

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

1. ROLL CALL

Planning Commissioners

Present:

George Billups
Reese Peck
Jack Fraley
Rich Krapf
Joe Poole III
Chris Henderson

Staff Present:

Allen Murphy, Acting Planning Director
Adam Kinsman, Deputy County Attorney
Kate Sipes, Senior Planner
David German, Senior Planner
Leanne Reidenbach, Senior Planner
William Cain, Chief Civil Engineer
Michael Woolson, Senior Watershed Planner
Steven Hicks, Development Manager
Terry Costello, Development Management Assistant

Absent

Tony Obadal

Mr. Fraley introduced Mr. Steven Hicks, the County's Development Manager.

Mr. Hicks commented that he looked forward to working with the Planning Commission, getting the update to the Comprehensive Plan completed, and addressing other issues pertinent to the Planning Commission.

Mr. Fraley mentioned the passing of Alvin Anderson, who was a resident and community activist in the County. Commissioners and colleagues gave their respects.

2. PUBLIC COMMENT

Mr. Fraley opened the public comment period.

There being no public comments, the public comment period was closed.

3. MINUTES

A. November 5, 2008 Regular Meeting

Mr. Fraley asked if there were any additions or corrections to the minutes.

Mr. Poole had a spelling correction.

Mr. Krapf made a motion to approve the minutes with the correction.

Mr. Henderson seconded the motion.

In a unanimous voice vote the minutes were approved. (6-0) (Obadal absent)

4. COMMITTEE AND COMMISSION REPORTS

A. Development Review Committee

Mr. Krapf stated the Development Review Committee did not meet since there were no cases to discuss.

B. Policy Committee

Mr. Peck stated that the Policy Committee did not meet.

C. Other Committee/Commission Reports

Mr. Fraley gave an update on the Steering Committee. He stated the Committee has been reviewing the economic climate and environmental sections of the Comprehensive Plan. He stated the next meeting will be December 8, 2008 with public comment periods provided. Mr. Fraley stated that the environmental section will be reviewed at this meeting, with the economic climate section being finished at a later date.

5. PLANNING COMMISSION CONSIDERATIONS

A. Annual Report

Mr. Henderson commented that the document was very well prepared and he commended staff, as well as Mr. Fraley, on their work.

Mr. Fraley commended staff on the report and felt that it was well written. He made the point that the majority of the work is done by staff, with review by the Planning Commission.

Mr. Henderson made a motion to adopt the report.

Mr. Krapf seconded the motion.

In a unanimous voice vote the annual report was approved. (6-0) (Obadal absent)

Mr. Poole asked that the report be placed on the website.

Mr. Murphy stated staff will take care of it.

6. PUBLIC HEARING

A. SUP-0015-2008 Franciscan Brethren of St Philip Group Home and Day Care

Mr. Murphy stated staff's concurrence with the applicant's request for a deferral to the January 7, 2009 Planning Commission meeting.

Mr. Fraley continued the public hearing to January 7, 2009.

B. Z-0003-2008 / MP-0003-2008 The Candle Factory

Mr. Murphy stated staff's concurrence with the applicant's request for a deferral to the January 7, 2009 Planning Commission meeting.

Mr. Fraley continued the public hearing to January 7, 2009.

C. Z-0011-2007 / SUP-0022-2007 / MP-0007-2007 Monticello @ Powhatan North (Phase 3)

Mr. Murphy stated staff's request for a deferral to allow more time for agency comments. The applicant has agreed to the deferral to the January 7, 2009 Planning Commission meeting.

Mr. Fraley opened the public hearing.

Mr. Andrew Poole, who stated he lived at 4019 E Providence, said he represented a group of individuals in the Berkeley section of Powhatan Secondary who oppose this application. He stated the Homeowner's Association in that area has sent a letter stating they are opposed to this rezoning application. Mr. Poole stated he believed the Comprehensive Plan requires that for any rezoning greater than one unit per acre, that the applicant demonstrates particular public benefits to the community. Those opposed to this believe that even though the application proposed some things such as trails and public road improvements, these just mitigate the development. He stated that the financial benefit suggested was based on certain scenarios, and if these scenarios changed, it could easily become a negative impact on the County. Mr. Poole felt that the quality of life would not be enhanced and there would be traffic impacts as well as environmental issues. He stated the group he represents felt there were no public benefits and he asked the Planning Commission to not approve the application when it is heard in January. He stated that the group will be present at the January meeting.

