

A REGULAR MEETING OF THE PLANNING COMMISSION OF THE COUNTY OF JAMES CITY, VIRGINIA, WAS HELD ON THE SEVENTH DAY OF JANUARY, TWO-THOUSAND AND NINE, 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  
Jose Ribeiro, Senior Planner  
Luke Vinciguerra, Planner  
William Cain, Chief Civil Engineer  
Brian Elmore, Development Management Assistant

**Absent**

Tony Obadal

Mr. Fraley introduced the Planning Commissioners to the public.

Mr. Fraley stated Mr. Obadal resigned from the Planning Commission to deal with personal issues. He said Mr. Obadal's service will be formally recognized at a future meeting.

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 Reconvened Meeting

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

Mr. Krapf made a motion to approve the minutes.

Mr. Henderson seconded the motion.

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

B. December 3, 2008 Regular Meeting

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

Mr. Poole stated on page 10, where it reads: "He did ask the applicant to possibly address the aesthetic view from Route 199," he would like to insert "of the sound wall as seen" after "aesthetic view."

Mr. Poole motioned for approval with the correction.

Mr. Henderson seconded the motion.

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

4. COMMITTEE AND COMMISSION REPORTS

A. Development Review Committee (DRC) Report

Mr. Krapf stated the December DRC meeting reviewed C-0075-2008, Moss Creek Commerce Center. He said the applicant had requested DRC review to determine if the conceptual plan would drastically alter land uses or conflict with rezoning conditions. He said the applicant asked for a buffer setback modification to relocate a stormwater facility. By a vote of 4-0, the DRC determined the following changes and conditions for the application: more consistent with approved master plan, shifting the stormwater facility, changes in square footage, shifting bank site location, reorienting the gas/convenience store location, and waivers to the Mixed Use and Planned Unit Development zoning for location of the stormwater facility. He said Mr. Fraley left at this point in the meeting.

Mr. Krapf stated the DRC also reviewed SP-0122-2008 St. Olaf Catholic Church Landscape Plan. He said two plant choices were reviewed for their suitability to the site and that the applicant and staff agreed on appropriate substitutions. By a vote of 3-0 (Fraley absent), the DRC approved the plan with changes.

Mr. Krapf stated the DRC also reviewed SP-0060-2007, Pleasant Hill Station Car Wash. He said the applicant had submitted architectural plans inconsistent with previous approvals from the Board of Supervisors. Of particular concern was removal of a pergola element due to cost and safety concerns from the applicant. In accordance with proffers on the project, the applicant

appealed to the DRC. By a vote of 2-1 (Fraley absent), the DRC ruled that leaving the pergola would not be a significant departure from the approved master plan.

Mr. Henderson moved adoption of the DRC report.

Mr. Poole seconded the motion.

In a unanimous voice vote, the DRC report was approved.

B. Policy Committee

Mr. Peck stated the Policy Committee did not meeting during December.

C. Other Committee/Commission Reports.

Mr. Fraley gave an update on the Comprehensive Plan process and Steering Committee. He said the Steering Committee is in the middle of Land Use change hearings.

## 5. PUBLIC HEARINGS

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

Mr. Fraley stated the applicant had requested a deferral to the February 4<sup>th</sup> Planning Commission meeting to work with state agencies on the feasibility and limiting parameters of the project.

Mr. Murphy stated staff agreed with the deferral.

Mr. Fraley continued the public comment session.

There being none, Mr. Fraley continued the public hearing to February 4, 2009.

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

Mr. Fraley stated Mr. Tim Trant, the applicant, requested a deferral to work with staff to resolve outstanding issues.

Mr. Murphy stated that staff agreed with the deferral.

Mr. Fraley asked for public comment. There being none, he continued the public hearing to February 4, 2009.

