



**Prince Edward County Planning Commission
Meeting Minutes
August 18, 2015
7:00 pm**

Members Present: John Townsend, Chairman Chris Mason, Vice Chairman
 Donald Gilliam Preston L. Hunt
 Mark Jenkins Robert “Bobby” Jones
 Jack Leatherwood John “Jack” W. Peery, Jr.
 John Prengaman Cannon Watson

Staff Present: Rob Fowler, Director of Planning & Community Development
 Wade Bartlett, County Administrator

Chairman Townsend called the August 18, 2015 meeting to order at 7:00 p.m.

Approval of Minutes: July 28, 2015:

Chairman Townsend requested any changes or corrections be made known. He requested the correction be made regarding his statement including the conditions for the Special Use Permit request from Grace Chapel Ministries.

Chairman Peery made a motion, seconded by Commissioner Prengaman, to approve the July 28, 2015 minutes with corrections; the motion carried:

Aye:	Preston C. Hunt	Nay:	(None)
	Donald Gilliam		
	Mark Jenkins		
	Robert M. Jones		
	Clifford Jack Leatherwood		
	Chris Mason		
	John “Jack” W. Peery, Jr.		
	John Prengaman		
	John Townsend, III		
	Cannon Watson		

In Re: Public Hearing – Special Use Permit, Chapman Hood Frazier

Chairman Townsend said this is the time and date advertised for a Public Hearing to receive citizen input prior to considering a request for a Special Use Permit by Chapman Hood Frazier to operate a Family Day Home for up to twelve (12) children on property identified as Tax Map Parcel 041-15-46, located at 71 Sunrise Lane, Rice, VA. This is an A-1, Agricultural Conservation District. Notice of this public hearing was advertised according to law in the Wednesday, August 5, 2015 and Wednesday, August 12, 2015 editions of THE FARMVILLE HERALD, a newspaper published in the County of Prince Edward.

Chairman Townsend explained the process of the public hearing and then opened the public hearing.

Mr. Rob Fowler, Director of Planning and Community Development, stated the County has received a Special Use Permit application to permit the operation of a Family Day Home providing care for up to twelve (12) children located at 71 Sunrise Lane, on Tax Map Parcel 041-15-46, owned by Chapman Hood Frazier and Deborah Carrington. He stated the proposed facility will be licensed and inspected by the Virginia Department of Social Services. The hours of operation will be Monday through Thursday from 8:15 a.m. to 3:30 p.m. Friday's hours will be reserved for parent conferences by appointment. The property is located in an A-1, Agricultural Conservation District and the use is allowed by Special Use Permit.

Mr. Fowler stated the original application was submitted in April 2015 but due to deed restrictions that disallow commercial operations in the district, they sought legal counsel. The applicants were not aware of the covenants when they purchased the property; the County does not enforce deed restrictions. Mr. Fowler stated several other counties have policies in place to disallow hearing or granting Special Use Permits if there are deed restrictions; the policy is not enforced and has changed from time to time depending upon their county attorney. Mr. Fowler added the Planning Commission has 100 days to forward a recommendation to the Board of Supervisors for their action. The Planning Commission can recommend favorably, unfavorably or take no action and forward it to the Board for their determination.

Mr. Fowler said the most important thing to focus on is the impact on surrounding properties. He said the applicants have been through state training and the state will take over all inspections and site monitoring. Several neighbors are concerned about the deed restrictions, traffic, and property values. He added Coy Leatherwood, Building Inspector, has reviewed the plans; Mr. Leatherwood said the State handles the reviews and there is nothing for the County to do.

Chairman Townsend asked the Planning Commission members if any have been to visit the proposed Family Day Home; several commissioners indicated they had.

Commissioner Mason said he and Commissioner Jones had been invited to see the proposed site; they spent several hours, learning the details and examining the site. He assured those present he was in no way swayed one way or the other.

