

MINUTES
JAMES CITY COUNTY PLANNING COMMISSION
REGULAR MEETING
County Government Center Board Room
101 Mounts Bay Road, Williamsburg VA 23185
August 3, 2022
6:00 PM

A. CALL TO ORDER

Mr. Tim O'Connor called the meeting to order at 6:00 p.m.

B. ROLL CALL

Planning Commissioners Present:

Tim O'Connor

Rich Krapf

Jack Haldeman

Frank Polster

Barbara Null

Rob Rose

Stephen Rodgers

Staff Present:

Paul Holt, Director of Community Development and Planning

Liz Parman, Deputy County Attorney

Terry Costello, Senior Planner

John Risinger, Planner

Paxton Condon, Planner

Suzanne Yeats, Planner

Mr. O'Connor acknowledged the presence of Mr. Richard Bradshaw, Commissioner of the Revenue.

C. PUBLIC COMMENT

Mr. O'Connor opened Public Comment.

As no one wished to speak, Mr. O'Connor closed Public Comment.

D. REPORTS OF THE COMMISSION

Mr. O'Connor stated that neither the Development Review Committee nor the Policy Committee met in July.

E. CONSENT AGENDA

Mr. Jack Haldeman made a motion to approve the Consent Agenda.

On a voice vote, the Commission voted to approve the Consent Agenda. (7-0)

1. Minutes of the July 6, 2022, Regular Meeting

F. PUBLIC HEARINGS

1. Z-22-0001 & SUP-22-0012. 5700 Williamsburg Landing Rezoning and SUP Amendment

Mr. Thomas Wysong, Senior Planner, stated that the applicant has requested a deferral of this case until the September 7, 2022, Planning Commission Meeting. Mr. Wysong further stated that the applicant has requested the additional time to review the existing Special Use Permit (SUP) and proposed SUP conditions. Mr. Wysong stated that staff concurs with the request for deferral and recommends the Planning Commission defer this application to the September 7, 2022, Regular Meeting.

Mr. Haldeman asked Mr. Wysong to point out the area to be rezoned on the location map.

Mr. Wysong showed the area to be rezoned.

Mr. O'Connor stated that the Public Hearing remains open and inquired if anyone wished to speak.

No one wished to speak.

The Commission concurred with the request to continue Z-22-0001 and SUP-22-0012. 5700 Williamsburg Landing Rezoning and SUP Amendment to its September 7, 2022, Regular Meeting.

2. SUP-22-0008. Williamsburg Crossing – Greenwood Christian Academy Expansion

A motion to Approve was made by Jack Haldeman, the motion result was Passed.

AYES: 7 NAYS: 0 ABSTAIN: 0 ABSENT: 0

Ayes: Haldeman, Krapf, Null, O'Connor, Polster, Rodgers, Rose

Mr. John Risinger, Planner, stated that Mr. Mark Thornblom of Greenwood Christian Academy has applied for an SUP to allow the operation of a school at the Williamsburg Crossing Shopping Center, located at 5251 John Tyler Highway. Mr. Risinger stated that the property is zoned B-1, General Business, is designated Mixed Use on the 2045 Comprehensive Plan Land Use Map and is located inside the Primary Service Area (PSA).

Mr. Risinger further stated that Greenwood Christian Academy has operated a school and child day care center in the Williamsburg Crossing Shopping Center since 2009 when both uses were permitted by-right in the B-1 District. Mr. Risinger stated that the existing facility has a capacity of 150 students and is referred to as the "Main Campus" on the attached master plan. Mr. Risinger stated that in 2012, the B-1 District was amended and schools became a specially permitted use and the school use became nonconforming. Mr. Risinger stated that the applicant is requesting an SUP to expand the school within the shopping center by adding another facility referred to as the "Annex" on the master plan. Mr. Risinger stated that the Annex will have a capacity of 75 students, bringing the total capacity of the school to 225 students. Mr. Risinger noted that the application does not propose any changes to the building footprint of the shopping center.