C. SUP-0025-2008 Handicap Accessible Playground at JCWCC.

Ms. Kate Sipes stated John Carnifax of JCC Parks & Recreation and Carolyn Murphy with the City of Williamsburg applied for a Special Use Permit to build a fully accessible playground at the existing James City-Williamsburg Community Center site. She said the property is located at 5301 Longhill Road and zoned Public Lands. A Special Use Permit is required for community recreation facilities, including playgrounds, on Public Lands. Ms. Sipes explained that the Leadership Historic Triangle (LHT) Class of 2009 voted to fund and build the playground, which is proposed to be 6,000 square feet and include barrier-free equipment, fences along the roads, a soft fall surface, and sidewalk. She said the playground is proposed to be built between the parking lot and ball fields. Ms. Sipes stated that staff finds the project to have minimal additional impacts, to be consistent with the 2003 Comprehensive Plan, and staff recommends approval.

Mr. Henderson asked if staff received a proposed playground layout.

Ms. Sipes said the playground's features were still being decided.

Mr. Fraley opened the public hearing.

Ms. Carolyn Murphy, 644 Counselor's Way, spoke on behalf of the LHT Class of 2009. She said the goal of the class project was to build a playground where all children in the Historic Triangle can participate. She said there are 2600 local children with disabilities, and the class is in the midst of fundraising for the equipment.

Mr. Michael Hipple, 112 Jolly Pond Road, stated he was a member of the LHT class and encouraged the Commission to support the playground. He discussed the LHT Class' brick selling fundraiser.

Mr. Fraley closed the public hearing.

Mr. Poole motioned approval. He said the playground was a great fit for zoning and the Comprehensive Plan.

Mr. Krapf seconded approval.

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

D. Z-0003-2008/MP-0032008 The Candle Factory

Mr. Jose Ribeiro stated Mr. Vernon Geddy submitted an application on behalf of Candle Factory Development LLC to rezone 64.45 acres from Agricultural, Limited Industry, and Mixed Use to Mixed Use, with proffers. The site is located at 7551 and 7567 Richmond Road and a three lane driveway is proposed at the Richmond Road/Croaker Road intersection. The Candle Factory was originally reviewed by the Planning Commission in 2007, after which the applicant deferred the case indefinitely to incorporate comments and suggestions made by the Commissioners. The revised application has new features including: 142 single family attached units, 33 single family detached units, 30,000 square feet of commercial and office uses, and a 90,000 square foot assisted living complex. He said the assisted living facility proposes 96 rooms in 16 clusters and is proposed to be operated by Crosswalk Community Church. The 2003 Comprehensive Plan designates the area as Mixed Use, Low Density Residential, and Limited Industry. He reviewed zoning and land use designations of nearby properties and noted that the Comprehensive Plan does not offer a specific recommendation for this Mixed Use quadrant but does offer a general recommendation for Mixed Use areas near major thoroughfares, which calls for intense commercial uses, as opposed to the large residential component of this proposal. He said staff finds the proposal inconsistent with the 2003 Comprehensive Plan and that the assisted care facility is inconsistent with the Limited Industry designation. Staff recognized several positive features including interconnectivity, environmental and open space features, recreational and architectural features, as well as affordable housing, but recommended denial for the following reasons: inconsistency with the 2003 Comprehensive Plan Mixed Use and Limited Industry designations, insufficient traffic improvement proffers, and school proffers that are not in accordance with the current proffer policy.

Mr. Peck asked what zones allow assisted living facilities.

Mr. Ribeiro stated there was not a specific use for assisted living in any zoning category. He said assisted living is seen as a hybrid use, with both commercial and residential features.

Mr. Peck asked why assisted living facilities do not count as service industry. He said the County does not count the patients at these facilities as residents.

Mr. Ribeiro stated the lack of specific use for assisted care homes creates a subjective application.

Mr. Murphy stated the Steering Committee should find a specific place for assisted living in the future Comprehensive Plan. He said so far they are generally consistent with Low Density Residential, but fiscal impacts are closer to limited industrial uses.

Mr. Peck stated the ambiguity in the Comprehensive Plan placed applicants at risk.

Mr. Krapf asked Mr. Ribeiro to elaborate on proffered traffic improvements.

