

A REGULAR MEETING OF THE PLANNING COMMISSION OF THE COUNTY OF JAMES CITY, VIRGINIA, WAS HELD ON THE FIFTH DAY OF APRIL, NINETEEN HUNDRED AND NINETY-NINE AT 7:00 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101C MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

1. ROLL CALL

Martin Garrett, Chair
John Hagee
Don Hunt
Wilford Kale
Alexander Kuras
Willafay McKenna
A. Joe Poole, III

ALSO PRESENT

O. Marvin Sowers, Planning Director
Leo Rogers, Deputy County Attorney
Andrew Herrick, Assistant County
Paul Holt, Senior Planner
Matthew Maxwell, Senior Planner
Tammy Rosario, Senior Planner
Jill Schmidle, Senior Planner
Chris Johnson, Planner

2. MINUTES

Upon a motion by Willafay McKenna, seconded by Joe Poole, the minutes of the March 1, 1999 meeting were approved by unanimous voice vote.

3. RESOLUTION

Martin Garrett read the resolution in which the Planning Commission was to adopt in accordance with the Virginia Code in order to initiate consideration of the proposed amendments to ZO-1-99, ZO-10-99, ZO-8-99, ZO-9-99, ZO-19-99, and ZO-20-99 to the Code of the County of James City, Virginia.

Alex Kuras made a motion, seconded by Willafay McKenna, to recommended adoption of the resolution. In a unanimous voice vote, motion passed.

4. DEVELOPMENT REVIEW COMMITTEE

Alex Kuras presented the DRC report stating the Villages at Westminster was a simple case in which they requested the extension of a cul-da-sac by fifty-feet. The second case, Oaktree Office Park, had been continued until prior to this evening's meeting in order for the committee to make a site visit and evaluate the landscaping plan. He made a motion, seconded by Willafay McKenna, to recommended approval of the DRC report. In a unanimous voice vote, motion passed.

5. CASE NO. Z-1-99 AND MP-1-99. STONEHOUSE 1999 REZONING AND MASTER PLAN AMENDMENT.

Paul Holt presented the staff report asking for deferral of this case until the next regular meeting on May 3 since all issues had not been conclusively resolved, as outlined in the staff report.

Don Hunt commented there was concern expressed to him by a homeowner living in Sycamore Landing regarding the impact on their water wells and asked staff to looked into that matter.

Martin Garrett spoke before opening the public hearing and asked the Commission, if it were their desire to accept staff's recommendation of deferral, that there be no presentation by the applicant at this time.

Martin Garrett opened the public hearing and asked if anyone wished to speak to wait until this case was heard in May.

John Hagee commented that the only reason he would want to hear from the applicant would be if the applicant had a problem with the requested for deferral. He stated the applicant would not have to do an entire presentation but at least let the Commission know what their position was.

Martin Garrett stated this was something the Commission did not want to get involved with at this time. He said it was between the staff and applicant at this point.

Leo Rogers stated there was no litigation pending between the staff and applicant. He stated he did not believe that staff had enough information to make a recommendation at this time. He said, since the public hearing was opened, the applicant did have the right to speak tonight.

Vernon Geddy spoke on behalf of the applicant, Stonehouse, Inc. and Stonehouse LLC. He introduced members of Stonehouse and the representatives from Langley and McDonald stating he understood the Commission would not take any action tonight but he did have brief remarks he wanted to present. He believed the application was straight forward and related only to the first two phases of the Stonehouse Master Plan. The main request was to rezone 75 acres of the Fernandaz Tract from A-1 to PUD-R stating the proposal would not increase the number of units already approved. He explained the phasing process of the Stonehouse development and what the requirements were for the PUD ordinance. He felt staff brought up several broad issues that were not related to the request brought before the Commission. He said that looking at the project as a whole, it was clear to the applicant that the adjustments and density shift requested were relatively insignificant with the greater scheme of the Stonehouse project. He concluded by asking the Commission, if Stonehouse had been proposed in 1991 with 4,411 units spread out over the additional tract of land, would it have been approved.

John Hagee asked how many acres Stonehouse was in total and the number of housing units.

Vernon Geddy stated the James City County portion of Stonehouse was approximately 5,700 acres with a total of 4,411 units.

There being no further speakers, the public hearing was continued to the next meeting.

6. CASE NO. SUP-7-99. CAROLINA HOUSE OF WILLIAMSBURG ASSISTED LIVING FACILITY.

Paul Holt presented the staff report stating that in July, 1998 the Board of Supervisors approved a 120-bed skilled nursing facility and a 20,000 sq. ft. office development for this parcel. He stated the nursing facility was presently under construction and the applicant was now requesting to construct a 22,000 sq. ft. assisted living facility in lieu of the office space previously approved. Staff recommended the Planning Commission recommend approval of this application with the conditions outlined in the staff report.

