

A REGULAR MEETING OF THE PLANNING COMMISSION OF THE COUNTY OF JAMES CITY, VIRGINIA, WAS HELD ON THE SEVENTH OF FEBRUARY, TWO-THOUSAND AND FIVE, AT 6:30 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101-F MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

I. ROLL CALL

Jack Fraley
Ingrid Blanton
Donald Hunt
George Billups
Wilford Kale
Jim Kennedy
Mary Jones

ALSO PRESENT

John Horne, Development Manager
Mike Drewry, Assistant County Attorney
Marvin Sowers, Planning Director
Karen Drake, Senior Planner
Chris Johnson, Senior Planner
Matt Arcieri, Senior Planner
Pat Foltz, Development Management Assistant

2. ORGANIZATIONAL MEETING

Mr. Hunt recommend that the Commission go into Closed Session pursuant to Section 2.2-3711 (A)(1) of the Code of Virginia to consider personnel matters, including nominations for Commission Chairman and Vice-Chairman and consideration of appointments to Commission committees.

At 7:00 pm the Planning Commission reconvened in open session

Mr. Kale moved the adoption of the resolution for the closed session.

Mr. Billups seconded the motion.

Mr. Hunt, the acting chairman, opened the floor for nominations for chairman.

Mr. Kale nominated Mr. Hunt as the new chairman.

Mr. Kennedy seconded the nomination.

Mr. Fraley moved to close the nominations.

Mr. Kennedy seconded the motion.

The Planning Commission approved Mr. Hunt as chairman with a unanimous voice vote.

Mr. Hunt opened the floor for vice-chairman nominations.

Mrs. Jones nominated Mr. Fraley.

Mr. Kale seconded the nomination.

Ms. Blanton motioned to close the nominations.

The Planning Commission confirmed Mr. Fraley as vice-chairman with a unanimous voice vote.

3. PRESENTATIONS

Mr. Hunt presented Mr. Joe Poole III with a plaque commemorating his service with the Planning Commission.

3. MINUTES

Mrs. Blanton requested a clarification of her comments on Williamsburg Place.

Mrs. Jones pointed out a spelling correction in the newly distributed minutes.

Mr. Kennedy moved approval of the amended minutes.

Mrs. Blanton seconded the motion.

The Planning Commission approved the amended minutes with a unanimous voice vote.

4. COMMITTEE AND COMMISSION REPORTS

A. DEVELOPMENT REVIEW COMMITTEE (DRC)

Mr. Fraley delivered the DRC reports for January and February. The DRC heard five cases at its January 12th meeting. It recommended preliminary approval be granted for S-067-03 - Ford's Colony Section 33, C-007-03 - New Town Parking, SP-136-04 - Fieldstone Glen, and S-111-04/SP-139-04 - Colonial Heritage Phase 3, Section 1. For S-091-04, Marywood, the DRC approved the proposed open space and sidewalk waiver but denied the applicant's request for a cul-de-sac exception.

The DRC heard three cases at its February 2nd meeting. The DRC approved a building setback waiver for Blocks 1-9 of New Town. The DRC deferred consideration of SP-116-03 - Stonehouse Glen Section 2 and SP-130-04 - Abe's Mini Storage.

Mr. Kale moved to accept the report.

Mr. Kennedy seconded the motion.

The Planning Commission approved the DRC report with a unanimous voice vote.

B. POLICY COMMITTEE REPORT

Mr. Kale delivered the Policy Committee report. Mr. Kale deferred discussion of the zoning ordinance amendments to the pending public hearing.

5. PUBLIC HEARINGS

A. CASE NO. Z-13-04, MP-13-04, SUP-31-04 Monticello at Powhatan North

Mr. Johnson presented the deferral request. Mr. Tim Trant of Kaufman & Canoles has applied on behalf of Powhatan Enterprises, Inc. to rezone 36.5 acres of land from R-8, Rural Residential District, to R-2, General Residential District/Cluster, with proffers. The applicant proposes to construct 96 dwelling units in 24 quad buildings, for a gross density of 2.63 units per acre. The property is located at 4450 Powhatan Parkway, and is further identified as Parcel (1-1) on James City Real Estate Tax Map (38-3). The property is designated Low Density Residential on the Comprehensive Plan Land Use Map. Recommended uses on property designated for Low Density Residential include very limited commercial establishments, single family homes, duplexes, and cluster housing with a gross density of 1 unit per acre up to 4 units per acre in developments that offer particular public benefits. The applicant requested a deferral in order to resolve several outstanding issues. Staff supported the deferral request.

