

A REGULAR MEETING OF THE PLANNING COMMISSION OF THE COUNTY OF JAMES CITY, VIRGINIA, WAS HELD ON THE FIFTH DAY OF JANUARY, TWO-THOUSAND ELEVEN, 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:

Joe Poole
Jack Fraley
Mike Maddocks
Al Woods
Rich Krapf
Tim O'Connor
Reese Peck

Staff Present:

Allen Murphy, Director of Planning/
Assistant Development Manager
Adam Kinsman, Deputy County Attorney
Chris Johnson, Principal Planner
Jason Purse, Senior Planner
Leanne Reidenbach, Senior Planner
Luke Vinciguerra, Planner
Jennifer VanDyke, Administrative Services Coordinator

Mr. Reese Peck called the meeting to order at 7:00 p.m.

2. PUBLIC COMMENT

Mr. Peck opened the public comment period.

Seeing no one wanting to speak, Mr. Peck closed the public comment period.

3. MINUTES – DECEMBER 1, 2010

Mr. Joe Poole moved for approval of the minutes with corrections.

In a unanimous voice vote, the minutes were approved (7-0).

4. COMMITTEE AND COMMISSION REPORTS

A. Development Review Committee (DRC)

Mr. Rich Krapf stated the December meeting of the Development Review Committee (DRC) was held on December 29th at 4:00 pm. Mr. Jack Fraley, Mr. Mike Maddocks, Mr. Poole and Mr. Krapf were present. The DRC discussed SP-0013-2010, Action Park of Williamsburg Side Yard Setback Modification. Go Karts Plus is an existing outdoor amusement center located on an 8.1 acre property on Richmond Road. It is comprised of two contiguous parcels under the same ownership but separated by a common property line. The applicant wishes to construct a 720 square foot storage building and relocate an existing 100 square foot dumpster at the northeast corner of the southern parcel. Both structures will be located ten feet from the rear property line. Additionally, the proposed storage building will be located four feet away from the side of the common property line. Section 24-394(b) of the Zoning Ordinance states that accessory structures must be located at least ten feet from any side or rear lot line. However, the

applicant requested a waiver to modify side-yard setback requirements as permitted by Section 24-395 of the Zoning Ordinance. The applicant also requested a landscape modification to allow the placement of the proposed storage building and dumpster five feet within the required 15 foot landscape area. CSX railroad tracks are located immediately east of one property line and the contiguous parcel shares the other property line. The DRC voted (4-0) to approve both reducing the ten foot side yard setback to four feet and the landscape modification request, subject to agency comments.

The DRC then discussed S-0028-2010, Colonial Heritage Phase 4, Section 2. The Zoning Ordinance requires DRC review of developments consisting of 50 or more units. This section consists of 138 units which will be added to the 216 units in Section 1 of this Phase 4 project. The DRC discussion centered on stormwater controls and the impact on the property's steep slopes (consisting of 25 degrees or more). Representatives from AES and the Environmental Division were present to discuss these elements in relation to the Chesapeake Bay Act and other applicable ordinances. Staff also advised that this stormwater plan has been reviewed by the Chesapeake Bay Board. The DRC voted (4-0) to grant preliminary approval to the subdivision construction plan subject to agency comments.

B. Policy Committee Report

Mr. Jack Fraley stated the Policy Committee cancelled one meeting this month due to inclement weather. The Policy Committee met prior to the Planning Commission meeting for a telephone conference with the consultants working on the Transfer of Development Rights (TDR) Feasibility Study. All Planning Commissioners were present, with the exception of Mr. Poole. The next Policy Committee meeting is scheduled for January 6th at 6:00 p.m. in building A, large conference room. The Committee will meet with the Wireless Communications consultant responsible for working on the Ordinance review. The Committee will complete the Capital Improvement Program (CIP) recommendations. Which will then be forwarded to the Board of Supervisors (BOS). The Committee will also finalize the Planning Commission Annual Report. Future Policy Committee meetings are scheduled for January 24th, 25th, and 31st and February 3rd, 7th, 10th and 24th.

C. Other Committee/Commission Reports

There were no other reports.

5. PUBLIC HEARING CASES

A. Z-0010-2010/MP-0001-2010/SUP-0029-2010 The Williamsburg Pottery

Mr. Chris Johnson stated that the applicant wishes to amend the proffers, Master Plan (MP) and Special Use Permit (SUP) approved in May 2007 for the project that was then known as the Promenade at the Williamsburg Pottery Factory. The proposal includes relocating one of the two main signalized entrances, reconfiguring the associated traffic improvements, and increasing the size of the project from 161,000 to 188,000 square feet. Staff has not received

comments or a recommendation on the proposed amendments to the master plan from the Virginia Department of Transportation (VDOT). The applicant has kept staff apprised of ongoing discussions with VDOT officials. The applicant anticipates receiving a recommendation within the next few weeks. In the absence of VDOT comments, staff recommends consideration of this project be deferred until the February Planning Commission. The applicant agrees with staff's deferral request.