Mr. Timothy Trant, of Kaufman and Canoles, stated that the applicant will respond to these issues at the January meeting when the case is heard.

Mr. Fraley continued the public hearing until January 7, 2009.

D. SUP-0019-2008 Former Stuckey's Site Amendment

Mr. Murphy stated staff's request for a deferral pending the resolution of certain issues.

The applicant has agreed to the deferral to the January 7, 2009 Planning Commission meeting.

Mr. Fraley opened the public hearing.

Mr. Jeff Harris, who stated he is a wholesale area manager for the Wills Group, which is the organization that owns the Shell gas station across the road from the site on the application. He stated the Wills Group felt that this application and use would not be beneficial to the businesses along that corridor. He stated the Group does not feel the area can support an additional petroleum station. Mr. Harris also stated that the additional traffic in that area may cause a safety issue.

Mr. Steve Romeo of Landmark Design Group stated that his organization has worked on this application with County staff for the last two months, and stated that there are some minor issues left to resolve concerning the well and septic systems. He stated the applicant had met with some citizens' groups this past Monday, with Mr. Krapf in attendance. There were some concerns with some of the architectural designs. Mr. Romeo stated revisions were given to staff this afternoon.

Mr. Rick LaMere of North South Construction spoke on behalf of the owner, American Holdings. He stated they have worked with County staff over the past year with different applications. He stated the first plan involved keeping the building as is, but the current plan is to demolish the building and rebuild. Mr. LaMere believed that the only issues left to address concerned the well and septic systems.

Mr. Fraley stated that Mr. Krapf did send the meeting results to all of the Planning Commissioners.

Mr. Henderson asked about cases that have been deferred for several months. His thoughts were that it may be beneficial to defer them for sixty days as opposed to thirty.

Mr. Fraley stated that if an applicant requests a deferral to the next meeting, than that would be honored. He asked Mr. Kinsman if there was anything in the Code that refers to the time frame a case can be deferred.

Mr. Kinsman stated the Virginia Code states that the Planning Commission must make a determination within a hundred days of receiving the application. If an applicant requests a deferral the hundred days does not apply. One of the issues if case is deferred from meeting to meeting is to save costs on advertising.

E. SUP-0020-2008 Gilley Properties LLC Duplexes

Mr. David German stated that Mr. Greg Davis of Kaufman and Canoles has applied on behalf of Gilley Properties, LLC, for a special use permit to allow for the construction of three two-family dwellings on a property zoned R-2 inside the PSA. The property is located at 248 Neck-O-Land Road, and is approximately 4.74 acres in size. Mr. German stated the applicant proposes to subdivide the parcel into five lots, each of which would front on Neck-O-Land Road

and utilize a shared driveway. Two of the lots created would be occupied by an existing two-story single-family residence and an existing duplex. The applicant proposes to construct the three duplex housing units being sought with this application on the remaining three lots. Mr. German stated that twelve structures currently stand on the site, including the two-story house and the existing duplex. The remaining structures are sheds, barns, and silos in various stages of disrepair. Under the applicant's plan, all of the structures except for the two-story house and the existing duplex would be removed from the site, in addition to a crisscrossing network of gravel driveways currently on the property. Mr. German stated that with the net removal of seven buildings and all of the extra gravel driveways, the project would bring about a net reduction in impervious area of approximately 15,899 square feet, which is roughly a 40% reduction in impervious area on the site.

After review of this application, Planning staff finds that the proposal is generally consistent with the Comprehensive Plan and provides a public benefit by improving the environmental and aesthetic conditions on the site. Staff recommended that the Planning Commission recommend approval of this application to the Board of Supervisors with the conditions outlined in the staff report.