Martin Garrett opened the public hearing.

Vernon Geddy introduced the applicant Preston Moore of Smith-Packet and Roger Harper of Southern Assisted Living, who would be the owner and operator of the assisted living facility. He stated the applicant was in full agreement with the staff's report and said he would be happy to answer any questions of the Commission.

Page Hewlett of Neck-O-Land Road and a property owner across from the project being presented tonight spoke of her concern over the way the County has been making changes that effect her property. She said years ago her property was zoned B-1, then downed zoned to LB. She was then notified that the property would be considered as Limited Business/Neighborhood Commercial in

the Comprehensive Plan. She said this designation limited the footprint of a building to 2,750 sq. ft. and asked how this application could be approved for 20,000 sq. ft. and 22,000 sq. ft.

Alex Kuras explained that the Limited Business/Neighborhood Commercial did not restrict the square footage of a building, it just required a special use permit for anything over 2,750 sq. ft. and that the applicant was here tonight requesting a special use permit.

There being no speakers, the public hearing was closed.

Joe Poole commented on the application and the conditions which would help to preserve Jamestown Road, especially, the architectural proffer where colors and materials shall be used that make the structures blend with the natural environment. He said he was in full support of this application.

Willafay McKenna made a motion, seconded by Joe Poole, to approve this application. In a roll call vote, motion passed 7-0. Aye: McKenna, Hagee, Hunt, Kale, Poole, Kuras, Garrett (7); NAY: (0).

7. CASE NO SUP-5-99. PENSKE TRUCK RENTAL AND AUTOMOTIVE REPAIR.

Chris Johnson presented the staff report stating the applicant proposed to operate a truck rental facility with accessory automotive repair. He stated staff found this proposal to be consistent with the surrounding zoning and development and consistent with the Community Commercial designation of the Comprehensive Plan. Staff recommended the Planning Commission approve this application as outlined in the staff report.

Martin Garrett opened the public hearing.

Joe Poole asked if the applicant proposed to operate his business exclusively from within the existing building or would there be new structures on the site.

Chris Johnson stated there would be no new structures on the site other than a graveled area for parking.

Joe Poole asked what VDOT's standards were for commercial entrances.

Chris Johnson said he was not sure about the width of a commercial entrance but stated if this application were to be approved a site plan would have to be submitted and at the time, VDOT would determine if the entrances were adequate or need upgrading.

Alex Kuras commented that condition #7 stated automotive repair services shall be limited to the maintenance and repair of rental trucks and trailers and asked if that type of use was permitted in B-1, why were we not allowing him to repair other trucks.

Chris Johnson stated that if they opened up the automotive repair side of the proposed business, additional parking and storage would be required and the applicant did not wish to do that. The County also had concerns about additional impervious areas given the environmental conditions on the site.

There being no speakers, the public hearing was closed.

Alex Kuras asked Leo Rogers if condition #9 was really necessary.

Leo Rogers stated that legally it was not required. It was just a statement of law that, if the Commission intended to do a single act in its legislative approval of this SUP, then all the conditions become a part of it, and the SUP becomes void if any condition was later deleted.

Willafay McKenna stated she at first had the same reaction as Alex Kuras but stated that invalidation could occur in a number of different ways. She felt it was a good, strong statement.

Marvin Sowers stated that it gave the County another opportunity to review the project if something should happen and it to protect the public interest should an important condition be eliminated.

Joe Poole asked if the applicant was comfortable with this condition.

Willafay McKenna made a motion, seconded by Joe Poole, to recommend approval.

Willafay McKenna stated this application did not have the condition of building within 24 months but there were references to other time limit requirements.

Marvin Sowers stated the omission was an oversight and would be added before the Board of Supervisor's meeting.

Willafay McKenna amended her recommendation to add the 24 months' condition.

In a roll call vote, motion passed 7-0. Aye: McKenna, Hagee, Hunt, Kale, Poole, Kuras, Garrett (7); NAY: (0).

8. CASE NO. SUP-8-99. POULSTON MOTORCYCLE REPAIR AND SERVICE.

Tammy Rosario presented the staff report stating the applicant wished to conduct minor repair and service of motorcycles in a new two-story structure in which he intended to live on the second floor. Staff found the proposal inconsistent with the Comprehensive Plan and believed that it might set a negative precedent for other business uses along this portion of Richmond Road. Staff recommended denial but stated, should the Planning Commission wish to recommend approval, staff did recommend placing conditions on this application as outlined in the staff report.

Martin Garrett asked staff to review the 36 month time limit. He felt that a 24 month time limit was sufficient.