Mr. Peck opened the public hearing.

Seeing that no one wanted to speak on this case, Mr. Peck closed the public hearing.

Mr. Peck asked the Commissioners if anyone objected to the deferral request.

Seeing no objection, Mr. Peck stated the hearing will be continued to the February Planning Commission meeting.

B. AFD-2-86-2-2010 Hankins Property Croaker AFD Addition

Mr. Jason Purse stated the applicant has requested a deferral until the February Planning Commission meeting to allow further discussion of the property. Staff concurs with this request.

Mr. Peck opened the public hearing.

Mr. Peck asked the Commissioners if anyone objected to the deferral request.

Seeing no objection, Mr. Peck stated the hearing will be continued to the February Planning Commission meeting.

C. SUP-0028-2010/HW-0004-2010 Busch Gardens – New Attraction Oktoberfest

Ms. Leanne Reidenbach stated Mr. Ronnie Orsborne of VHB-LandMark has applied on behalf of Sea World Parks and Entertainment to permit a new attraction in the Germany area of Busch Gardens. The attraction would be located in the same place as the Big Bad Wolf roller coaster, which was removed last year. The attraction consists of a 26,000 square foot event building, a locker room expansion and an elevated themed bridge. The attraction will not exceed 95 feet above existing grade; existing grade is estimated at 55 feet above sea level. The property is currently zoned M-1, Limited Business Industrial and is designated Limited Industry on the 2009 Comprehensive Plan. A Height Waiver (HW) is required because the project exceeds the permitted 60 foot height imposed by the M-1 zoning district. A SUP is required because the event building exceeds 10,000 square feet. The park is adjacent to the Kingsmill residential community, the nearest home is more than 1,700 feet away. The applicant conducted a balloon test on December 8, 2010 to evaluate visual impacts. The balloons were flown at the proposed height for both the event building and the themed bridge. Balloons were only visible from within Busch Gardens and could not be seen from inside Kingsmill or any adjacent roadways. The event building is set down in a topographical low area in order to minimize visual impacts and the majority of the attraction is located inside the event building in order to minimize noise.

The applicant also conducted a noise study which indicated that noise levels would not exceed 52 decibels outside the park boundaries. An average conversation is about 60 decibels. The attraction also runs through a Resource Protection Area (RPA). The applicant has proposed reusing existing support structures that were left from the Big Bad Wolf roller coaster to minimize any impacts to the RPA. Planning staff has reviewed the application and finds that it is consistent with the Zoning Ordinance, Comprehensive Plan and adjacent development. Staff recommends that the Planning Commission approve this SUP subject to the conditions included in staff's report. The Board of Supervisors (BOS) will consider the SUP and HW application jointly.

Mr. Peck opened the public hearing.

Mr. Larry Giles, representing Busch Gardens, spoke.

Mr. Poole asked the applicant if he was comfortable accepting the terms of the eight conditions brought forward in staff's report.

Mr. Giles stated yes.

Mr. Fraley stated that there was a meeting held with Kingsmill residents. He asked the applicant for more details.

Mr. Giles stated an invitation was emailed to Kingsmill residents for a meeting on December 28, 2010. Twelve Kingsmill residents attended. A presentation was made highlighting the same details offered in staff's report. The presentation discussed what the ride does and the anticipated impacts on surrounding areas.

Mr. Neil Delorenzo, 101 Jefferson's Hundred, spoke. Mr. Delorenzo represents a group of neighbors that live on Warhams Pond Road and Jeffersons Hundred. He did not attend the December 22, 2010 meeting, though he did watch the balloon test. Mr. Delorenzo and his neighbors are concerned with noise. There were tremendous problems with noise while the Big Bad Wolf roller coaster was running. Mr. Delorenzo wanted to know how the noise study determined 50 decibels as the estimated noise impacts.

Mr. George Callas, 101 John Browning, spoke. He seconds Mr. Delorenzo's concerns that there is a lot of noise generated at the park, especially from concerts, fireworks and the train signal. He asked what assurances residents will have that the noise levels will not exceed 52 decibels and what corrective actions would be taken if the noise is above this level.

Mr. Peck asked for more information on the noise study.

Mr. Giles stated that the sound study was completed by Navcon Engineering. They sampled different levels of sound from park attractions. They modeled the terrain of the park to see how far sounds will travel. Based on the consultant's study, 52 decibels of noise are transmitted from just this ride to the nearest point in Kingsmill.