Mr. Hunt opened the public hearing.

Seeing no speakers, Mr. Hunt deferred the case to the March Planning Commission.

B. CASE NO. Z-15-04, MP-11-04, SUP-34-04, Villas at Jamestown

Mr. Johnson presented the deferral request. Mr. Gregory R. Davis and Mr. Timothy O. Trant, II of Kaufman & Canoles have submitted an application to rezone 30.36 acres of land from R-8, Rural Residential District to R-2, General Residential District, Cluster, with proffers. The applicant proposes 92 single family attached units. The property is located in the Five Forks area, and is more specifically at 248, 238, 230, and 226 Ingram Road and is further identified as Parcels (1-15), (1-11), and (1-10) on James City County Tax Map (46-2) and Parcel (1-19) on James City County Tax Maps (47-1). The property is designated Low Density Residential and Mixed Use on the Comprehensive Plan Land Use Map. Recommended uses on property designated for Low Density Residential include very limited commercial establishments, single family homes, duplexes, and cluster housing with a gross density of 1 unit per acre up to 4 units per acre in developments that offer particular public benefits. Recommended uses on property designated for Mixed Use include community-scale and neighborhood commercial and office uses. The development proposes a density of approximately 3 units per acre. The applicant requested a deferral in order to resolve several outstanding issues. Staff supported the deferral request.

Mr. Hunt opened the public hearing.

Seeing no speakers, Mr. Hunt deferred the case to the March Planning Commission.

C. CASE NO. Z-14-04 Pocahontas Square Proffer Amendment

Mr. Johnson presented the deferral request. Mr. Jay Epstein has applied to amend the proffers for approximately 14 acres at 8814, 8838, and 8844 Pocahontas Trail currently zoned R-5, Multi-family Residential, with proffers. The applicant has proposed to amend proffers related to the percentage of affordable dwelling units, the owners association, sidewalks, and cash contributions for community impacts. Ninety-six affordable townhouse units at a density of approximately 6.9 dwelling units per acre were approved for this site in 2003. The property is also known as parcels (1-4), (1-5A) and (1-5) on the James City County Real Estate Tax Map (59-2). The site is designated for Low Density Residential development on the James City County Comprehensive Plan Land Use Map. Recommended uses on property designated for Low Density Residential include very limited commercial establishments, single family homes, duplexes, and cluster housing with a gross density of 1 unit per acre up to 4 units per acre in developments that offer particular public benefits. The applicant requested a deferral in order to resolve several outstanding issues. Staff supported the deferral.

Mr. Kale asked which proffers had been proposed for amendment.

Mr. Johnson responded that staff and the applicant were actively collaborating and that staff anticipated being able to bring a recommendation forward to the March meeting.

Mr. Sowers commented that the new applicant, Mr. Epstein, had made significant changes in his application since it was filed after the deadline.

Mr. Hunt opened the public hearing.

Seeing no speakers, Mr. Hunt deferred the case to the March Planning Commission.

D. CASE NO. Z0-05-04 Zoning Ordinance Amendment – Public Water Storage Facilities

Mr. Kale reported that the Policy Committee had met to discuss this case and the succeeding case for height limits in the Rural Residential district. Mr. Kale asked Ms. Drake to outline the particulars of the case. The Policy Committee had recommended approval of both amendments.

Ms. Drake noted existing water storage facilities. Staff had prepared an ordinance to amend the James City County Code by amending Section 24-200, Public Utilities to

allow public water storage facilities to exceed the height limits specified by each zoning district with an approved height waiver and the issuance of a special use permit; and to amend Section 24-289, Utilities in R-4, Residential Planned Community Districts and Section 24-499, Permitted Uses in Planned Unit Developments to make water facilities (public) and sewer facilities (public), including but not limited to, treatment plants, pumping stations, storage facilities and transmission mains, wells and associated equipment such as pumps to be owned and operated by political jurisdictions as specially permitted uses. She noted two proposed facility sites in Stonehouse and Season's Trace.

Ms. Blanton asked for confirmation of the actual constructed height of the completed towers.

Ms. Drake responded that the planned height would be 165 feet.

Mr. Hunt opened the public hearing.

Mr. Larry Foster, General Manager of JCSA, asked the Planning Commission to approve the amendment.

Seeing no other speakers, Mr. Hunt closed the public hearing.