Mr. Ribeiro stated the current traffic improvement proffers, regarding the reconfiguration of entrance to the property, was supported by VDOT. However, VDOT and staff preferred the addition of a dedicated right turn lane out of the property. He said without a dedicated right turn lane into the property, additional future development around the Candle Factory could pose a traffic problem. Current proffers language requires their completion prior to the issuance of certificate of occupancy but staff would like the proffer language to change to say completion before a site plan or plat is approved.

Mr. Fraley stated the Limited Industry designation is outdated, relating to traffic improvements that were never made.

Mr. Murphy stated the Limited Industry designation was accepted in anticipation of further development at Candle Factory.

Mr. Fraley stated at the January 5, 2009 Steering Committee presentation, staff recommended changing the Candle Factory designation to Low Density Residential.

Mr. Henderson stated possible archeological sites on the property could pose an issue for development. He asked about the methods on the adequate public facilities test for schools. He said many of those tests do not account for cumulative development.

Mr. Ribeiro stated the school analysis was not cumulative.

Mr. Fraley stated that staff is reviewing the adequate public facilities test itself.

Mr. Vernon Geddy, representing the applicant, Candle Factory Development, LLC, stated the Candle Factory is intended to be a small village community with a mix of uses, prices, and ages. He said there is consistent internal design, great environmental protections, the revised proposal is less intense, includes more workforce and affordable housing and is consistent with nearby uses. Staff recommended denial because the proposal is not intense enough, although the local market cannot support intensive commercial uses. He contrasted the proposal with New Town and stated it is closer in use to the Five Forks area. He said Crosswalk Community

Church proposed the assisted living facility. He discussed the proposal's layouts and facilities. He said the applicant would be willing to install a dedicated right turn lane and change the proffer language to install it before site plan or plat approval. Regarding compliance with the School Cash Proffer Policy, Mr. Geddy stated that the application was filed in 2006, while the most current school proffer rules went into effect in June 2007. He said a third of the proposed units were affordable or workforce.

Mr. Krapf asked Mr. Geddy to verify his willingness to install the right turn lane and change the proffer language.

Mr. Geddy stated the changes would be bonded prior to approval of a subdivision plat.

Mr. Krapf asked why the assisted nursing facility was being delayed until the end of development.

Mr. Geddy stated the church views the assisted living facility as a long term project. He said if the church does not choose to move forward with the project, another developer will be found and that he could not guarantee a year the facility would be built.

Mr. Krapf asked about the school proffers.

Mr. Geddy stated school proffer policies were determined by the date the application was filed. He said the original Candle Factory application was filed in 2006.

Mr. Kinsman stated applicants decide how much to proffer. He said the County's school fiscal impact numbers were only a guide. He said it is a legislative decision to accept any proffer case by case.

Mr. Henderson asked about connectivity to a neighboring undeveloped property.

Mr. Geddy stated the applicant would be willing to provide for future access if the Commission wished.

Mr. Henderson stated interconnectivity between neighborhoods would help keep people off the main arterial roads.

Mr. Billups stated the Commission should not force the applicant to build a road that may never be used.

Mr. Peck stated any road should be balanced with RPA destruction.

Mr. Henderson asked how the affordable housing will be protected from property flipping.

Mr. Geddy stated financing programs offer financial assistance after qualified buyers live at the home for a certain number of years. He said a proposed limitation on rentals would also help avoid speculation.

Mr. Peck asked if higher proffers would affect pricing of the homes.

Mr. Geddy stated they would and that higher school proffers would eliminate the ability to provide affordable and workforce housing.

Mr. Krapf asked who would monitor the onsite BMP.

Mr. Geddy stated the County Environmental Division would monitor the BMP, with the Homeowner's Association responsible for any maintenance.

Mr. Krapf stated he believed many of the project's residents would come from within the County, as opposed to mostly new residents.

Mr. Billups asked if the applicant performed loan research before setting the development's housing prices.

Mr. Geddy stated the affordable housing prices were based on County staff estimates. He said there had been a community meeting regarding the proposal at the James City County library on Croaker Road.

