

A REGULAR MEETING OF THE PLANNING COMMISSION OF THE COUNTY OF JAMES CITY, VIRGINIA, WAS HELD ON THE THIRD DAY OF JULY, TWO-THOUSAND AND THIRTEEN, 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 Drummond
Robin Bledsoe
Chris Basic
Tim O'Connor
Mike Maddocks
Rich Krapf

Staff Present:

Paul Holt, Planning Director
Adam R. Kinsman, Deputy County Attorney
Luke Vinciguerra, Planner
Jennifer VanDyke, Planner
Russell Seymour, Economic Development Director
Telly Tucker, Assistant Economic Development Director

Mr. Rich Krapf called the meeting to order at 7:00 p.m.

2. **PUBLIC COMMENT**

Mr. Rich Krapf opened the public comment. There being no speakers, Mr. Krapf closed the public comment.

3. **MINUTES**

Mr. Mike Maddocks moved to approve the minutes from the June 5, 2013 meeting.

In a unanimous voice vote, the Commission approved the minutes. (6-0)

Mr. Tim O'Connor moved to approve the minutes from the May 28, 2013 Joint Planning Commission/Board of Supervisors Work Session.

In a unanimous voice vote, the Commission approved the minutes. (6-0)

4. **COMMITTEE / COMMISSION REPORTS**

A. Development Review Committee

Mr. Chris Basic stated that the Development Review Committee met on June 26, 2013 to discuss the following cases:

C-0029-2013 New Dawn Assisted Living Regional Office

Mr. John Patnode submitted a plan on behalf of New Dawn Assisted Living for a proposed 1347 square foot regional office building which would be accessory to the assisted living center buildings. The application was brought before the DRC for a determination of master

plan consistency. A special use permit would generally be required in the R-8, General Residential district; however, as an accessory use the office building would be permitted under the current SUP. The DRC voted 5-0 to recommend that the proposed office building was consistent with the adopted master plan.

C-0028-2013 New Town Shared Parking

Mr. Larry Salzman of New Town Associates, submitted an update on the shared parking at New Town. The last update was made on November 30, 2011. The DRC has chosen to review the update on a bi-annual basis rather than quarterly. Mr. Salzman requested that the DRC accept the latest report which indicates a shortage of 55 spaces at the 2 p.m. hour and a surplus of 284 spaces at the 8 p.m. hour and that the DRC approve the implementation of time limited parking spaces, primarily along Main Street, which was recommended by the New Town Commercial Owner's Association. The time limited parking is intended to be flexible and can change over time based on owner/tenant feedback and would involve a variety of time limits in selected areas ranging between 30 minutes to 4 hours. Enforcement of the time limited parking would be done by New Town Associates. The Williamsburg Area Transit Authority also presented ridership statistics for New Town and other James City County routes. The DRC voted 5-0 to recommended approval of the shared parking update and implementation of time limited parking within selected areas within the Town Center. The next shared parking review will be January 8, 2014.

C-0031-2013 Lightfoot Marketplace

A conceptual plan was submitted by Guernsey Tingle Architects on behalf of VistaCorp Realty to solicit feedback, on the proposed redevelopment of the Williamsburg Outlet Mall property at the corner of Centerville Rd. and Richmond Rd. The proposal is for a retail shopping center with five buildings anchored by a grocery store and a pharmacy and would include dining and smaller retail tenants. The plan included demolition of the 230,000 square foot existing structure and replacing with five buildings totaling 130,000 square feet. The DRC offered feedback regarding a variety of topics including consistent architecture, landscape buffers, traffic improvements and pedestrian flow within the developed area. The applicant was also asked to investigate connectivity to neighboring parcels and include storefront features at the rear of the buildings that face community character corridors.

Mr. George Drummond moved to accept the report.