Mr. Kale moved the approval of the Policy Committee minutes and recommendation.

Mr. Billups seconded the motion.

The Planning Commission approved the motion by a vote of 7-0: AYE (7): Hunt, Jones, Billups, Blanton, Hunt, Kale, Kennedy. NO (0).

E. CASE NO. ZO-01-04 Zoning Ordinance Amendment – Rural Residential Height Limits

Mr. Johnson presented the staff report. Staff had prepared an ordinance to amend and reordain Chapter 24, Zoning, of the Code of the County of James City, Virginia, by amending Article V, Districts, Division 8, Rural Residential, R-8, Section 24-354, Height Limits, to allow public or semi-public buildings such as schools, churches or libraries to be erected to a height of 60 feet from grade, provided that the required front, side and rear yards are increased one foot for each foot in height over 35 feet.

Mr. Hunt opened the public hearing.

Seeing no speakers, Mr. Hunt closed the public hearing.

Mr. Kennedy moved approval of the amendment.

Mrs. Blanton seconded the motion.

The Planning Commission approved the motion by a vote of 7-0: AYE (7): Hunt, Jones, Billups, Blanton, Hunt, Kale, Kennedy. NO (0).

F. CASE NO. SUP-36-04 Farm Fresh Gas Pumps

Mr. Trey Davis presented the deferral request. Mr. Michael Griffith of FF Acquisition, LLC, has applied on behalf of Farm Fresh, Inc. for a special use permit to allow for a 4-pump, self-service gas station to be constructed in the parking lot of the existing Farm Fresh grocery store in Norge. The property, located at 115 Norge Lane, is currently zoned B-1, General Business, and is designated Community Commercial on the 2003 Comprehensive Plan Land Use Map. The parcel may be further identified as Parcel No. (1-71F) on James City County Real Estate Tax Map No. (23-2). The applicant requested a deferral in order to resolve several outstanding issues. Staff supported the deferral.

Ms. Blanton noted that the addition of gas pumps would require a relocation of parking spaces. She questioned the need for the total number of spaces.

Mr. Davis responded that a survey was underway to determine the need for those spaces.

Mr. Billups asked if the Zoning Ordinance distinguished between normal cars and compact cars in the determination of parking spaces required.

Mr. Sowers responded that the Zoning Ordinance does not distinguish between compact cars and normal cars.

Mr. Hunt opened the public hearing.

Seeing no speakers, Mr. Hunt closed the public hearing and deferred the case to the March Planning Commission.

G. CASE NO. SUP-37-04 Winston Drive Duplex

Mr. Arcieri presented the staff report. Mr. Peter Bunai has applied for a special use permit to construct a duplex unit on a parcel located at **115 Winston Drive** and further identified as Parcel No. (9-5B) on James City County Real Estate Tax Map No. (48-1). The property is zoned R-2, General Residential. The parcel is designated Low Density Residential on the Comprehensive Plan Land Use Map. Recommended uses on property designated for Low Density Residential include very limited commercial establishments, single family homes, duplexes, and cluster housing with a gross density of 1 unit per acre up to 4 units per acre in developments that offer particular public benefits. Staff recommends denial of the application.

Mrs. Blanton asked if the drainage comments issued by the Environmental Division were affected by the size of the duplex.

Mr. Arcieri responded that the comments were predicated on building size, and the parcel poses several environmental challenges.

Ms. Blanton asked for an explanation of the diagram presented as part of the staff report.

Mr. Arcieri deferred to the applicant.

Mr. Hunt opened the public hearing.

Mr. Peter Bunai addressed the character of the surrounding neighborhood and stated that, for residential reasons, building a duplex would be preferable to building a normal home with an accessory apartment.

Mr. Billups asked if the diagram was representative of what the applicant was prepared to build.

Mr. Fraley asked Mr. Arcieri if the addition of two front doors was the only difference between a duplex and a single family home with an accessory apartment.

A discussion ensued as to the differences between duplexes and accessory apartments.

Mr. Billups asked if having two driveways on the site would pose a significant difference in the zoning classification of the structure.

Mr. Arcieri replied that there would not be a significant difference. Further he clarified that staff's recommendation was based on the Comprehensive Plan.

Mr. Kale asked if the Zoning Ordinance addressed how many people could live in an accessory apartment.

Mr. Fraley asked if the Planning Commission were to recommend approval, what specific conditions staff would recommend attaching to the application.

Mr. Sowers highlighted condition 6 in the Planning Commission report.