Mr. Ribeiro stated the interconnectivity drawings to adjacent neighborhoods shown by Mr. Geddy were not reviewed by staff.

Mr. Fraley opened the public comment section.

Mr. Michael Hipple, 112 Jolly Pond Road, spoke on behalf of the pastor of Crosswalk Community Church. He said the church supports the project.

Mr. Tim Johnston, 610 Colony Trail, a local business owner, stated he was frustrated over the Planning Commission's process. He said the Commission was nitpicking details that should be left up to the developer and staff. He said he would like to see businesses fronting

Richmond Road with residences behind. He said interconnectivity could be left up to individual neighborhoods to decide and finance.

Mr. Fraley closed the public hearing session.

Mr. Peck stated that although he likes the environmental features, he was concerned about cost impacts. He said he wanted to hear other Commission members' opinions before finalizing his answer.

Mr. Billups stated he supported staff on the denial. He said some issues discussed need to be reviewed by the Steering Committee. He said he would like to see the project deferred until after the Comprehensive Plan process. He asked if the Commission was obligated to provide setback waivers and noted that 16% of new development units was a consistent standard for affordable and workforce housing.

Mr. Poole stated that he saw many merits in the application and did not want to delay it further, and that he did not want to move forward on a major rezoning without concrete Comprehensive Plan designations in place.

Mr. Krapf stated it had been a difficult case for him to decide. He said the large amount of upcoming growth is creating a situation where infrastructure cannot keep up but that he is also a proponent of affordable and workforce housing. He said despite negatives, he favored the assisted living facility and two-tiered workforce housing and felt the public benefits were some of the best he had seen even before discussing environmental impacts.

Mr. Henderson thanked the applicant for a well-thought and needed proposal. He said the surrounding businesses support the affordable housing and reducing Richmond Road traffic.

Mr. Fraley stated the Commission gives staff's recommendation weight. He said the Limited Industry designation was not proper and that any Comprehensive Plan changes to the properties would have to be reviewed by the Steering Committee, the Commission, and the Board. He said the County's Cluster goals for workforce and affordable housing, and environmental protections are all met by the applicant. He said a lack of workforce housing was repeatedly heard by the Community Participation Team and that the proposal was the most attractive affordable housing plan he had seen.

Mr. Peck stated the applicant has met repeatedly with staff and the community to try and put together a workable project. He said the rules should not be changed on the applicant. He said no one came out to speak against the development. He said he would support the proposal.

Mr. Billups stated he did not want to see too much weight given to affordable housing compared to fiscal impact and Comprehensive Plan changes. He said he liked the project's design.

Mr. Henderson motioned adoption of the rezoning and master plan, amended to include updated traffic impacts and access to the adjoining property.

Mr. Murphy stated the motion should include the applicant's willingness to provide connectivity to the Ash Parcel, revised proffers relating to road improvement timing, an additional turn lane at the entrance road, and approval of the setback reduction request.

Mr. Krapf seconded.

In a roll call vote, the motion was adopted (4-2) AYE: Peck, Fraley, Krapf, Henderson. NAY: Billups, Poole. (Obadal absent)

E. ZO-0004-2008 Zoning Ordinance Amendment – Retail Sale and Repair of Lawn Equipment in A-1.

Mr. Ribeiro stated, upon citizen request, staff was seeking to amend the A-1 Zoning District to include retail sale and repair of lawn equipment as a special or permitted use. He said several stated examples of retail sale and mechanical equipment that are currently allowed by-right in A-1. He said staff believed that the lawn equipment definition should include riding lawnmowers, blowers, chippers, and chainsaws. Staff research found several localities in Virginia allowing sale and repair of lawn equipment as a special use in agricultural zoning and that the use would provide needed limited services to residents in agricultural areas of the County. He stated that the staff's recommendation proposed limiting outdoor storage to 2500 square feet and that equipment repair be limited to a fully enclosed service area. He said if the use was adopted as a specially permitted use, the Commission could individually evaluate impacts to the environment and community character on a case by case basis.