In a unanimous voice vote, the Commission approved the report. (6-0)

B. Policy Committee

Ms. Robin Bledsoe stated that the Policy Committee met on June 12, 2013 to review Case Nos. ZO-0005-2013/SO-0001-2013, Ordinances to amend JCC Code, Chapter 24, Zoning and Chapter 19, Subdivisions with an emphasis on reviewing in detail the proposed changes for the M-2 General Industrial District. Ms. Bledsoe stated that reports were provided to the

Committee by Planning and Economic Development staff on the value and limited availability of M-2 land. Ms. Bledsoe further stated that details were also provided on the origin of the formatting errors prompting many of the changes.

Ms. Bledsoe stated that following the staff reports, the Committee discussed individual changes to the ordinance and made recommendations to staff.

Ms. Bledsoe stated that at the conclusion of the discussion, public comment was requested. Representatives of Peninsula Pentecostals, Inc. and GreenMount Associates, LLC spoke. Both speakers made the argument that proposed changes to the M-2 district would prevent the Church from pursuing by-right development. In addition, representatives of the Church questioned the timing of the changes. Ms. Bledsoe stated that in response, County staff reiterated that the changes were made to correct formatting errors and that the appropriate public notice had been provided to the community regarding those changes consistently as it had throughout the entire 18-month zoning ordinance review process.

Ms. Bledsoe stated that after a lengthy discussion, it was concluded that the Policy Committee was not the appropriate venue to remedy the issues presented by the Peninsula Pentecostals, Inc.

Ms. Bledsoe further stated that based on the staff presentations and because the Policy Committee is charged with making decisions regarding the best possible use of County land, the Committee voted unanimously to recommend approval of the ordinance amendments.

Mr. Basic moved to accept the report.

In a unanimous voice vote, the Commission approved the report. (6-0)

C. Regional Issues Committee

Mr. Maddocks stated that there was no Regional Issues Committee meeting in June and, therefore, no report.

5. PUBLIC HEARING CASES

A. Case Nos. Z-0002-2013/SUP-0005-2013. Wellington, Windsor Ridge, Section 4.

Mr. Chris Johnson, Principal Planner, stated that on November 27, 2012, the James City County Board of Supervisors adopted an initiating resolution for a rezoning of the 15 acre tract of property located at 225 Meadowcrest Trail to allow the contract purchaser, Ryan Homes, to develop the site as a part of the single-family development known as Windsor Ridge. By agreement between the contract purchaser and the Wellington Homeowners Association, Windsor Ridge, Section 4 will likely become a part of the Wellington HOA.

Mr. Johnson stated that staff recommends that this project be deferred until the August 7, 2013 Planning Commission meeting in order to allow time for additional discussions between staff and the contract purchaser on the proffers for the proposed development.

Mr. Krapf inquired if the applicant is in agreement with the recommendation to defer the case.

Mr. Johnson confirmed.

Mr. Krapf opened the public hearing.

As no one wished to speak, Mr. Krapf continued the public hearing to the August 7 Planning Commission meeting.

B. Case No. SUP-0008-2013. Flea Market, 9299 Richmond Road.

Ms. Jennifer VanDyke, Planner, stated that Mr. John Filichko has applied for a special use permit to allow for the operation of a seasonal flea market at 9299 Richmond Road. Ms. Van Dyke noted that seasonal and temporary flea markets are a specially permitted use in the A-1 General Agricultural District. Ms. VanDyke further noted that the property is designated as Rural Lands on the 2009 Comprehensive Plan and is located within a Community Character Corridor.

Ms. VanDyke stated that the proposed flea market would operate May 1 through October 31 and December 15 through December 24, Friday through Sunday, 8 a.m. to 5 p.m. Ms. VanDyke further stated that approximately 0.2 acres of the five acre property would be used for operation of the proposed seasonal flea market. Merchandise display would be restricted to one existing building and an existing patio. Parking would be restricted to the existing parking lot.

Ms. VanDyke noted that the other structures on the property are apartments. The tenants of those apartments have been notified of the proposed flea market and have not expressed any concerns.