Mr. Henderson had some questions about stormwater calculations and asked whether if the site was evaluated as a Greenfield site it would be able to meet the ten point requirements.

Mr. Cain answered that there are certain criteria established in the ordinance that requires a project to have a stormwater management plan and address the ten-point bmp requirement. He stated because this project is five lots or less, there is no requirement to have a stormwater management plan or meet the ten-point system. The application proposes to remove much of the debris and other materials that are stored in the building. With the reduction of impervious surface proposed, it will further reduce the runoff at the site. Mr. Cain stated that the natural flow of water is from Neck-O-Land Road to the back of the property, so the proposed development would not create any issues from a stormwater management perspective.

Mr. Henderson wanted to clarify that the proposed structures would not cause any additional problems in an area where problems already exist.

Mr. Billups asked what structures were being removed.

Mr. German stated all of the buildings will be removed except for the duplex and the two story structure at the front of the property.

Mr. Billups asked whether if the buildings that are currently on site were built today, they would still conform to the ordinances concerning the Chesapeake Bay and wetlands. He expressed his concerns with potential flooding problems stemming from Peleg's Point and this proposal.

Mr. German stated that the barn and two silos that are closest to the RPA are being removed. The structure that is proposed that will be closest to the RPA will be further away than the current structures that are on site. Mr. German continued that in addition to the RPA buffer

boundary itself, the applicant has agreed to an additional 25 foot construction setback at the edge of the RPA buffer to lessen the impact to the RPA and Shellbank Creek.

Mr. Billups asked if any residents in the area had expressed any concerns.

Mr. German stated he received one public comment from a citizen in a neighboring subdivision, whose opinion was that the plan improved the site and was favorable.

Mr. Fraley stated that when the Chesapeake Bay Ordinance is applied to a subdivision of five or more lots, it is referring to single family homes. He asked for comments concerning its application to proposed multi-family dwellings.

Mr. Cain stated that the ordinance does not address multi-family dwellings; therefore, this application was viewed as a single family subdivision with five lots or less.

Mr. Fraley expressed his concerns about the neighboring subdivision Peleg's Point and the flooding issues in the area. He expressed his concerns about the flow of water.

Mr. Cain stated that Environmental staff is working with developers in Peleg's Point to resolve some of the drainage concerns. He stated the Environmental Division is sensitive to the flooding issues in the Neck-O-Land Road area. He stated that as long as the impervious surfaces were reduced, this would improve the drainage. Mr. Cain also stated the removal of many of the structures and stored equipment will improve the water quality. He stated that the way the application is proposed, the majority of the runoff will be dissipated before it reaches the back of the property.

Mr. Fraley reminded the Commissioners that if they would like to request anything further from the applicant concerning this application, the time would be during this review since the site plan will be under administrative review at a later date.

Mr. Cain stated that under comment #4 of the special use permit conditions, drainage would be minimized to keep the existing pattern during the planning and development of the site.

Mr. Billups expressed his concerns with the water issues on that property. He stated that at times there is water that does not flow away and becomes standing water on Neck-O-Land Road. He stated the water comes from two directions, from Mill Creek and from Powhatan Shores. Mr. Billups said he was not against the project, but that he would like to see some of these concerns addressed.

Mr. Henderson stated that in the staff report it references the impact on the schools. He questioned that there was no proffer attached to this.

Mr. German stated that it would be a very minimal impact. The statistics are received from the County's Financial and Management Services Department. He stated there is no proffer associated with the application because it is not a rezoning case.

Mr. Henderson asked if, in VDOT's analysis of the impact on the roadway, the current width of the right-of-way included sufficient room to make improvements to Neck-O-Land Road to bring it to current standards for a two-lane road.

Mr. German stated that normally those kinds of issues are addressed when the site plan is reviewed. He stated that VDOT will be most concerned with the entrance road that is shared by the site.

Mr. Henderson asked if the applicant would, at that time, be required to dedicate the right-of-way as may be required by VDOT.