Mr. Henderson asked about the origins of the 2500 square foot display restriction.

Mr. Ribeiro stated the 2500 square foot display area is found in other similar uses in the A-1 Zoning District

Mr. Murphy stated the Commission or Board could further limit the display area through an SUP. He said the use itself requires a Special Use Permit.

Mr. Fraley opened the public hearing.

Mr. Nick Cianelli, 15402 Roth Court, asked for the Commission to change the ordinance. He said he had moved the business from York County and felt the area needed a good service shop. He said it was too costly to move the business to other areas.

Mr. Fraley closed the public hearing.

Mr. Poole stated the use complemented other agricultural special uses.

Mr. Poole motioned for approval of the amendment as a special use in A-1.

Mr. Billups seconded.

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

Mr. Fraley began a break at 9:20 p.m.

Mr. Fraley reconvened the meeting at 9:25 p.m.

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

Mr. Luke Vinciguerra stated Rick LaMere of North South Construction applied for a Special Use Permit to allow development of a 16 pump gas station, convenience store, and four fast food restaurants at 9220 Richmond Road. The site is six acres, zoned General Business, and designated Mixed Use in the Comprehensive Plan. He said fuel distribution and proposals with 100+ peak hour trips require Special Use Permits. He said the proposal cannot meet Community Character corridor requirements, but the Commission can modify this requirement. Staff finds the proposal generally consistent with the surrounding uses and recommends approval with attached conditions and landscape modification request.

Mr. Steven Romeo of LandMark Design Group, stated the site had a previous approval from the Board but this application proposed changing the sit-down restaurant into four fast food restaurants.

Mr. Henderson asked if terms of the easements allowed improvements within the easement area.

Mr. Romeo stated objects could be placed over the southern half of the easement.

Mr. Henderson stated to provide two-way traffic the applicant would have to have 24 feet of pavement. He said the proposal's canopy island could potentially block access to the restaurant and store. He suggested reducing the number of pumps from eight to six.

Mr. Romeo stated a reduction of pump islands would not be economically feasible for the site.

Mr. Henderson asked the applicant to identify the underground storage tanks.

Mr. Romeo stated the tank firm had not sent his company layouts yet.

Mr. Henderson asked about the capacity of the proposal's restrooms and sewer for the convenience store and restaurants given its interstate location and projected trip generation.

Mr. Romeo stated he would defer plumbing details to Mr. LaMere, the project's contractor.

Mr. Krapf asked the applicant to discuss the environmental features of the site.

Mr. Romeo stated there would be a bio-retention and infiltration facility on the site and that he also believed there was a proffer for LID features.

Mr. Rick LaMere, stated the restroom and fixture requirements would be reviewed with Code Compliance. He said he had not reviewed fixtures at this point.

Mr. Krapf stated he hoped low-flow water systems would be included in the proposal's final plans.

Mr. Romeo stated the applicant has a condition to provide for water conservation. He said the conservation would be achieved through not hooking up to JCSA and that the site plan also included drought tolerant and native plantings.

Mr. Henderson asked if public water was available.

Mr. Romeo stated JCSA water hookups were about a mile away. He said that although the bio-retention pond is not a condition, it will be included in the site plan. The approved site plan is for the original case is SP-0025-2007.

Mr. Fraley asked if permeable pavement was included in the proposal.

Mr. Romeo stated that there was no permeable pavement; however, he said the proposal would remove 19% of the site's existing impervious cover. The landscape plan also fully complies with the County's requirement for landscaping.

Mr. Fraley discussed the previous work on the proposal to maintain a fixed 50-foot buffer.

Mr. Romeo stated he was able to meet the buffer requirements except for one small area. He said there had been no changes to the pump layout but the proposal now incorporated a drive-up window, resulting in less parking. He said the roof line and building colors have both changed based on information from the citizen meeting.

Mr. Murphy stated staff has no architectural rendering for the canopy.

Mr. LaMere stated he did not have a canopy rendering.

Mr. Murphy stated the Commission could give the DRC permission to review the canopy rendering, delegate to staff, or take action based on the information currently presented.