Ms. VanDyke stated that prior to August 2011 the building associated with the proposed flea market was operating as Patsy's Diner. While operating as Patsy's Diner, the Virginia Department of Health had issued multiple notices of violation due to septic system failure. The restaurant relocated, the building became dormant and septic system improvements were not addressed until April 2013. The Health Department has since issued a Temporary Pump and Haul permit with an expiration date of May 31, 2014 at which time the applicant must verify that the sewage septic system has been fully repaired or replaced, or vacate the building. Ms. VanDyke noted that due to the seasonal nature of the proposed flea market and restriction to Friday through Sunday operation, the sewage disposal system should not be impacted in a significant manner. Additionally, the applicant will be required to provide verification of a valid operation permit issued by the Health Department on an annual basis.

Ms. VanDyke stated that the proposed use is consistent with the surrounding zoning and development and compatible with the 2009 Comprehensive Plan. Ms. VanDyke stated that staff recommends the Planning Commission recommend approval of this application to the Board of Supervisors with the conditions noted in the Staff Report.

Mr. Krapf opened the floor to questions.

Mr. Drummond inquired whether he would need to abstain from voting on this case. Mr. Drummond noted that he and the applicant have served together on the Community Action Agency Board of Directors for the past 20 years. Mr. Drummond stated that he has not discussed this proposal with the applicant.

Mr. Kinsman stated that there is no conflict of interest.

Mr. Krapf opened the public hearing.

Mr. John Filichko stated his purpose in establishing the flea market, in addition to covering his expenses on the property, is to create employment opportunities and to provide a type of business needed in the community. Mr. Filichko further stated that he understands and will abide by the conditions recommended by staff.

As no one else wished to speak, Mr. Krapf closed the public hearing.

x Mr. Krapf opened the floor to discussion by the Commissioners.

Mr. Maddocks moved to approve the application with the conditions listed in the Staff Report.

On a roll call vote the Planning Commission voted to recommend approval of the application with the conditions listed in the staff report. (6-0)

C. Case No. SUP-0010-2013. Jolly Pond Road Convenience Center SUP Amendment.

Mr. Luke Vinciguerra stated that Mr. Shawn Gordon, on behalf of General Services, has applied for an amendment to the existing Special Use Permit (SUP) for the Jolly Pond Road Convenience Center located at 1204 Jolly Pond Road to permit the installation of drainage improvements, landscaping, fencing, a debris pad and retaining walls. Mr. Vinciguerra noted that sanitary landfills are a specially permitted use in the Public Lands district. The SUP conditions for this portion of the Convenience Center require a 100-foot wide undisturbed buffer along the exterior property line where it adjoins property which is not owned by James City County. This amendment would permit the proposed improvements and reduce the minimum buffer requirement to 25 feet. The remainder of the property would still have the 100-foot buffer requirement.

Mr. Vinciguerra stated that staff finds this proposal to be consistent with surrounding development and compatible with the 2009 Comprehensive Plan. Mr. Vinciguerra stated that

staff recommends the Planning Commission recommend approval of the application to the Board of Supervisors with the conditions listed in the Staff Report.

Mr. Krapf opened the floor for questions.

The Commissioners had no questions for staff or the applicant.

Mr. Krapf opened the public hearing.

As no one wished to speak, Mr. Krapf closed the public hearing.

Mr. Krapf opened the floor to discussion by the Commissioners.

Mr. Drummond moved to recommend approval of the application with the conditions listed in the staff report.

On a roll call vote the Planning Commission voted to recommend approval of the application with the conditions listed in the staff report. (6-0)

D. Case Nos. ZO-0005-2013/SO-0001-2013. Ordinances to amend JCC Code, Chapter 24, Zoning and Chapter 19, Subdivisions.

Mr. Paul Holt, Planning Director, stated that the cases were previously brought before the Commission at its June 5, 2013 meeting and had previously been reviewed by the Policy Committee at its May 31, 2013 meeting. Mr. Holt further stated that the Commission requested these items be deferred to the July 3, 2013 meeting and that the Policy Committee review the proposed amendments again.