Mr. Risinger stated that the applicant intends to have all student pick-ups and drop-offs take place at the Main Campus facility. Mr. Risinger further stated that Greenwood Christian Academy offers before and after school programs which results in a wider time window for pick-up and drop-off. Mr. Risinger stated that staff anticipates that the existing vehicular entrances and drive aisles in the shopping center parking lot will be sufficient for vehicle traffic

generated by the school. Mr. Risinger stated that staff also anticipates that the existing parking lot will provide ample parking for the school.

Mr. Risinger stated that with the proposed conditions, the school would be permitted to operate in the Main Campus and Annex facilities, bringing the use into conformance with the Zoning Ordinance. Mr. Risinger further stated that the conditions also limit the school to a total enrollment capacity of 225 students from Kindergarten to Eighth Grade, and hours of operation from 7 a.m. to 5:30 p.m., Monday through Friday.

Mr. Risinger stated that staff finds this proposal to be compatible with surrounding development and consistent with the 2045 Comprehensive Plan and Zoning Ordinance. Staff recommends that the Planning Commission recommend approval of this application to the Board of Supervisors, subject to the proposed conditions.

Mr. O'Connor opened the floor for questions from the Commission.

Mr. Frank Polster noted that an SUP had been approved for a school on a parcel across the street. Mr. Polster inquired if the school intended to continue using that facility.

Mr. Risinger stated that the applicant does not intend to continue operations on that parcel and that all activities will be at the Williamsburg Crossing location.

Mr. O'Connor opened the Public Hearing.

Mr. Mark Thornblom, 4808 Taber Park, Board Member, Greenwood Christian Academy, made a presentation to the Commission on the proposed addition.

Dr. Rob Rose inquired about the safety of the route students would use between the Main Campus and the Annex.

Mr. Thornblom stated that the route is on a contiguous covered sidewalk and that there would be no crossing of roads or the parking lot.

Mr. Stephen Rodgers inquired if staff had considered the impact of using these spaces for a nonprofit school on revenue.

Mr. Risinger stated that he did not have a full answer at this time; however, the property is designated Mixed Use on the 2045 Comprehensive Plan Land Use Map which would support this type of use on the property.

Mr. Holt stated that a fiscal impact analysis is only required for new residential development.

Mr. Rodgers noted that many of the units are vacant and remain vacant for some time; however, he had not seen a discussion of fiscal impact and was curious about the matter.

Mr. O'Connor inquired if there would be frequent transitions from one campus to the other.

Mr. Thornblom stated that the schedule is arranged to keep the transitions to once or twice a day.

Mr. O'Connor inquired if the school would have an opportunity to influence the types of businesses that might locate adjacent to the school that might be inappropriate to have near those age groups.

Mr. Thornblom stated that the discussion has not taken place, but he hopes there would be an

opportunity to voice concerns if necessary. Mr. Thornblom further stated that the school is mostly concerned about providing a peaceful learning environment and is considering options for soundproofing and other measures.

Mr. Krapf inquired if the students will be escorted when moving between campuses.

Mr. Thornblom stated that students would have a teacher or staff accompanying them. As no one else wished to speak, Mr. O'Connor closed the Public Hearing.

Mr. O'Connor opened the floor for discussion by the Commission.

Mr. Haldeman noted the potential fiscal impacts are mitigated by providing more space for students. Mr. Haldeman stated that he intends to support the application.

Ms. Barbara Null stated that she appreciated the adaptive use of the space rather than the school constructing a new building.

Mr. O'Connor expressed appreciation for the school and its impact on the community.

Mr. Haldeman made a motion to recommend approval of the application.

On a roll call vote, the Commission voted to recommend approval of SUP-22-0008. Williamsburg Crossing - Greenwood Christian Academy Expansion. (7-0)

3. SUP-22-0011. 3004 Ironbound Road Tourist Home

A motion to Approve was made by Rich Krapf, the motion result was Passed.