Mr. Krapf stated he would prefer an additional review of the canopy design.

Mr. LaMere stated he would be willing to harmonize the canopy with the building.

Mr. Henderson asked if the gas facility had a brand yet. He said the facility's sole exit was less than 24 feet from the pump island and was concerned that fueling cars would intrude into that area.

Mr. Romeo stated the design showed gas customers mostly driving around the restaurant.

Mr. Henderson stated a seven vehicle line at the drive-through would block bypass capacity.

Mr. Romeo stated he did not believe the drive-through would create that amount of activity. He said a coffee shop was using the drive-through.

Mr. Henderson stated the building could be set back further on the site. He said he expects the intersection to become higher volume over time.

Mr. LaMere stated he was encouraged not to modify his previously approved site plan as he moved through the special use permit process. He said the original owner was familiar with gas stations and had said the layout worked.

Mr. Romeo stated part of the design was the desire to keep the current building intact. He said he would be willing to move the building if it did not delay the special use permit's approval but did want another deferral.

Mr. Fraley asked about the ability to change the proposal's master plan after approval from the Planning Commission.

Mr. Murphy stated if the applicant wanted to make changes between the Planning Commission and the Board it would be workable.

Mr. Krapf asked if the applicant had considered a corrugated metal roof.

Mr. Henderson asked if diesel fuel would be sold at the gas station.

Mr. Romeo stated the gas station would have two low-pressure diesel pumps. He said the number and type of pumps were included in the conditions and would be able to service small contractors.

Mr. Fraley closed the public hearing.

Mr. Krapf made a motion for approval with conditions for architectural review of the canopy and the roof.

Mr. Murphy stated staff would work on the proffer language. He said the conditions would fall under Planning Director review, with any appeals to the DRC and that changes to the master plan would be made before Board consideration.

Mr. Poole seconded the motion for approval.

Mr. Henderson asked about conditions related to any speaker systems or outdoor storage of merchandise.

Mr. Murphy stated noise conditions are applied when there are nearby neighborhoods. He said conditions for outdoor storage were already established and regulated by the Zoning Administrator.

Mr. Henderson asked if the applicant would make the columns of the canopy compatible with the building.

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

G. SUP-0021-2008 Jamestown Road Mediterranean Restaurant

Mr. Vinciguerra stated Mr. Vernon Geddy had applied for a Special Use Permit for a sit-down restaurant in an existing structure at 1784 Jamestown Road. He said Special Use Permits are required in Limited Business districts, as well as buildings over 2750 square feet in LB Districts designated Neighborhood Commercial. He said the 1.2 acre parcel currently has two structures, one of which will be demolished, and the applicant proposes a 24 space parking lot, outdoor dining with fountain, and a stormwater management facility at the rear of the property. He said the building exterior will not be redone. He said the applicant has also asked for modifications to the landscape ordinance to compensate for RPA and RMA buffers on the property. He said staff recommendations approval of the landscape modifications. Staff finds the overall proposal generally consistent with surrounding land uses and the Comprehensive Plan and recommends approval of the application.

Mr. Fraley opened the public hearing.

Mr. Vernon Geddy, representing the applicant, stated the Jamestown Road entrance would be replaced with an entrance off Sandy Bay Road. A meeting with the Friends of Powhatan Creek to work out their concerns was also being scheduled.

Mr. Poole asked if the silt fencing on-site was a VDOT improvement.

Mr. Geddy stated the fencing was erected during the demolition of a third on-site building.

Mr. Fraley asked about possible stormwater improvements to the site. He stated the current pond was too close to the wetlands.

Mr. Cain stated stormwater improvements other than those currently on-site would be very expensive and that he had discussed stormwater improvements with the applicant. Water quality on the site would be higher after redevelopment, including demolishing the old buildings, improved runoff, and landscaping.

Mr. Krapf asked about irrigating the property's vegetation. He asked if the applicant would require approval from JCSEA before being able to drill a well.

Mr. Geddy answered yes.