Mr. Holt noted that the Policy Committee met on June 12, 2013 to review the amendments and provide further recommendations. Mr. Holt stated that the Policy Committee recommended approval of the proposed amendments.

Mr. Holt stated that it is important to note the matter before the Commission is not a specific development application such as a rezoning or special use permit. Mr. Holt noted that while property owner notifications letters are required for rezonings and special use permits, there is no process or provision under state code requiring such for proposed ordinance amendments.

Mr. Holt stated that over the last 18 months there has been a comprehensive set of revisions to the entire Zoning Ordinance and the public advertisement process has remained consistent with the public and transparent advertising process used with the latest set of revisions.

Mr. Holt stated that the amendments being considered are a set of recommended revisions which include fixing typographical errors, updating cross-references and other changes designed to improve the clarity and consistency of the ordinance as a whole.

Mr. Holt further stated that in all the revisions accomplished over the 18-month update process, there was single, larger set of formatting errors and inadvertent omissions made when the entire Use List for the M-2 district was converted to the currently adopted table format. Mr. Holt stated that the changes are not specific to any single use; rather it includes putting back in the ordinance approximately 22 uses that were inadvertently deleted. Several of those uses, including breweries and asphalt plants affect current businesses in the County. Mr. Holt stated that as part of that same formatting issue, approximately 40 non-industrial uses had been inadvertently added to the M-2 district that prior to January 2012 have historically never been part of the M-2 district, including places of public assembly, as either a by-right use or a specially permitted use. Mr. Holt stated that the proposed revisions to the M-2 district would be more consistent with the allowable uses that have historically always been in place.

Mr. Holt stated that after reviewing the statement of intent for the M-2 district, the Policy Committee concurred with the proposed amendments, recognizing that the amendments applied to the entirety of properties in the M-2 district.

Mr. Holt stated that Mr. Chris Johnson would provide the Commission with an overview of the proposed changes and that Mr. Russell Seymour, Director of Economic Development, and Mr. Telly Tucker, Assistant Director of Economic Development would discuss the economic importance of the M-2 district.

Mr. Johnson stated that in June of 2008 staff began the process of updating the LB, Limited Business; B-1, General Business; M-1, Limited Business/Industrial; and M-2, General Industrial districts to increase predictability, consistency and flexibility in the development review process. This series of amendments to the commercial and industrial districts adopted by the Board of Supervisors was an important aspect of implementing the Business Climate Task Force recommendations which had been accepted by the Board in 2008.

Mr. Johnson stated that following the adoption of the 2009 Comprehensive Plan the Board initiated a significant component of the Comprehensive Plan implementation process in May of 2010 by adopting a methodology for a comprehensive Zoning and Subdivision Ordinance update. Mr. Johnson stated that over 30 districts and policies were updated in groups at staggered times over the 18 month process. Now that the fully revised ordinance has been in daily use for some time, a number of consistency and clarity issues have been identified and amendments have been proposed to remedy these inconsistencies.

Mr. Johnson stated that in the LB, Limited Business, B-1, General Business, and M-1, Limited Business/Industrial district's, a small number of uses are proposed to be renamed, moved or added to correct formatting errors and omissions inadvertently made when the use lists were converted into the currently adopted use tables. The recommended changes to the M-2, General Industrial district propose a broader list of revisions that correct formatting errors and inadvertent omissions of industrial uses and removes many retail oriented uses that do not represent the highest and best use of the most intense industrially zoned land in the County.

Mr. Johnson stated that following deferral of the Zoning and Subdivision Ordinance amendments at the June 5, 2013 Planning Commission meeting, staff reviewed the proposed use lists at the June 12, 2013 Policy Committee meeting, including an intensive review of the proposed use list for the M-2 district. Mr. Johnson stated that in addition to the revisions proposed by staff, the Committee recommended two small additional changes: (1) deleting Libraries as a permitted use and (2) renaming Medical clinics or offices, including emergency care and first aid centers by adding the words "as an accessory use to other permitted uses."

Mr. Johnson stated that the Policy Committee recommended approval of the amendments proposed by staff with these two changes.