Chapman Hood Frazier stated he and his wife, Deborah Carrington, are co-facilitators and co-directors of the proposed Sunrise Learning Center. He said he takes care of the business and outreach aspects and the landscaping; Ms. Carrington does the curriculum development. He said the covenants are a separate issue that they are working on. Mr. Frazier said they wish to hold an educational program for local children. The license limits them to a maximum of twelve (12) children. They wish to start at the Sunrise Lane location and then expand the program to a facility in town. This would also establish a non-profit charitable, educational entity; this is not a commercial or industrial business.

Deborah Carrington stated there is a difference between day care and what they intend to provide; this goes beyond just taking care of the physical well-being of children. The Family Day Home will work

with children five years old and under, must be licensed, and would care for and provide instruction of children aged three to five.

Mr. Frazier stated both he and Ms. Carrington have undergone criminal background and Social Service background checks.

Commissioner Hunt asked if they intent to provide for underprivileged children and handicapped children. Ms. Carrington stated it is dependent upon staff qualifications. She said currently, one of the assistant teachers has a degree in special education and general education; another of the assistant teachers has elementary experience and an administrative supervision license from Longwood. We want to be as inclusive as possible; the first donation for a scholarship fund has been received. There is a program in place called Work Exchange for families.

Mr. Frazier added they wish to meet the needs of all children, including speech and language therapy. Ms. Carrington added Longwood University Speech, Language and Hearing Clinic has indicated they will do screenings as they do in Head Start and public schools, and this may be a place for internships through that program.

Commissioner Mason questioned if they intend to begin at the residence and then go elsewhere, and asked about their time frame. Ms. Carrington stated they need to get established; they are currently looking for space in town to grow into. They currently have nine interested families.

Commissioner Jones requested a description of the facility. Mr. Frazier stated the room is connected to the house and the garage, and has heat, cooling, a private bathroom; there is a fenced backyard and garden area with a swing set and sandbox. Ms. Carrington stated the fence is 4 ½ feet high with a lock on the gate. The room has three entrances/exits.

Mr. Frazier added there is a semi-circular driveway with an expanded parking lot to accommodate extra parking if necessary. He said the road is well maintained and said he offered to maintain the section of the road to Gully Tavern Road. He said they encourage carpooling and the traffic would only be twice per day. She added the property is on a 3 ½ acre lot. Ms. Carrington said six of the students would attend half-day and three would leave at 3:45 p.m. There are only five to seven vehicles anticipated. This is a nine month program, 38 weeks, or 145 days, to begin late August through early June. They would be closed for holidays.

Commissioner Leatherwood asked if they had plans for expansion. Mr. Frazier stated they would need to get a different license because of the number of children; they are limited to a maximum of twelve children.

Commissioner Prengaman asked if they need to be ADA compliant; Ms. Carrington said they would meet those requirements if they decide to accept anyone with those needs.

Chairman Townsend asked if they intend to have a sign. Mr. Frazier stated there is a sign on the sliding glass door that faces the property; the sign does not face the street.

Jennifer Flowers Davis, 355 Sunrise Drive, stated that in no way are her comments an attack against the character of Mr. and Mrs. Frazier; they are friendly, respectable people and are well educated professionals. There is no reason to think they are not good educators and could not add value to the educational system in our County. The points against the Special Use Permit are about the preservation of Whisper Woods neighborhood. It is a small, isolated community of 11 well maintained homes and yards. She stated the property value in the neighborhood is about \$10,000 an acre, a high price for land

with few amenities, no street lights, no sidewalks, no cable television access and a narrow gravel road. The area has nice homes, and the property still commands a high price thanks to the covenant that is in place, and bringing in the business would not increase the values but would have the opposite effect.

Mrs. Davis said the added traffic of 10-12 cars each day on the dead-end single lane dirt road would affect safety and maintenance, which is currently done by two residents. She added there is no snow or ice removal by VDOT, and they cannot always clear it immediately. This is a liability issue.