Mr. Fraley asked if this is an average or maximum.

Mr. Giles stated that this is the maximum. The average is much lower. The old ride, the Big Bad Wolf, was completely outside and had roll-backs (which click loudly on the lifts). This ride will be very different by comparison. The ride will be primarily inside, and it will be very low to the ground. There will be no lifts. They did follow the old path of the Big Bad Wolf on the way back to the station. This will be much quieter than the Big Bad Wolf.

Mr. Fraley stated he will support this proposal. He is comfortable with the results of the sound study. He stated any added boost in revenue for the County will be welcomed.

Mr. Poole stated he is mindful of the concerns brought forward by the neighboring residents, though in his estimation those concerns have been sufficiently addressed. The applicant's topographical studies have proven to be successful at reducing visual intrusion and sound concerns.

Mr. Poole moved to recommend approval.

In a unanimous roll call vote, the Commission recommended approval (7-0).

D. AFD-11-86-3-2010 Shields Point – Yarmouth Island AFD Addition

Mr. Luke Vinciguerra stated Mr. Hunter Vermillion has applied to enroll 124.49 acres of property located at 2150, 2260, 2312, & 2190 Bush Neck Road into the Yarmouth Island Agricultural and Forestal District (AFD). The properties are zoned A-1 and are designated Rural Lands and Conservation Area. The parcels are undeveloped except for a single residential structure on one of the properties. All the parcels are contiguous to other properties in the Yarmouth Island AFD. The current size of the AFD is 2,031 acres. The AFD Advisory Committee recommended approval of the application by a vote of (8-0). Staff recommends that the Planning Commission recommend approval of the addition to the BOS.

Mr. Peck opened the public hearing.

Seeing that no one wanted to speak on this case, Mr. Peck closed the public hearing.

Mr. Poole moved to recommend approval.

In a unanimous roll call vote, the Commission recommended approval (7-0).

E. AFD-11-86-2-2010 Jolly Pond Road – Yarmouth Island AFD Addition

Mr. Vinciguerra stated Mr. James H. Richardson has applied to enroll a ten acre property located at 1975 Jolly Pond Road into the Yarmouth Island AFD. The property is zoned A-1 and is designated Rural Lands. The parcel is entirely wooded and contains no structures. The applicant owns multiple contiguous properties adjacent to the subject property; they are already included in the Yarmouth Island AFD. The AFD Advisory Committee recommended approval

of the application by a vote of (6-2; 2 abstained). Staff recommends that the Planning Commission recommend approval of the addition to the BOS. The current size of this AFD is 2,031 acres.

Mr. Poole asked if the AFD Advisory Committee voters that abstained did so because of ownership.

Mr. Vinciguerra stated yes.

Mr. Poole stated that the report from this committee listed only the last name of the individual. It would be helpful to have first names included.

Mr. Fraley stated he agrees with Mr. Poole regarding the usefulness of first names. In reading the minutes from the AFD Advisory Meeting it appears that all the owners of the property have not yet signed the application.

Mr. Vinciguerra stated that James H. Richardson signed the application. Our records show that Mr. James Richardson owns the property, but it is also in a holdings company/estate. Mr. Richardson has not been able to prove yet that he has the authority to sign for all the property owners. Staff is working with the County Attorney to address this issue. It will have to be resolved before the case goes to the BOS.

Mr. Fraley asked Mr. Adam Kinsman if it is wise for the Planning Commission to act on this prior to clarification.

Mr. Kinsman stated there was a valid application before the Commission. It may change and there may be a couple of owners added. It would be fine for the Planning Commission to vote on the application this evening. Any ownership issues will be clarified before the application is forwarded to the BOS for final approval.

Mr. Peck opened the public hearing.

Seeing that no one wanted to speak on the case, Mr. Peck closed the public hearing.

Mr. Al Woods asked if the motion should be in the form of "subject to proper owner consent."

Mr. Kinsman stated that that would be fine.

Mr. Woods moved to recommend approval subject to proper ownership consent.

In a unanimous roll call vote, the Commission recommended approval (7-0).

F. AFD-9-86-4-2010 Centerville Road – Gordon Creek AFD Addition

Mr. Vinciguerra stated Mr. James H. Richardson has applied to enroll two properties, totaling 60 acres of land located at 4130 & 4176 Centerville Road into the Gordon Creek AFD. The properties are zoned A-1 and are significantly wooded and contain few structures. The Comprehensive Plan designates the properties as low density residential and a small portion of the property at 4176 Centerville Road is designated moderate density residential. The AFD Advisory Committee recommended approval of the application by a vote of (6-0; 2 abstained). Staff recommends that the Planning Commission recommend approval of the addition to the Gordon Creek AFD to the BOS. The current size of the AFD is 3,203 acres.