Mr. Johnson stated that staff recommends that the Planning Commission recommend approval of the amendments to the Zoning and Subdivision ordinances to the Board of Supervisors.

Mr. Russell Seymour stated that the Office of Economic Development had been asked to provide input on the impact of the M-1 and M-2 districts on the County as a whole. Mr. Seymour stated that it was important to consider the number and scope of current and recent economic development projects and incentive programs available such as the enterprise zone. Mr. Seymour stated that over the past two years the County has taken acreage out of the enterprise zone that was located within wetlands, waterways or otherwise undevelopable land and reallocated that acreage predominately into the County's existing industrial and/or business parks.

Mr. Seymour stated that the jobs and tax revenue generated in the M-1 and M-2 districts are extremely important to the County. Mr. Seymour noted that the jobs created in those districts tend to have higher salaries and are the types of jobs that would be supported by the local workforce. Mr. Seymour further noted that the taxes, such as machinery and tool taxes, generated in the M-1 and M-2 districts provide a significant portion of the County's revenue.

Mr. Seymour stated that of all of the projects dealt with by Economic Development in 2011 roughly 75% would be classified as industrial. In 2012 that percentage increased to 77%. Mr. Seymour further stated that between 2011 and 2012 there was a 40% increase in the number of new projects coming to James City County. For the first six months of 2013 the number of new industrial projects is 64%.

Mr. Seymour noted that between the M-1 and M-2 districts there is not a tremendous amount of acreage available. Mr. Seymour stated that since 2012 five new projects had been announced for the M-2 district; four involved new construction; three were new businesses coming to the County or new site work.

Mr. Seymour stated that there are roughly 1,038 acres that are actively being marketed in the M-2 district. Mr. Seymour further stated that 620 acres of that land belong to BASF. Mr. Seymour stated although several potential businesses have shown interest in the site, the property owners are focused on marketing the site as one parcel. Mr. Seymour explained that it's difficult in today's economy to find someone willing to purchase a 620 acre parcel. Mr.

Seymour stated that when you take away BASF's 620 acres and the recent removal of another 14 acres, there are roughly only 400 acres remaining in the County that are zoned M-2.

Mr. Seymour stated that it is important to also consider the diverse businesses currently located in the M-2 district such as the Wal-Mart and Haynes distribution centers, Ball Metal, the Anheuser-Busch/InBev Brewery, Smithfield Specialty Foods, Owens-Illinois Glass, and Creative Cabinet Works. Mr. Seymour noted that several of the businesses had been in the County for over forty years and all are of great importance to the County's economy.

Mr. Telly Tucker stated that between the years of 2000 and 2010, 12 industrial projects on M-2 land participated in the Enterprise Zone program providing capital investments of more than \$131 million to the County. Mr. Tucker stated that each of the businesses has a five year eligibility window for the incentive which generated \$7 million in tax revenue for the County. Mr. Tucker also noted that all 12 of these projects, with the exception of one, remain in business in the County and continue to provide tax revenue.

Mr. Tucker stated that the Office of Economic Development constantly looks at the availability of industrial land and analyses the features prospects request to determine what product would meet their needs.

Mr. Tucker stated that in 2012 the mean acreage prospects were requesting was 150 acres; in 2013 that number has dropped to 44 acres. Mr. Tucker stated that the median acreage for 2012 was 58 acres and 16 acres in 2013. Mr. Tucker explained that both types of calculations were made in order to discount the few outliers that were looking for very large pieces of property to provide a more realistic figure for the amount of land being requested. Mr. Tucker also stated that in 2012 the mean building square footage for existing buildings was 37,000 square feet, and the median was 18,750 square feet; in 2013 the mean was 23,250 square feet, and the median was 9,000 square feet.

Mr. Krapf opened the floor to questions from the Commissioners.

Mr. Maddocks inquired how many land owners were represented with the 1,038 acres remaining in the M-2 district.

Mr. Seymour responded that the BASF site of 620 acres represented one property owner and that there were two additional large sites representing one primary property owner. Mr. Seymour stated that staff would pull data regarding the number of other property owners.