Mr. German answered yes.

Mr. Henderson asked if an asbestos survey is required to get a demolition permit.

Mr. German responded that he did not know specifically if an asbestos survey would be required, but that to demolish the buildings on site, a demolition permit from the Code Compliance Division would be required and that the Code Compliance Division would determine if the asbestos survey would be required as part of its management of that permit.

Mr. Kinsman stated in reference to Mr. Henderson's concern about proffers, that to require a cash proffer for a special use permit would be, at-best, a questionable enforcement situation.

Mr. Chris Johnson, of Kaufman and Canoles, spoke on behalf of the applicant, Mr. Edward Gilley. He stated that the property has been in the Gilley family for over 100 years, and has been owned by the applicant since 2004. He stated this proposal is an example of infill development that helps to meet the needs of the workforce community. Mr. Johnson stated the property could be divided by-right, with five single family dwellings, with none of the environmental protections and enhancements offered by the applicant. The applicant feels the application is compatible with the surrounding area with regard to land use and density. He stated the applicant has a history of providing affordable rental opportunities on the property as well as on other nearby and adjacent properties. Mr. Johnson stated that the 40% reduction in impervious cover, the added 25 foot setback, the removal of the deteriorating structures, the installation of rain barrels, and having a shared driveway represent public benefits to the community. The applicant would request that the Planning Commission would concur with staff's analysis and recommend approval to the Board of Supervisors.

Mr. Gerald Mephram, of Neck-O-Land Road, spoke on behalf of the applicant. He stated that Mr. Gilley takes care of the property and provides affordable housing which is needed in the County.

Mr. Fraley closed the public hearing.

Mr. Poole made a motion to approve with a second from Mr. Henderson.

In a roll call vote the motion was approved. (6-0) AYE: Peck, Poole, Henderson, Billups, Krapf, Fraley. (Obadal absent)

F. Z-0002-2008 / SUP-0018-2008 Williamsburg Landing Expansion

Ms. Kate Sipes stated that Kaufman and Canoles has applied on behalf of Williamsburg Landing, Inc. for an amended special use permit and proffers to allow an increase in assisted living units and nursing units and a decrease in independent living units. The parcel is approximately 50 acres and is zoned R-5, Multi-Family Residential, with proffers. A special use permit is required because nursing homes and facilities for the residence and/or care of the aged is a specially permitted use in the R-5, Multi-Family Residential District. She stated the applicant is proposing two 3-story buildings at a maximum height of 50 feet each.

Ms. Sipes stated that proffers had been added to require the applicant to provide water conservation standards and to apply special stormwater criteria within the limits of the subject parcel on all subsequent site plans submitted. This is intended to encourage low impact design features on future expansions. Staff finds the proposal to have minimum impacts and be generally compatible with the 2003 Comprehensive Plan. Staff recommended the Planning Commission recommend approval of the special use permit application, with conditions and proffers, to the Board of Supervisors.

Mr. Poole asked if the proposed improvements would rise above the tree line.

Ms. Sipes preferred to defer that question to the applicant. She did state that information on elevations have been submitted, but was not sure how the elevations were in comparison to the tree line.

Mr. Fraley asked for clarification on the number of independent units currently built in that area of the property and what is being proposed.

Ms. Sipes answered that currently there are 63 independent living units. The two buildings proposed would be another 24 units total for a total of 87.

Mr. Greg Davis of Kaufman and Canoles spoke on behalf of the applicant, Williamsburg Landing Inc. He stated that this application is not for an expansion, but for a change in unit types within the complex. He displayed a conceptual plan that showed what the applicant proposes for future development. Mr. Davis stated the changes in unit types were necessary because Williamsburg Landing is a continuing care retirement community. This application was based on the needs of the facility and its residents. As the residents age, the needs do change. The rezoning that was done in 2001 had certain projections as to what may be needed in the future. It has been determined that these needs have changed. He stated the total number of units has not been defined. He said that flexibility is needed so as to accommodate the residents at Williamsburg Landing. Mr. Davis stated the proposed proffers offer Special Stormwater Criteria, an increase in money paid for public utilities, and more conservation standards. He respectfully requested that the Planning Commission recommend approval of this application to

the Board of Supervisors.