Mr. Fraley opened the public comment session.

Ms. Elsie Johnson, 210 Red Oak Landing Road, stated the State does not give localities the authority to deny wells, but hoped there would be a proffer against a well. She said many people in her area of the County use wells.

Mr. Krapf asked staff to discuss the validity of irrigation condition #5.

Mr. Kinsman stated Special Use Permits require meeting all attached conditions and that the irrigation condition was commonly used by the County. He said the applicant can appeal to JCSEA for a shallow well if certain conditions are met.

Ms. Ann Hewitt, 147 Raleigh, stated some neighbors may not know about the proposal due to the holidays, and asked for an opportunity for them to review the proposal.

Mr. Poole asked Ms. Hewitt if Mr. Geddy's citizen meeting would address her concern.

Ms. Hewitt stated the Friends of Powhatan Creek liked the proposal, but had concerns about the increased impervious cover.

Mr. Fraley asked if Mr. Geddy would be willing to defer the case to meet with neighbors.

Mr. Henderson asked staff to discuss adjacent property owner notification procedures.

Mr. Geddy stated he would be willing to meet with neighbors but did not want another deferral.

Mr. Krapf asked if the applicant would be willing to add a condition stating they would meet publically with neighbors before Board consideration, and report their findings.

Mr. Poole stated he liked the project, but would be more comfortable approving it if Friends of Powhatan Creek and neighbors had the ability to review and influence the project.

Mr. Geddy requested a one month deferral.

Mr. Henderson stated if the Planning Commission requested the deferral, the applicant would be required to return to the next Commission meeting, with or without conditions being met.

Mr. Poole requested a motion for deferral.

Mr. Henderson seconded the motion for deferral.

In a unanimous voice vote, the case was deferred. (6-0) AYE: Peck, Billups, Poole, Fraley, Krapf, Henderson. (Obadal absent)

## 6. PLANNING DIRECTOR'S REPORT

Mr. Murphy stated that due to the election of new officers at the February 4 Commission meeting, the chairman should continue the meeting until next month instead of adjourning. He suggested a 6:30 p.m. start time for the February meeting.

Mr. Fraley stated the Commission's bylaws needed to be reviewed at the next meeting. He said Mr. Kinsman had sent out a copy of the bylaws with recommendations for changes.

Mr. Peck asked about the agenda for the January Policy Committee meeting and asked if staff had new information on the topic.

Mr. Murphy stated the Policy Committee needed to reconvene to discuss the Capital Improvements Program.

Mr. Fraley stated Planning staff recommended deferring the CIP discussion until the February Board/Commission worksession.

Mr. Peck stated he would like to add Planning Commission by-laws to the January Policy Committee meeting.

## 7. COMMISSION DISCUSSION AND REQUESTS

Mr. Fraley stated that the Commission could determine Board representative past February at the next meeting.

Mr. Billups stated the Commission should appoint a temporary vice-chairman until the February meeting.

Mr. Kinsman stated that after a Commission member resigns, the by-laws call for elections at the next meeting. He said the Commission could vote.

Mr. Poole nominated Mr. Krapf for vice-chairman.

Mr. Henderson seconded the nomination for vice-chairman.

In a unanimous voice vote, Mr. Krapf was elected vice-chairman. (6-0) AYE: Peck, Billups, Poole, Fraley, Krapf, Henderson. (Obadal absent)

Mr. Peck asked about scheduling a discussion of the PSA for an upcoming Policy Committee meeting.

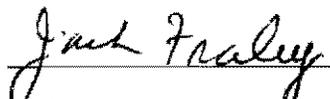
Mr. Fraley stated the Steering Committee would discuss the PSA.

#### 8. ADJOURNMENT

Mr. Krapf motioned for a recess.

Mr. Poole seconded the motion to recess.

At 10:45 p.m. the meeting was recessed until 6:00 p.m. on February 4, 2009.

  
\_\_\_\_\_  
Jack Fraley, Chairman

  
\_\_\_\_\_  
Allen J. Murphy, Acting Secretary