Mr. Basic inquired if it was reasonably certain that the proposed revisions to the M-2 district would not create new non-conforming uses.

Mr. Johnson confirmed that no new non-conforming uses would be created.

Mr. O'Connor noted that the Policy Committee had discussed removing the word "all" from the use "Processing, assembly and manufacture of light industrial products or components,

with all storage, processing, assembly and manufacture conducted indoors or under cover with no dust, noise, odor or other objectionable effect.”

Mr. Johnson confirmed and noted that the change would be made prior to Board consideration in August.

Mr. Krapf inquired if there were any current land use applications for any of the properties in the zoning districts under review.

Mr. Johnson stated that there were no legislative cases pending, nor any administrative cases. Mr. Johnson noted that there was only one conceptual plan that he was aware of under review. Mr. Johnson noted that conceptual plans are submitted to receive preliminary comments from reviewing agencies in anticipation of a formal submission of a site plan, subdivision, or legislative case at a later date.

Mr. Krapf stated that the public hearing from the June 5, 2013 Planning Commission meeting was still open. Mr. Krapf opened the floor to speakers.

Timothy Trant, Kaufman & Canoles, PC. stated that he represented the Peninsula Pentecostals, Inc. which intends to establish a church campus in the County. Mr. Trant noted that the property under consideration is designated mixed use by the 2009 Comprehensive Plan. Mr. Trant stated that in the process of the Church potentially purchasing the property, there had been a meeting with County Planning staff to discuss and receive feedback on the main proposal for the church campus and day care. At the same time ideas were discussed for the remainder of the property which would be compatible with the Comprehensive Plan and what would be beneficial to the other uses in that area. Mr. Trant stated that staff indicated that the church and day care would be able to proceed by-right under the ordinance but that the broader range of uses would require legislative action and would require further consideration. Mr. Trant stated that staff later responded that the legislative action would not be supported. Mr. Trant stated that based on staff response, the Church began to make a material investment to proceed with the by-right development approach to the property. Mr. Trant noted that at no time was the Church notified that the ordinance change was under consideration and that the by-right option would no longer exist. Mr. Trant stated that if the proposed ordinance changes are approved, the Church will be forced to spend large sums of money to pursue legislative action with an uncertain outcome to move forward with their plans for the property. Mr. Trant stated that he encourage the Commissioners to weigh their decision in light of what is morally right over what is technically correct.

Patrick Gill, Senior Vice President with CB Richard Ellis, stated that he represents the owners of GreenMount Industrial Park/ GreenMount Associates. Mr. Gill further stated that GreenMount Associates opposes amending the Zoning Ordinance because it potentially limits the sale of their remaining 322 acres in GreenMount Industrial Park. Mr. Gill stated that the owners are very interested in completing the transaction with the Peninsula Pentecostal Church and believe that it is a good use for the property. Mr. Gill stated that GreenMount Associates is committed to working with the Church and noted that the site under

consideration was only 40 acres which would leave approximately 288 acres in the Industrial Park still available for M-2 development.

Jared R. Arango, Lead Pastor, Peninsula Pentecostal Church, stated that the congregation has outgrown three locations and seeks to find a location to accommodate and expanded campus as well as the service they wish to provide to the community. Mr. Arango stated that they have been considering the particular parcel in question for at least eight years and have been negotiating the purchase for approximately four years. Mr. Arango requested that the Commission consider giving their proposal for the property grandfathered status so that they could make their vision a reality.

John McSharry, Church Administrator, Peninsula Pentecostal Church, stated that the Peninsula Pentecostal Church is a vibrant congregation and will improve the community through service and the programs it offers. Mr. McSharry further stated that there is no higher and better purpose for any property than a church.

David Green, 206 Carters Neck Road, Williamsburg, VA, stated that the Church would have a positive impact on the Grove community and on the County as a whole through service and by drawing people to the County. Mr. Green further stated that he requested that the Commission not deny them the opportunity to construct their church campus and be a benefit to the County.