Mr. Poole asked about the height elevations in relation to the tree line, and whether anything would be done to mitigate the aesthetic effects of the sound wall along Route 199.

Mr. Davis stated that the two independent living buildings would be similar in height and design to building #11, as shown on the conceptual plan, which is along Route 199 and furthest away from the proposed buildings. He stated that no new sound wall or improvements to the current structure is anticipated.

Mr. Fraley asked if there would be any additional parking.

Mr. Davis stated approved site plans will be adding additional parking.

Mr. Fraley encouraged the use of pervious concrete when adding additional parking spaces.

Mr. Davis stated he understood that pervious pavement and materials were strongly encouraged to be used.

Mr. Murphy stated that there is no requirement for this and that it was in good faith on the applicant's part.

Mr. Fraley asked about the skilled labor force that will be needed for the future. He stated this has been an issue in the past with another project. The conceptual plan for the future shows a large increase and he would like to know how this might affect their employment situation.

Mr. Ben Puckett of Williamsburg Landing addressed these concerns. He stated the facility has been in existence since 1985 and has been fortunate to have a high quality workforce. He stated the numbers discussed tonight are much lower than the numbers associated with the CCRC at Ford's Colony that came before the Planning Commission earlier in the year. Mr. Puckett stated they have been fortunate to train and retain skilled workers. He stated there are challenges for staffing in the nursing field. He said there is a long term challenge in staffing these positions, but they feel confident in their recruitment process and training.

Mr. Fraley asked if they could estimate a number that would be needed as this complex develops.

Mr. Puckett stated an estimate would be 20 - 25 workers for each shift, for which there are three.

Mr. Henderson asked what the density is per acre currently, and what it would be proposed.

Ms. Sipes answered that if independent units are counted only based on what is on the

three parcels combined, it is 2.53 independent units per acre. If calculating on the one parcel with the proffers and special use permit conditions, it is 2 units per acre. With the proposal the density would be 2.43 units per acre for the overall site. The density for just the one parcel would be 1.74 units per acre.

Mr. Fraley asked how the units were calculated when they are contained in one building.

Ms. Sipes answered that each apartment is considered a dwelling unit. For example, a building with twelve apartments would have twelve units in the calculation.

Mr. Fraley closed the public hearing.

Mr. Henderson made a motion to approve the application.

Mr. Krapf seconded the motion.

Mr. Krapf stated he supported this application and wanted to mention that this was a proffer amendment, not a rezoning or special use permit. While the amendment results in an increase of 7 units, he felt that the applicant's rationale was justifiable. Mr. Krapf felt that the retirement community will face a growing demand for facilities such as these.

Mr. Poole stated he supports the application and applauds the track record of the applicant. He did ask the applicant to possibly address the aesthetic view of the sound wall as seen from Route 199.

Mr. Peck supported the applicant but questioned how the calculation of density was determined. He feels that the Commission needs to address density calculations in these types of projects.

Mr. Fraley wanted to point out that the applicant has voluntarily committed to applying Special Stormwater Criteria with this project.

In a roll call vote the motion was approved. (6-0) AYE: Peck, Poole, Henderson, Billups, Krapf, Fraley. (Obadal absent)

7. PLANNING DIRECTOR'S REPORT

Mr. Murphy mentioned the 2009 meeting schedule.

Mr. Fraley asked the Commissioners to review and if they had any concerns contact Mr. Murphy.

8. COMMISSION DISCUSSIONS AND REQUESTS

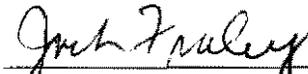
There were no items for discussion.

9. ADJOURNMENT

Mr. Henderson made the motion to adjourn.

Mr. Krapf seconded the motion.

The meeting was adjourned at 8:45 p.m.



Jack Fraley, Chairman



Allen J. Murphy, Acting Secretary