Mr. Peck opened the public hearing.

Mr. Krapf moved to recommend approval, subject to obtaining all the proper signatures.

In a unanimous roll call vote, the Commission recommended approval subject to obtaining all the proper signatures (7-0).

6. PLANNING DIRECTOR'S REPORT

Mr. Murphy reminded the Planning Commission and members of the public that there will be additional Policy Committee meetings. The Policy Committee will discuss commercial districts on January 24th, development standards on the 25th, and cumulative impact modeling on the 31st.

Mr. Peck stated that on the new cases information sheet there is a project on Monticello Avenue. The applicant proposes an eight-bay tire center. He asked whether this was the same proposal covered in the newspaper that includes a gas station.

Mr. Murphy stated that this is a different proposal.

7. COMMISSION DISCUSSIONS AND REQUESTS

Mr. Fraley stated that he had sent to all his colleagues an email discussing the Planning Commission's fiscal affairs and responsibilities. It may be a good idea to discuss how the Planning Commission's budget is prepared and how the money can be spent. Sec. 15.22221 of the State Code talks about duties of the Commission. Duties of the Commission include: "supervise its fiscal affairs and responsibilities under the rules and regulations as prescribed by the governing body." Secondly, "prepare and submit its annual budget in the manner prescribed by the governing body of the County or municipality." Mr. Fraley stated that he asked Mr. Murphy to discuss the process this evening.

Mr. Murphy stated that historically there have been two line-items in the Planning Division budget that are intended for Planning Commission members. One includes the salary stipend the other line-item is for Planning Commissioner training. The Planning Commissioner training budget has historically remained the same, slightly under \$2,000 per year. This is enough to send one or two Planning Commissioners to Planning Commissioner training on an

annual basis. The past budget year that amount had been reduced to \$1,000. There have been a number of Planning Commission members that have been reimbursed for mileage, meals, and overnight stays in relation to training. Some commissioners have requested mileage reimbursement and some have not. Historically the County has not paid for Planning Commissioners' dues for the American Planning Association (APA) or the Citizens Planning Education Association of Virginia (CPEAV). There have been other events Commissioners attended to represent the County and pick up awards. The costs associated with those events historically have been paid by the individual.

Mr. Fraley stated everyone should know what is covered in regards to the training. Mr. Fraley stated that staff also offered to provide a County vehicle; this would be less costly than reimbursing miles for using one's personal car.

Mr. Peck stated it would be helpful to have the County pay APA and/or membership CPEAV dues. The journal and other publications made available through these organizations are very informative. The continuing education and symposiums offered are also helpful to keep abreast of new information.

Mr. Murphy stated that the budget is currently being finalized for the next fiscal year.

Mr. Fraley stated by paying membership dues you also gain access to their database.

Mr. Krapf stated there are a lot of good resources through the APA website. It is good to have the Planning Commission provide input into the budget process. Thoughtfully looking at the training programs offered through the APA and CPEAV could prove beneficial. Reasonable reimbursements would include training and mileage associated. Membership dues could be covered by the stipend Planning Commissioners are paid.

Mr. Poole stated he shares Mr. Krapf's views about money spent. Money for training is suitable but not money for dues. Mr. Poole stated he does not want to exhaust the Planning Commission's time on budget details.

Mr. Kinsman stated that it is technically not the Planning Commission's budget. It is the Department of Development Management's budget. A certain amount is allotted and set aside for the Planning Commission's use. It may be helpful to discuss training opportunities that individuals have interest in and determine the cost associated with such events.

Mr. Tim O'Connor stated he is not interested in acquiring money to cover membership dues.

Mr. Murphy stated he would like to fund sending two Planning Commissioners to Planning Commissioners training during the next fiscal year. Two current members have not previously attended. This would cost \$2,000, covering attendance, meals, hotel arrangements and mileage (or use of a County vehicle).

Mr. Peck asked that staff forward to the Planning Commissioners the schedules for

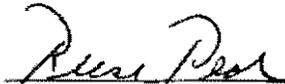
educational opportunities.

Mr. Woods stated it may be good to have the Planning Commission chair meet with a Planning representative once a year to discuss upcoming fiscal year expectations and basic County policy.

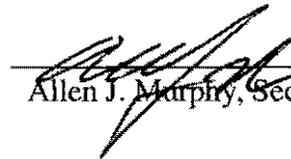
Mr. Fraley stated the February Planning Commission meeting will include the annual organization meeting to discuss appointments.

10. ADJOURNMENT

Mr. Peck continued the meeting to February 2, 2011 at 6:00 p.m.



Reese Peck, Chairman



Allen J. Murphy, Secretary