Mr. Fraley asked the applicant if he had reviewed the conditions attached to the application.

Mr. Bunai responded that he would work with the conditions in building the house.

Ms. Tracy Corpus, 117 Winston Drive, spoke to the quality of Mr. Bunai's work and recommended the Planning Commission approve the application.

Mrs. Jones asked if Ms. Corpus lived in an accessory apartment.

Ms. Corpus responded that she lived in a single family home.

Mr. J. P. Waltner, 116 Winston Drive, credited Mr. Bunai's work within the neighborhood.

Ms. Barbary Haley, 104 Winston Drive, spoke to Mr. Bunai's good work in the neighborhood and recommended the Planning Commission approve the application.

Mr. Morris Dickson, 104 Catherine Court, stated that he was neutral with regard to the application but lived downstream and pointed out that the drainage problems on the property were significant.

Seeing no other speakers, Mr. Hunt closed the public hearing.

Mrs. Jones asked how Mr. Bunai would situate parking and garages in his eventual design.

Mr. Bunai clarified his design.

Mr. Sowers responded that condition 6 would have to be amended to site those improvements as proposed by Mr. Bunai.

Mr. Kale asked how many other property owners in the surrounding area could apply to build duplex units.

Mr. Arcieri responded that, in theory, any property owner in the R-2 zoning district could apply to have a duplex, provided the lot exceeds 15,000 square feet in area.

The Planning Commission discussed the precedents that the approval of this duplex might create.

Mr. Fraley voiced his concern that approving this application could open the door to future applications.

Mrs. Blanton stated that she supported the application and, despite her concerns, she would support the application.

Mrs. Jones credited the applicant for his work but expressed her concerns that the case would open a precedent and that the plan was not compatible with the Comprehensive Plan.

Mr. Billups spoke to his concern of the applicant's right to construct his home they way he wants to. He counted appearance as a factor, but did not feel there was enough justification to deny the application on that basis and that condition 6 gave staff the ability to regulate the appearance of the eventual home. He moved to approve the application.

Mrs. Blanton seconded the motion.

Mr. Fraley clarified whether or not the motion included the conditions recommended by staff in the staff report.

Mr. Billups stated that the motion included conditions 1-7.

Mr. Hunt asked the applicant if he was satisfied with the conditions.

Mr. Bunai responded that, under condition 6, he would be able to proceed as long as he had approval to construct his house with two front doors. He stated that he could accept the conditions.

Mrs. Blanton stated she would support the application with reservations.

Mr. Billups clarified that he meant the motion to allow the construction of two front doors.

Mr. Hunt asked Mr. Sowers if Mr. Billups' motion required an amendment of the stated conditions.

Mr. Sowers stated that the motion required an amendment to the conditions to meet Mr. Billups' intent.

Mr. Fraley stated that he did not understand the motion as presented.

Mr. Billups stated that he was removing the stipulation prohibiting two front doors.

Mr. Kale asked if the applicant agreed to the other conditions.

Mr. Bunai stated that he understood the motion and was willing to work with it.

The Planning Commission failed to pass the motion by a count of 3-4. AYE: (3) Blanton, Billups, Hunt. NO: (4) Kale, Kennedy, Fraley, Jones.

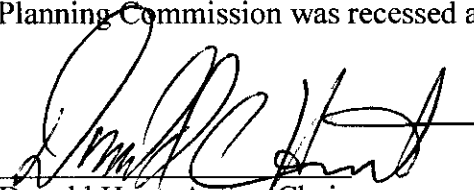
7. PLANNING DIRECTOR'S REPORT

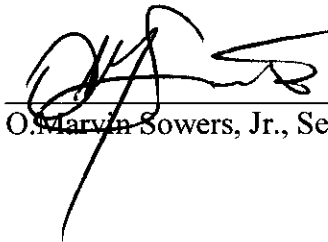
Mr. Sowers highlighted the Planning Division's impending move on Feb. 10-11 and stated that Planning would remain open for business. Mr. Sowers asked Mr. Hunt if he was prepared to announce the Policy Committee membership.

Mr. Hunt announced the members: Mr. Billups, Mr. Kennedy, Ms. Jones, and Mr. Fraley.

8. ADJOURNMENT

There being no further business, the January 10, 2005, meeting of the Planning Commission was recessed at approximately 8:10 p.m.


Donald Hunt, Acting Chairman


O. Marvin Sowers, Jr., Secretary