleary asked Mr. Rogers if the members could waive such a condition.

Mr. Rogers indicated that any of the conditions could be waived. He also added that the Board of Supervisors has taken a policy position that they would like to see the studies performed.

Mr. Kale wanted to know the proximity of the property owned by the neighbor in attendance at the meeting. He also asked for the location of the free standing sign. Mr. Kale asked if the applicant would be willing to stop work if an artifact were discovered during foundation prep if a waiver was granted.

Mr. Davis stated that the client would be willing to stop work and proceed according to policies.

Mr. Hunt wanted to know if any documentation existed that indicated the presence of any artifacts.

Mr. Billups wondered if the applicant had considered having college students perform the testing.

Mr. Davis said that the major component of the cost was the level of detail required in the report not the actual field work.

Hearing no other requests to speak, Mr. Poole, III closed the public hearing.

Mr. Sowers clarified that the condition requiring an Archeological study is not arbitrary on the part of staff and is recommended for all cases located in designated High Sensitivity areas by the County Archaeological Assessment.

Mr. Poole stated concerns about waiving Archeological study requirements. He felt staff made reasonable concessions by limiting the study to only the area to be disturbed.

Mr. McCleary noted that the Historic Route 5 Association had no objections to the application.

Mr. Hunt wanted to see some type of waiver perhaps with a condition of some oversight or review.

Mr. Billups asked if it was possible to produce a summary report. This would reduce the financial burden on the homeowners but still that give members something in writing.

Mr. Davis said there is a lesser survey called a Phase 1A which is mostly historical research requiring no physical review of the site. Mr. Davis thought the County might have already performed a Phase 1A study in this area.

Mr. Sowers agreed added that additional research for this site would still be needed for a 1A study.

Mr. McCleary agreed with Mr. Hunt and suggested voting on a motion to delete condition 7 prior to a motion to vote on the application.

Mr. Kale recommended a certified Archeologist provide oversight in the field. He also asked Mr. Sowers where the results of a study are kept.

Mr. Sowers said they are sent to the Virginia Department of Historical Resources and if necessary forwarded for the National Register.

Mr. McCleary felt the area to be disturbed is minimal and that a Phase 1, 2, or 3 study was not needed.

Mr. Hagee agreed with Mr. McCleary. He thought it was important not to destroy what was in the ground but it is still possible to still utilize the land above.

Mr. Poole was concerned that once the building was in place the opportunity to locate anything significant would be lost. He also felt it dangerous to waive a policy adopted by the elected officials.

Mr. Sowers gave the options that could be exercised if something of significance were found.

Mr. Rogers pointed out that staff could require that an Archeologist be on site but would have no ability to enforce a particular course of action if something were found.

Mr. Billups and Mr. Rogers discussed the act of overriding Board policy.

Mr. Hunt made a motion to remove condition #7.

Mr. McCleary seconded the motion.

In a roll vote motioned passed (4:2). AYE: (4) McCleary, Hagee, Hunt, Kale; NAY: (2) Billups, Poole. Absent: Wildman

Mr. McCleary motioned to approve the application with condition #7 removed.

Mr. Kale seconded motion.

In a roll call vote motion passed 4:2; AYE: (4) McCleary, Hagee, Hunt, Kale; NAY: (2) Billups, Poole. Absent Wildman.

G. CASE NO. SUP-16-03 Williamsburg Winery – Gabriel Archer Tavern.

Ms. Sarah Weisiger presented the staff report. Mr. Vernon Geddy, III has applied, on behalf of Williamsburg Farms, Inc., for a special use permit for the continued operation of a restaurant, Gabriel Archer Tavern, at the Williamsburg Winery. A restaurant is a specially permitted use in the R-8, Rural Residential district in which the property is located. The restaurant has operated since 1996 without a special use permit.

Staff found the proposal acceptable from a land use perspective. Provided that the sewer connection to the Tavern is operational prior to the Board of Supervisors meeting in January, staff recommended approval of the application with the attached conditions.

Mr. Kale asked about the conditions relative to hours of operation.

Ms. Weisiger said they represent the current operating hours.

Mr. A. Joe Poole, III opened the public hearing.

Mr. Patrick Duffeler, President of Williamsburg Winery and Vice-President, Williamsburg Farms, stated he was available for questions.

Mr. Poole asked if the applicant expected to have the sewer connection completed by the Board of Supervisors meeting in January.

Mr. Duffeler stated that they were not aware of any current violations. He also stated that many of the regulations currently in existence regarding wineries did not exist when the Williamsburg Winery first opened. Mr. Duffeler expected all violations to be resolved.

Hearing no other requests to speak, Mr. Poole, III closed the public hearing.

Mr. Hunt made a motion to approve the application.

Mr. Kale seconded the motion.

In a unanimous roll call vote the motion passed (6-0). AYE: Poole, McCleary, Hagee, Hunt, Kale, Billups (6); NAY: (0). Absent Wildman.

H. CASE NO. MP-9-03 & Z-8-03 Norge Neighborhood Site.

Ms. Sarah Weisiger stated that the applicant has requested deferral until the January meeting. Staff agreed with the request. Ms. Weisiger also stated that the applicant asked if members had any additional comments not included in the staff report.

Mr. McCleary informed members that he attended two community meetings held by the applicant. He felt the applicant was responsive to concerns and ideas from the neighbors. Mr. McCleary thought the only area of dispute concerned the types of uses to be allowed in the commercial areas.

Mr. Hagee felt this proposal is an ideal use of the property.

Mr. A. Joe Poole, III opened the public hearing.

Hearing no other requests to speak, Mr. Poole, III deferred the case until the January 12th meeting and kept the public hearing open.

Mr. Poole stated his concerns for additional residential construction in this area given the uncertainty of the impact the Colonial Heritage project will have on the infrastructure in the area.

Mr. Billups felt the Comprehensive Plan should be used as the guideline for determining the types of uses allowed in the area.

Mr. Hunt supported light commercial uses in the front of the property.

5. 2004 PLANNING COMMISSION CONSIDERATION

Mr. O. Marvin Sowers, Jr. presented the calendar. The calendar lists the Planning Commission and Development Review Committee meeting dates. It also highlights some important deadlines associated with those meeting dates.

Mr. Kale made a motion to approve the calendar.

Mr. McCleary seconded the motion.

In unanimous voice vote the Commission approved the 2004 calendar.

J. PLANNING DIRECTOR'S REPORT

Mr. O. Marvin Sowers, Jr. presented the report. He pointed out the Fire Department's upcoming application for the construction and operation of four Communications Towers to support the new emergency

communicating system.

Mr. Hunt asked why two of the towers were significantly shorter than the other two.

Mr. Marc Bennett, AES Consulting Engineers, thought that due to their close proximity the two shorter towers will be able to work together therefore requiring less height.

Mr. McCleary asked if the towers will be required to meet the performance standards previously set by the County.

Mr. Sowers said that the standards will be considered.

Mr. Poole felt necessary allowances should be made in the interest of public health and safety.


Mr. Sowers suggested rescheduling the January 12th meeting to 5:30 p.m. due to the heavy caseload expected.


The members of the Commission approved beginning the January 12, 2004 meeting to 5:30.

Mr. Poole informed the members that he had accepted, on their behalf, a Certificate of Appreciation from the James City County Board of Supervisor's Chairman, Mr. Jay Harrison. The certificate was given in appreciation of the work performed by the Planning Commission.

7. ADJOURNMENT

There being no further business, the December 8, 2003, meeting of the Planning Commission was adjourned at approximately at 7:30 p.m.


A. Joe Poole, III, Chairman


O. Marvin Sowers, Jr., Secretary