Mrs. Davis stated this further would impact the sanctity of the neighborhood which many sought out for the remote location, with restrictions to maintain the solitude. She said the increased traffic and strangers would inflate the issue further with increased crime. She added several of the neighbors have firearms for hunting and target shooting; this is not idea for a school environment, and current laws would impact their use and could impact future laws due to crisis situations and new restrictions.

Mrs. Davis said the covenant was established when the Whisper Woods was created by Statewide Realty. It explicitly states that businesses cannot be in homes of the residents. She said she understands that it is not the job of the County to enforce the covenants, but respectfully asks that the County recognize and honor the covenant that exists. She said the ordinance that requires special use permits states that the ordinance shall not apply to or interfere with any private covenant. The precedence was set in the 1980s and it was stated that while enforcement of restricted covenants is a private matter, recommending approval of a use clearly contrary to applicable restrictive covenant makes no sense and runs afoul of policy. There is no intent to curtail change or hurt development in the county, but home is home and they purchased no expectation of commercial expansion. She asked that the Commission consider these items.

Stephen Paulette, Lot 35, stated that he is opposed to the proposed facility and would not have purchased if it was in operation.

Crystal Paulette, Lot 35, said she purchased the lot five years ago to specifically to raise her children and have pets in a non-commercial residential area. She said she wants to uphold the covenants that were in place when she purchased there. She stated she is a special education teacher and understands the need for early childhood learning, but opposes it in an established neighborhood set up for solitude and a place to call home.

Rebecca Carwile, 194 Sunrise Lane, stated she have been a resident for 15 years and raised four children there. She said the neighbors work together to maintain the road; the Fraziers care as much about the home as the rest of the neighbors do. They have a private space with fenced in yard. They live 200 feet in; there is a four acre lot between them and the highway. They agree that the use of their home would be temporary as they intend to expand which isn't possible where they are. She said opening a school/day care is appealing; previously she had to get on a waiting list for her children to get into a suitable day care facility. This definitely fills a need in the community. She said she hopes to have grandchildren and she would like there to be more educational and work opportunities. She said she has visited the home and school area and sees no problem with it whatsoever; she asked the Planning Commission to consider favorable action.

Caitlin Frank, Morrisette Mill Road, Rice, stated it is difficult to find quality education for children. She stated she had a Waldorf Education in elementary school and this school is offering exactly what this community needs. She said she felt the complaints are irrelevant in comparison to what it offers, and that the traffic is not huge and parking is off-road. She said this is needed, especially in Rice.

Chris Riviere, 317 Sunrise Lane, stated the nine to twelve students would mean potentially 24 trips on the road, not including the trips made by staff, Longwood University, and state inspectors. This traffic would occur during peak times matching public school traffic. The hunting around the properties would present safety issues for the children. If the Commission chose not to enforce the covenants, possible concessions could include road maintenance for the section where his patrons would be traveling, no parking by consumers or staff on Sunrise Lane during business hours, children kept only from 6:00 a.m. through 6:00 p.m. and no overnight stays unless they are related to the Fraziers, set this as a one-year trial basis, and because any landowner has access to the bodies of water which presents a potential of liability, a waiver of liability should be signed absolving the residents of Sunrise Lane of indemnity unless the property owner is proven to be negligent.

Stephanie Riviere, 317 Sunrise Lane, stated she is a special education teacher in Cumberland County and can't be more in favor of early childhood learning and more facilities in the community but it doesn't need to exist in this neighborhood in Rice.

Mr. Bartlett asked if the road maintenance is included in the subdivision agreement. Mr. Riviere stated that in the covenants, the [responsibility of] road maintenance is on the property owners; he presented a copy of the agreement.

Mr. Bartlett asked if there are any references to easements or parking along the road in the covenants.

Chairman Townsend stated he saw a sign regarding access to the water and asked if all residents have access to the bodies of water through the easements. Several neighbors said they did.

Kim Hailey stated she is a resident of Farmville and plans to send her children to the school and also teaching there. She said her child has a child with special needs who has been denied entry into three public schools. This school is tailored to the child's needs; it is not day care, it is an education center. The area needs other options.