AYES: 6 NAYS: 1 ABSTAIN: 0 ABSENT: 0

Ayes: Haldeman, Krapf, Null, Polster, Rodgers, Rose

Nays: O'Connor

Ms. Paxton Condon, Planner, stated that Mr. Randy Coleman has applied for an SUP to allow the short-term rental of a two-bedroom single-family home at 3004 Ironbound Road. Ms. Condon stated that the property is zoned R-8, Rural Residential, is designated Low Density Residential on the 2045 Comprehensive Plan Land Use Map and is located inside the PSA. Ms. Condon stated that if granted, the SUP would allow for short-term rentals throughout the year. Ms. Condon noted that no changes to the footprint of the home are proposed.

Ms. Condon stated that staff finds some favorable factors for this application, such as the presence of adequate off-street parking and that the applicant will obtain the proper licensing and inspections; however, the proposal does not meet the recommendations regarding locations for short-term rentals in the 2045 Comprehensive Plan.

Ms. Condon stated that staff finds the proposal incompatible with surrounding zoning and development, and not consistent with the recommendations of the adopted 2045 Comprehensive Plan; therefore, staff is unable to recommend approval of this application.

Ms. Condon stated that should the Planning Commission recommend approval of this application, staff has included proposed conditions for consideration.

Ms. Condon stated the applicant provided correspondence from several adjacent property owners in favor of the application.

Mr.. O'Connor opened the floor for questions from the Commission.

Mr. Rodgers inquired if he remembered correctly that there are three other short-term rental properties adjacent to the subject property.

Ms. Condon stated that there are several other short-term rental homes in the vicinity. Ms. Condon noted that the approvals for these properties occurred before the 2045 Comprehensive Plan was adopted.

Mr. Rodgers inquired if those properties have owners in residence.

Ms. Condon stated that she did not have that information but would provide an update to the Commission.

Dr. Rose inquired if the parcel is separate from the Coleman Nursery parcel.

Ms. Condon stated that they were two separate parcels, but both are zoned R-8, Rural Residential.

Dr. Rose inquired about the compatibility of the Nursery use with the R-8 zoning designation.

Ms. Condon stated that the use is a permitted use for that Zoning District.

Mr. O'Connor noted that he remembered two of the short-term rentals being directly across the street.

Mr. Polster noted that the third short-term rental is adjacent to the subject property.

Mr. O'Connor opened the Public Hearing.

Mr. O'Connor inquired if the applicant could elaborate on the other short-term rental properties.

Mr. Randy Coleman, 3000 Ironbound Road, applicant, stated that two are immediately across the street and the third is adjacent to his property on the left side.

Mr. Rodgers inquired if Mr. Coleman knew whether the owners resided in the homes.

Mr. Coleman stated that he did not know about two of the properties; however, the owner of the adjacent property on the left resides in a separate structure on the property.

Dr. Rose asked for confirmation that a nursery staff member resides on an adjacent parcel.

Mr. Coleman stated that a staff member lives behind the nursery property.

Mr. Krapf noted that with the nursery operating on the adjacent parcel, the short-term rental could be monitored during the hours of operation.

Mr. Rodgers inquired about the nursery's hours of operation.

Mr. Coleman stated that on weekdays staff arrives around 7:00 a.m. and leaves around 5:30 p.m. Mr. Coleman further stated that on Sundays the nursery is open 11:00 a.m. to 4:00 p.m.

As no one else wished to speak, Mr. O'Connor closed the Public Hearing.

Mr. O'Connor opened the floor for discussion by the Commission.

Mr. Krapf stated that the Commission has been grappling with short-term rentals for several years. Mr. Krapf stated that the Commission put performance standards in the Comprehensive Plan to safeguard residential neighborhoods and those are working; however, they still fall short of addressing every situation. Mr. Krapf further stated that there are so many oddities that fall outside the residential standards. Mr. Krapf stated that in this instance, the property is located on Ironbound Road adjacent to a commercial operation and does not lend itself well to residential use. Mr. Krapf stated that this is an example of where it is difficult to interpret the performance standards while also trying to be equitable to all applicants. Mr. Krapf stated that he is inclined to support the application. Ms. Null stated that she met with the applicant and toured the property.

Ms. Null stated that this is not a residential property and not a residential area where someone would want to live. Ms. Null further stated that the property is surrounded by other short-term rentals approved under the previous Comprehensive Plan. Ms. Null stated that she supports the application because it is not a residential property. Dr. Rose stated that he also met with the applicant on-site.