Shandra Dunn, 4600 Prince Trevor Drive, Williamsburg, VA, stated that as a sixth-grade teacher, she has had the opportunity to work with students from the Grove area. Ms. Dunn stated that the parents want more for their children and that the Church will be able to provide needed services to the Grove community. Ms. Dunn stated that the tract of land they need is small but the impact the Church would have on the community is huge.

Douglas E. Beck, 9941 Swallow Ridge, Williamsburg, VA, stated that the Peninsula Pentecostal Church provides a wide range of family oriented activities and that the Church is what encouraged him to move to and work in the Hampton Roads area.

As no one else wished to speak, Mr. Krapf closed the public hearing.

Mr. Krapf noted that this agenda item encompassed two separate cases and that each should be addressed by a separate motion.

Mr. Krapf opened the floor to discussion by the Commissioners.

Mr. Drummond stated that the value of what the Church would bring to the Grove Community would outweigh the loss of tax revenue. Mr. Drummond suggested that perhaps a compromise could be made in the amount acreage used.

Mr. Krapf stated that it was obvious that the Peninsula Pentecostal Church has concerns about how the matter was handled. Mr. Krapf further stated that the Planning Commission is not a body that should arbitrate or adjudicate a grievance between staff and the citizenry. Mr. Krapf

further stated that although it is apparent that the Church does good works and has provided compelling testimony, they do not have a case before the Commission. The case before the Planning Commission is to consider the ordinance amendments. Mr. Krapf stated that the role of the Planning Commission is to determine whether the M-2 Use List is consistent with the statement of intent for the district.

Mr. Krapf inquired whether the Church would have recourse to address their concerns through other avenues.

Mr. Kinsman stated that the Planning Commission is charged with making land use decisions based upon an application formally submitted. Mr. Kinsman stated that the application before the Commission is to consider certain changes to the Zoning and Subdivision ordinances which include changes to the M-2 district as a whole. Mr. Kinsman further stated that whether or not a particular group, individual or entity would be exempt from would be exempted from application of those changes is not a land use decision but rather a policy decision to be made by the Board of Supervisors. Mr. Kinsman noted that if the Commission choses to recommend approval of the ordinance changes they would not be violating any state or federal law.

Mr. Basic inquired whether the Commission could request that the Board grant a modification.

Ms. Bledsoe stated that she has full confidence in the Planning Division staff; however, she is surprised that the obvious errors in the ordinance were not caught during the two meetings with the Peninsula Pentecostal Church.

Ms. Bledsoe noted, in interest of disclosure, that she had spoken with Mr. Trant numerous times regarding the matter.

Ms. Bledsoe further stated that she did not believe "grandfathering" the Church's proposal was the right solution and was concerned that it would set a precedent for other plans that the County that have not yet come forward.

Ms. Bledsoe moved that ZO-0005-2013 and SO-0001-2013 be approved with the addition of "Places of public assembly" as a by-right use in the M-2 district.

Mr. Krapf stated that Ms. Bledsoe's motion would be called for vote after the remainder of the discussion.

Mr. Maddocks inquired if "Places of Public Assembly" meant church.

Mr. Krapf stated that churches among other facilities are included in the definition of "Places of Public Assembly."

Mr. Maddocks asked Mr. Trant to confirm the amount of acreage of the parcels the Church wishes to purchase.

Mr. Trant stated that the total is approximately 40 acres for all three parcels. Mr. Trant further stated that the amount of property to be used for actual construction of the church and day care facility is substantially less at approximately 25 acres.

Mr. Maddocks inquired how the remaining 15 acres would be used.

Mr. Trant stated that the remaining acreage would be held and marketed for future development.

Mr. Maddocks inquired if the remaining acreage would be developed in accord with the requirements of M-2 revisions.

Mr. Trant confirmed, but noted that it was always possible that a developer might apply for a rezoning for a use consistent with the Comprehensive Plan designation of Mixed Use.