Susan Frank, Gully Tavern Road, stated she has lived there for 40 years and the traffic increased due to Whisper Woods. She asked who would not want something like this for their own children. The school would have some students for half and full days and spoke in favor of the school being allowed to operate.

Teresa Anders, Giles Road, said the facility would provide services to children from birth to three years old that are disabled or have developmental delays; these children respond better in a natural environment. She added there are not enough qualified centers for children with disabilities and these children need role models to learn appropriate behavior. She stated more people need to get involved to make the change and the Sunrise Learning Center would make an improvement.

Bill Eskew, 2654 Gully Tavern Road, stated he was the first to move to that area. The property being discussed is approximately 100 feet from the proposed day care center. He said it would be a great thing and would most likely bring up property values, as when parents buy a home, they look for preschools in the area.

Jennings Custis, 169 Sunrise Lane, stated he chose Whisper Woods specifically for the restrictions. He said he supports early education but what other commercial business would want to locate in that residential neighborhood. He is concerned about his homeowners insurance and liability as his property adjoins the Frazier's'. He said he also hunts on his property.

Suzanne Towler, Farmville, said she supports the school and plans to send her child. She is impressed with the facility and feels it is an excellent opportunity for children.

John Nixon, 277 Sunrise Lane, said traffic is a concern; if this is approved on a private subdivision road, it will be thrown back on the property owners to make sure the road is maintained. The average property values range from \$150,000 for a foreclosed home; all other homes on that road are in excess of \$250,000. He asked the Commission to review the letter of opposition submitted in the packet; the majority of the neighbors are opposed. He stated that if approved, there is no way to get around at the busy time of day and stated his concerns about the property values and how it would limit potential buyers.

Henry “Hank” Hosmer, 194 Sunrise Lane, stated the hunting that was mentioned has been blown out of proportion; hunting occurs at the end of the road and anyone with common sense wouldn’t hunt near the homes. He stated his support for the proposed school.

Daniel Davis, 355 Sunrise Lane, stated they live on the last house on the left, and the increased traffic would cause them to have to pay more for maintenance of the road. He added there have been seven accidents on Gully Tavern Road in the winter as it is nearly impassable.

Dylan Frazier said he plans to send his son to the school; he said the school at that location is a starting point to grow and move elsewhere.

Chairman Townsend questioned the number of employees are anticipated. Ms. Carrington stated there will be one adult for five children, with two assistant teachers that are also parents of students that will attend; they will attend on alternate days. She said there is another assistant that is currently going to the community college. Normally there will only be three instructors and nine parents which are under the limit. She added that they plan to begin in their home and move the operation to town. They are already looking for space in Farmville.

Mr. Frazier stated a non-profit is not in violation of the covenants because it is not a business.

Commissioner Mason said Mr. Riviere suggested a possible one-year time limit; the Commission doesn’t normally set a time limit. Ms. Carrington said they would consider that suggestion. She said there is no homeowners association but they have offered to pay Hank, and are willing to maintain the 200’ area of roadway in front of their home.

Chairman Townsend asked if there were any stipulations on the use of water. Mrs. Carrington added there is a circular driveway of double-width, with room for at least eight vehicles and additional parking space along the garage. There will be no parking on the road to interfere with traffic.

Mr. Frazier said once they apply for the licensure and it is complete, they will have professional liability as part of the school. He said he has never seen hunting behind their property. The children will have 1 ½ hours outside in the mornings for play.

Chairman Townsend asked if they would expand in the area to accommodate the growth of the school. Both Mr. Frasier and Ms. Carrington said no, it is a home.

Chairman Townsend then said if they receive approval, would they be willing to accept a proffer that the business not be sold with the property. Ms. Carrington said they would accept the proffer. Mr. Frazier said this would allow the opportunity to launch the school; they were never informed about the covenants

until he met with the Zoning Administrator. Mr. Bartlett stated the covenants were not in the deed; research to the previous deed was necessary to find the covenants.