Dr. Rose stated that one of his considerations is whether the use takes a dwelling out of the available housing stock. Dr. Rose stated that this is not a property that a family would buy to live there long-term. Dr. Rose stated that the other consideration is that a caretaker is not residing in the home; however, that issue is somewhat mitigated by the proximity to the commercial operation where the property would be monitored. Dr. Rose stated that he believes this is a good use of the property and that he will support the application.

Mr. Polster stated that he has reconciled that what the Commission put in the Comprehensive Plan is not written in concrete, but rather to help the Commission evaluate applications based on the individual circumstances. Mr. Polster stated that one point in favor of this application is that the County has already approved three other short-term rentals in that area. Mr. Polster further stated that this property meets all the same conditions as the ones previously approved. Mr. Polster stated that a consideration in any application is a property being removed from availability for affordable housing. Mr. Polster stated that the County may never fully resolve that issue. Mr. Polster stated that in fairness to the property owner, since there are already three short-term rentals in the immediate area, and this is a judgment call, he would be in favor of approving the application.

Mr. Rodgers stated that because the property is adjacent to the nursery and can be monitored, he is less concerned that it will not be owner occupied. Mr. Rodgers further stated that he is inclined to support the application.

Mr. Haldeman noted that the short-term rental parcel and the nursery parcel are separate where the nursery parcel could be sold, or operations could change and remove the benefit of owner oversight. Mr. Haldeman stated that even though the application is not consistent with the Comprehensive Plan, he intends to support the application.

Mr. O'Connor stated that he remains consistent in his opposition to short-term rentals because this is yet another situation where it is depleting the County's housing stock. Mr. O'Connor stated that he will not support the application.

Mr. Krapf stated that the Commission has considered the issue of affordable housing stock over the years in regard to short-term rentals. Mr. Krapf stated that he has a concern about government overreach. Mr. Krapf stated that if short-term rentals are permitted; when does it become government overreach if the Commission tells a property owner that it thinks a better use of the property is to do a long-term rental or put the property on the market. Mr. Krapf stated that it is a dilemma because the issue of short-term rentals has not been completely resolved.

Mr. Polster stated that his concern is that SUPs run with the land in perpetuity. Mr. Polster stated that he would be more comfortable with SUPs if there were an option for a sunset clause. Mr. Polster stated that he hopes the legislature will make the necessary changes to State Code.

Mr. Krapf made a motion to recommend approval of the application subject to the proposed conditions.

On a roll call vote, the Commission voted to recommend approval of SUP-22-0011. 3004 Ironbound Road Tourist Home. (6-1)

G. PLANNING COMMISSION CONSIDERATIONS

1. 2022 Agricultural and Forestal District (AFD) Renewals

A motion to Approve was made by Frank Polster, the motion result was Passed.

AYES: 7 NAYS: 0 ABSTAIN: 0 ABSENT: 0

Ayes: Haldeman, Krapf, Null, O'Connor, Polster, Rodgers, Rose

Ms. Terry Costello, Senior Planner, stated that there are currently 13 Agricultural and Forestal Districts in the County, 12 of which are set to expire in October of this year. Ms. Costello further stated that as required by State Code, the County must review all established AFDs prior to their expiration. Ms. Costello stated that during this review, districts must be continued, modified, or terminated. Ms. Costello noted that State Code also provides that all AFD property owners have an opportunity to withdraw any or all of their property from the AFD during the renewal periods.

Ms. Costello stated that the districts being reviewed are:

- The Croaker District which currently consists of 28 properties totaling approximately 1,314 acres.
- The Barnes Swamp District which currently consists of 34 properties totaling approximately 1,838 acres.
- The Cranston's Pond District which currently consists of 6 properties totaling approximately 774 acres.
- The Mill Creek District which currently consists of 39 properties totaling approximately 3,276 acres.
- The Gordon Creek District which currently consists of 33 properties totaling approximately 3,055 acres.
- The Christenson's Corner District which currently consists of 7 properties totaling approximately 1,179 acres.
- The Yarmouth District which currently consists of 13 properties totaling approximately 2,142 acres.
- The Gospel Spreading Church District which currently consists of 8 properties totaling approximately 1,133 acres.
- The Armistead District which currently consists of 4 properties totaling approximately 311 acres.
- The Carter's Gove District which currently consists of 2 properties totaling approximately 307 acres.
- The Pates Neck District which currently consists of 4 properties totaling approximately 755 acres.