Mr. O'Connor requested confirmation that the forty acres under consideration by the Church was designated Mixed Use on the Comprehensive Plan.

Mr. Holt confirmed and noted that the remainder of M-2 properties are designated General Industrial by the Comprehensive Plan.

Mr. O'Connor stated that the church would be an appropriate use for the parcel based on the other surrounding uses. Mr. O'Connor further stated, however, that Places of public assembly did not seem consistent with the intent of the M-2 district. Mr. O'Connor stated that he would be more supportive of a rezoning application.

Mr. Drummond stated that in considering the impact on the community, uses such as Places of public assembly would have a more favorable impact than other permitted uses.

Mr. Krapf stated that the statement of intent for the M-2 district states that "The primary purpose of the General Industrial district, M-2, is to establish an area where the principal use of land is for industrial operations which are not compatible with residential or commercial service establishments." Mr. Krapf stated that places of public assembly are not consistent with the statement of intent and the other uses allowed within the district. Mr. Krapf further stated that it would set a bad precedent to insert an incompatible use for the purpose of assuaging a perceived grievance. Mr. Krapf stated that could not support the current motion; however, he would be inclined to support a rezoning application if brought before the Commission.

Mr. Krapf noted that the first motion to be called would be for ZO-0005-2013.

Mr. Holt stated that the motion on the floor is to approve Case No. ZO-0005-2013 as modified with "Places of public assembly" as a permitted use and the word "all" being removed from the use "Processing, assembly and manufacture of light industrial products or components, with all storage, processing, assembly and manufacture conducted indoors or under cover with no dust, noise, odor or other objectionable effect."

Mr. Basic recommended that "Places of public assembly" be a specially permitted use so that a determination could be made on a case by case basis whether the proposed project is compatible with the surrounding uses and adjacent zoning districts.

Mr. Krapf stated that the motion could be modified if Ms. Bledsoe concurred.

Ms. Bledsoe concurred with the recommended modification.

Mr. Maddocks asked Mr. Trant for his opinion on the motion.

Mr. Trant stated that requiring a special use permit would be no different than going through the rezoning process.

Mr. Maddocks stated that he would support the first motion.

Ms. Bledsoe stated that she would prefer to keep the original motion.

Mr. Krapf stated that the motion before the Commission is to approve Case No. ZO-0005-2013 as modified with "Places of public assembly" as a permitted use and the word "all" being removed from the use "Processing, assembly and manufacture of light industrial products or components, with all storage, processing, assembly and manufacture conducted indoors or under cover with no dust, noise, odor or other objectionable effect."

On a roll call vote the Planning Commission voted to recommend approval of the ordinance amendments with the modifications as noted. (4-2)

Mr. Maddocks moved to recommend approval of SO-0001-2013.

On a roll call vote the Planning Commission voted to recommend approval of the ordinance amendments with the modifications as noted. (6-0)

7. PLANNING DIRECTOR'S REPORT

Mr. Holt stated that he had nothing to add to the printed report that had been provided.

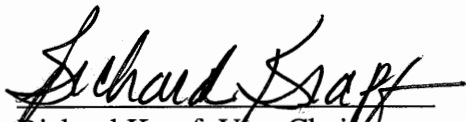
8. PLANNING COMMISSION DISCUSSION AND REQUESTS

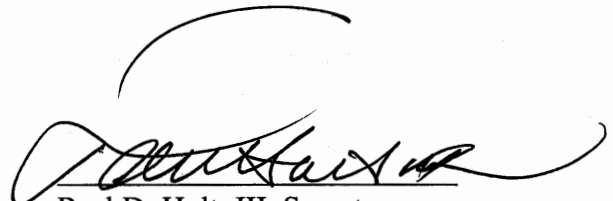
Mr. Maddocks noted that he would be the Planning Commission liaison to the Board of Supervisors for July.

9. ADJOURNMENT

Mr. Basic moved to adjourn the meeting.

The meeting was adjourned at 8:50 p.m.


Richard Krapf, Vice Chairman


Paul D. Holt, III, Secretary