Commissioner Prengaman questioned the length of the family day home license. Ms. Carrington stated she thinks it runs for a year and is dependent upon inspections and compliance. Inspections are done every three months; they are spot visits, largely unannounced. She said they also own guns which will have to be stored in a specific way.

There being no one further wishing to speak, Chairman Townsend closed the public hearing.

Commissioner Watson stated that whatever the Planning Commission says, the most they can do is recommend action to the Board of Supervisors. He added that it could be an easy approval if not for the private road and poor hard surface road.

Commissioner Jones said it is a tough decision. He said it appears to be a top notch facility and the covenants need to remain in place. He said a lot of information was presented for review. Commissioner Jones added if it would be approved, there would need to be a long list of stipulations. Discussion followed on the content of the stipulations.

Mr. Fowler said the County has no policy to enforce deed restrictions; he added he is not certain it would be legal to do. They are separate issues.

Mr. Bartlett stated it would all be dependent upon how the particular covenants are written and could go either way and would have to be decided in a court. This is a matter between private landowners and not a County issue.

Chairman Townsend stated concerns about the comments regarding congestion at the intersection. He said the road is not even totally built out and the area could increase traffic considerably in the next ten years. There is a potential for 12 and more houses on the road. He added there is no doubt it would be run well, but is not sure the place is the right location.

Commissioner Hunt added there are 22 acres of vacant land at the end of the street that could be developed.

Further discussion followed regarding stipulations to present to the Board of Supervisors.

Mr. Bartlett stated staff would have concerns on some suggestions by the Commission; he recommended the County Attorney should look at the legality of some of those suggested. The enforcement of the deed restrictions wouldn't be possible.

Commissioner Peery questioned if the issue is sent to the Board of Supervisors, would one year of operation at this location be an acceptable compromise. Discussion followed regarding a one-year limit and regarding road standards.

Commissioner Mason stated that often, people are unhappy with the Planning Commission's decision for action or to delay action. He said he is not 100% confident and would feel better sorting through the information. He said the Board will have this information ahead of time which would be much more helpful. Commissioner Hunt agreed.

After further discussion, Chairman Townsend made a motion, seconded by Commissioner Watson, to take no action but to forward the issue of the Special Use Permit to allow the request by Chapman Hood Frazier to operate a Family Day Home for up to twelve (12) children on property identified as Tax Map Parcel 041-15-46, located at 71 Sunrise Lane, Rice, VA, to the Board of Supervisors with the following catalog of stipulations, with the understanding the Board agrees to the stipulations:

- Grading, gravel and snow removal of 200' of roadway
- No parking on Sunrise Lane
- Hours limited to 8:15 a.m. – 3:30 p.m., and 38 weeks a year
- Limit of one year of operation
- No access to lake/water due to liability
- No transfer of conditional use if property is sold
- Waiver for property owners regarding to liability

The motion carried:

Aye:	Preston C. Hunt Donald Gilliam Mark Jenkins Robert M. Jones Clifford Jack Leatherwood Chris Mason John “Jack” W. Peery, Jr. John Prengaman John Townsend, III Cannon Watson	Nay: (None)
------	--	-------------

In Re: Proposed Zoning Amendment – Sign Ordinance

Mr. Rob Fowler stated that following a review of Sections 3-104.11 and 3-104.13 of the current sign ordinance regarding Commercial and Industrial Zoned properties and processing recent sign applications in these districts, he recommended the Planning Commission consider amending the sections regarding illuminated signs. The current sign ordinance requires a Special Use Permit in order to erect an illuminated sign in these zoning districts.

The current sign ordinance regulates height, size, and placement and requires all illuminated signs be directed, shaded, or shielded that the light intensity or brightness shall not adversely affect surrounding or facing premises, nor interfere with the safe vision of operators of moving vehicles. Light shall not be permitted to shine or reflect on or into any residential structure as well.