Ms. Costello stated that for all of these districts, staff has not received any withdrawal requests, and no changes are proposed to the conditions.

Ms. Costello stated that the Hill Pleasant Farm District currently consists of three properties totaling approximately 346 acres. Ms. Costello stated that staff has received a request for a partial withdrawal of 42 acres from the district. Ms. Costello further stated that no changes are proposed to the conditions.

Ms. Costello stated that at its July 21, 2022 meeting, the AFD Advisory Committee voted 6-0 to recommend the continuation of the districts to the Planning Commission and Board of Supervisors.

Ms. Costello stated that staff finds these districts to be compatible with the requirements of State Code and surrounding development, as well as consistent with the adopted Comprehensive Plan and Zoning Ordinance. Ms. Costello stated that staff recommends that the Planning Commission recommend renewal of these AFDs for a period of four years to the Board of Supervisors, subject to the conditions included in the respective staff reports.

Mr. O'Connor opened the floor for discussion by the Commission.

Mr. Krapf stated that in the interest of transparency, he and his wife own a property in the Mill Creek AFD. Mr. Krapf further stated that, in his opinion, this would not pose any conflict or hamper his ability to vote on the matter.

Mr. Polster stated that preserving the rural character and protecting the environment are not new issues and the County has an existing toolbox of programs including green space and conservation easement programs both public and private. Mr. Polster stated that there are AFDs in both Yarmouth and Gordon Creek watersheds that have conservation easements through the Virginia Outdoors Foundation. Mr. Polster stated that the issue is that citizens were not satisfied that we were doing enough.

Mr. Polster stated that there was a story behind his email to the Commission asking for support on a recommendation to the Board of Supervisors to resurvey the individual AFD districts in the 2026 cycle and to look at other methods to compensate those AFD landowners.

Mr. Polster noted that he does not believe the 2022 survey is statistically valid based on the small number of responses. Mr. Polster noted that there are approximately 130 landowners and the County only received around 20 responses. Mr. Polster stated that the County needs to look at the districts individually. Mr. Polster stated that there is a difference between forestal and agricultural use. Mr. Polster stated that forestry is a 30-year effort with forestry and longer renewal cycles seem reasonable.

Mr. Polster stated that the story of a series of studies that, at their heart, are about looking at ways to protect and preserve the rural character and environment of James City County.

Mr. Polster stated that the studies were the 2014 Strategy for Rural Economic Development, the five-year study Capturing Value of Lower Chickahominy, and the 2022 Natural and Cultural Asset Plan. Mr. Polster stated that these studies have overlapping findings and recommended strategies e.g., ecotourism and agritourism.

Mr. Polster stated that a common theme is that development and future growth projections have a high potential for cumulative and secondary environmental impacts on County watersheds. Mr. Polster further stated that the tidal wetlands of the Yarmouth and Gordon Creek Watersheds are the two largest relatively undisturbed wetlands on the lower peninsula of Virginia. Mr. Polster stated that Natural Heritage ecologists describe the Lower Chickahominy as "nearly pristine". Mr. Polster noted that the Yarmouth Island and Gordon

Creek AFDs make up a significant portion of the Yarmouth and Gordon Creek Watersheds. Mr. Polster stated that property tax offsets help landowners, but it is not enough, and past studies have made marginal headway.

Mr. Polster stated that he inquired what the value tax estimate was and did not receive a definitive answer. Mr. Polster stated that he had wanted the information to show citizens exactly the amount of money that the County believes these lands are worth.

Mr. Polster stated that in 2021 Virginia took in \$227.6 million during its first year of selling its forest carbon credits in the Regional Greenhouse Gas Initiative market. Mr. Polster stated that 64% or approximately 50,000 acres of the County is forest and a majority of the ± 18,031 AFD acres are forest.

Mr. Polster stated that the 2019 Healthy Watershed/Forest Conservation Project Phase Three & Carbon Sequestration Report states that the potential is \$106 an acre every year over 30 years through the sale of forest carbon sequestration credits.

Mr. Polster made a recommendation that the County consider adding forest carbon sequestration to the toolbox. Mr. Polster stated that he does support the AFD program and intends to vote on it favorably.

Ms. Null inquired about the removal of acreage from the Hill Pleasant Farm AFD. Ms. Null noted that the specified acreage is in the middle of the parcel.

Mr. Holt stated that a land use case has been filed that will use the center portion of the property. Mr. Holt further stated that the owner is proactively taking it out of the AFD because property can be removed from an AFD by-right during the renewal period.

Mr. Krapf stated that he appreciates Mr. Polster's research. Mr. Krapf further stated that he agrees with the recommendation to expand the variety of programs available to landowners to receive economic benefit while preserving the land. Mr. Krapf stated that he is on the fence regarding longer terms and hoped that the next survey would provide a better idea of the landowners' preferences.

Mr. O'Conner inquired if Mr. Bradshaw had anything to add to the discussion.

Mr. Richard Bradshaw, Commissioner of the Revenue, provided the Commission with data on the benefit that goes to the landowner for land use valuation within the AFD not available under other programs. Mr. Bradshaw stated that approximately 25% of the parcels within AFDs do not receive land use valuation. Mr. Polster stated that the ± \$4 Million is very cheap for a four-year conservation easement and he believes this is not enough benefit for the landowner.

Mr. Polster stated that the County needs to find additional ways to reimburse landowners for the conservation value of the property. Mr. Bradshaw noted that the data is essentially for the forestal parcels since agricultural properties do not receive the land use valuation. Mr. Polster commented that he recommends adding carbon sequestration to the programs available for compensation. Mr. Polster further stated that he hopes the legislature considers the recommendations to add agricultural and marshland sequestration credits to the slate of programs.

The Commission thanked Mr. Bradshaw for the information.

Mr. O'Connor stated that he supports the shorter terms since many property owners do not qualify for hardship when they need to withdraw property from an AFD off-cycle. Mr.

O'Connor further stated that he did not think that the survey was intended to be scientific. Mr. O'Connor stated that the response rate percentage was better than the Comprehensive Plan survey.

Mr. Holt stated that the survey was very similar in scope and scale to the one done previously.

Mr. Polster made a motion to recommend approval of renewing all 12 AFDs as provided by staff along with a recommendation to the Board of Supervisors that they re-look the survey at the next renewal cycle; that they look at carbon sequestration as a potential way to offset some of the costs; and that Mr. Bradshaw's paper be forwarded to the Board of Supervisors.

On a roll call vote, the Commission voted to recommend approval of renewing all 12 AFDs as provided by staff along with a recommendation to the Board of Supervisors that they re-look the survey at the next renewal cycle; that they look at carbon sequestration as a potential way to offset some of the costs; and that Mr. Bradshaw's paper be forwarded to the Board of Supervisors. (7-0)

H. PLANNING DIRECTOR'S REPORT

1. Planning Director's Report - August 2022

Mr. Holt stated that he did not have anything to add to what was provided in the Agenda materials.

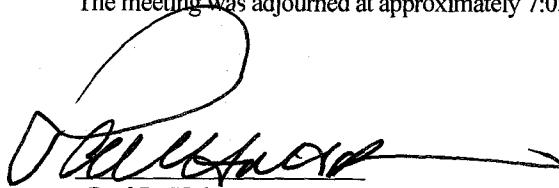
I. PLANNING COMMISSION DISCUSSION AND REQUESTS

Mr. O'Connor noted that the Board of Supervisors does not meet in August.

J. ADJOURNMENT

Mr. Krapf made a motion to adjourn.

The meeting was adjourned at approximately 7:05 p.m.



Paul D. Holt, III, Secretary



Tim O'Connor, Chairman