Mr. Fowler stated that considering the existing regulations to control the negative impacts that may affect adjacent properties, staff proposes that the ordinance be amended to allow illuminated signs as a permitted use in these zoning districts. Mr. Fowler stated that any deviation from the regulations stipulated in the sign ordinance would require a Special Use Permit.

Chairman Townsend made a motion, seconded by Commissioner Watson, to approve for recommendation to the Board of Supervisors the proposed amendments to Sections 3-104.11 and 3-104.13 of the current sign ordinance allowing illuminated signs as a permitted use Commercial and Industrial Zoned properties; the motion carried:

Aye: Preston C. Hunt
Donald Gilliam
Mark Jenkins
Robert M. Jones
Clifford Jack Leatherwood
Chris Mason
John “Jack” W. Peery, Jr.
John Prengaman
John Townsend, III
Cannon Watson

Nay: (None)

In Re: Proposed Zoning Amendment – Dormitory Housing

Mr. Fowler stated Prince Edward County staff was contacted regarding the process to establish dormitory type housing to allow students to occupy a dwelling / structure with on-site staff supervision off premises of the main grounds of the school. After reviewing the current zoning ordinance, there is no process to allow this type of housing for students, faculty or employees of an established college, university, independent school, or medical facility.

Mr. Fowler stated staff reviewed ordinances of other localities and suggests a proposed amendment to the zoning ordinance to provide students off campus housing options for established colleges, universities, independent schools, or medical facilities. Staff suggests that the Planning Commission add a classification of “Dormitories” as a use allowed by Special Use Permit in the A1, Agricultural Conservation and A2, Agricultural Residential zoning districts. Mr. Fowler said the applicant would still have to meet the development standards outlined in the ordinance and comply with any additional building codes or other state agency requirements. Staff also suggests that the following definition be added to Article VI, Section 6-100, Section (C):

DORMITORIES – Buildings or structures which have on-site supervision and may contain rooms for sleeping and include common eating facilities for the housing of regular enrolled students, faculty and employees of an established college, university, independent school, or medical facility.

Mr. Fowler stated buildings would need to meet the building code for institutional use; an architect or design professional review would need to be provided at each residence. He added not every property would work and would need to be ADA compliant, and stated the conditions will be set at the time of the public hearing for the Special Use Permit.

Mr. Fowler reported the County Attorney recommends leaving the definition generic in the process and to set the specifications in the Special Use Permit to impose conditions, such as supervision, that would be tailored to the situation. That would then make it enforceable to correct a violation if necessary.

Chairman Townsend made a motion, seconded by Commissioner Peery, for recommendation to the Board of Supervisors to approve the amendment to the Zoning Ordinance to add a classification of “Dormitories” as a use allowed by Special Use Permit in the A-1, Agricultural Conservation and A-2, Agricultural Residential districts, and to add the following definition of Dormitories to Article VI, Section 6-100 (C), *DORMITORIES – Buildings or structures which have on-site supervision and may contain*

rooms for sleeping and include common eating facilities for the housing of regular enrolled students, faculty and employees of an established college, university, independent school, or medical facility; the motion carried:

Aye:	Preston C. Hunt	Nay:	(None)
	Donald Gilliam		
	Mark Jenkins		
	Robert M. Jones		
	Clifford Jack Leatherwood		
	Chris Mason		
	John "Jack" W. Peery, Jr.		
	John Pregelman		
	John Townsend, III		
	Cannon Watson		

Old Business

(None)

New Business

(None)

Chairman Townsend made a motion and adopted by the following vote:

Aye:	Preston C. Hunt	Nay:	(None)
	Donald Gilliam		
	Mark Jenkins		
	Robert M. Jones		
	Clifford Jack Leatherwood		
	Chris Mason		
	John "Jack" W. Peery, Jr.		
	John Pregelman		
	John Townsend, III		
	Cannon Watson		

the meeting was adjourned at 9:22 p.m.

Next Meeting: September 15, 2015