John Hagee questioned the statement on page 47 stating that the Comprehensive Plan emphasized that uses should preserve the natural, wooded and rural character of the County and that non-agricultural, non-forestal uses should be sufficiently screened to preserve open spaces. He said, given the fact the applicant would be 133' back and intended to keep the site as wooded as possible, wouldn't that be consistent with the Comprehensive Plan. He also asked if this particular parcel were larger, perhaps three to five acres, would that be considered reasonable.

Tammy Rosario stated the use itself may be screened from Richmond Road, but because this property had recently been subdivided and used both for residential and commercial, staff believed it could disrupt the potential of the property for agricultural and forestal uses.

Marvin Sowers stated one of staff's concerns was that encouraging carving larger tracts into smaller ones it diluted the importance of those tracts for agricultural or forestal purposes and over time, this would affect the character of the Rural Lands area.

Martin Garrett opened the public hearing.

Annabel Payne, a resident of 8831 Richmond Road, was opposed to this application due to noise and pollution.

Josephine Moore of 8847 Richmond Road also spoke against this case and asked the Commission to deny this application because of noise and traffic.

Don Hazelwood of 8630 Richmond Road spoke in support of this application, since the applicant was willing to leave the buffer of trees and was accepting the condition which would require all work be done inside the building and there were nine other businesses in the area.

Walker Ware of James City County addressed several issues on behalf of the applicant. He stated the applicant had proposed to keep the trees in front of his business, which was adjacent to Pierces Brothers Bar and Tavern. He stated there were already ten business in that corridor of Richmond Road and that was something staff neglected to indicate in their report when emphasizing the residential character of that corridor. He understood the concern of the neighbors but wanted them to know that it would not be a business with revving engines and other types of noises. He questioned why there was a need for such an application since the applicant would be living on the premises and only about 25% of the building would be used for his home occupation and felt that the Commission was led to believe that this was more than just a small business. He stated the business was part time and the retail was accessory to service. He proceeded with his objections to the conditions of items 4, 6, and 7 (sign restrictions, no parking in front of the building, enhanced landscaping since existing trees will remain) which required the approval of the Planning Director, and items 8, 10, 11, and 12 (hours of operation, requiring mufflers and a commercial entrance, and the nonseverable nature of the conditions) as outlined in the staff report. He felt these conditions should have been reviewed with the applicant and recommended the Commission approve this application.

Charles Poulston, the proposed owner, stated the information presented to the Commission was incorrect because he was building a log cabin home and not a commercial motorcycle shop. He said he did not plan to do repair work only customization of motorcycles which would be about two to three per year. He stated he would not be doing any engine work, only creating the customized body of the motorcycle.

Wilford Kale asked Charles Poulston when he last spoke to the County staff regarding this application.

Charles Poulston stated he had not spoken to staff because he had a business manager who was handling this application. He did state that the manager was no longer employed by him, and that he had spoken a woman at the courthouse.

Joe Poole asked if the applicant felt he needed any type of sign.

Charles Poulston stated he did not need a sign for this type of work.

There being no further speakers, the public hearing was closed.

Willafay McKenna raised several questions regarding this application. She wondered why they were hearing such a case at all and asked why the applicant's requested revisions to the conditions were not included in the staff report.

Alex Kuras asked if staff realized this was such a small business.

Tammy Rosario stated that she did speak with the applicant, Charles Poulston, several times to get a better idea of what the application involved and because of its broad use, staff felt additional conditions were needed to tailor it to his business. She stated the applicant did not express any objections to staff about the conditions.

Martin Garrett said he could not support this application because it was inconsistent with the Comprehensive Plan.

Joe Poole agreed that it was inconsistent with the Comprehensive Plan and felt it could set a precedent and, therefore, he would not support this proposal.

Wilford Kale stated he had visited the site and supported this application. He felt that, with the proposed buffer setback and no signage, it would appear as a residential site rather than a commercial one.

John Hagee stated his only concern was that of noise and if there was a way to control it, he would support the application and felt it was not inconsistent with the Comprehensive Plan.

Alex Kuras recommended the Commission defer this case so that staff and the applicant could work out the conditions.

Willafay McKenna suggested the application be changed from Motorcycle Shop and Repair and Service Facility to a Motorcycle Customization and add the condition that there would be no sign.

Alex Kuras made a motion, seconded by Wilford Kale, to defer this case until next month.

Joe Poole said he would support the motion for deferral but still would vote to deny this application based on the Comprehensive Plan.

Martin Garrett was in agreement with Joe Poole and stated one thing he was concerned about were several comments by Walker Ware that he felt that Charles Poulston and staff should discuss.

Willafay McKenna felt that Charles Poulston's presentation was somewhat different from that of Walker Ware and suggested the conditions presented by staff and those suggested by Charles Poulston be discussed by both staff and the applicant.

Joe Poole commented that the Commission should not compare this application to what was being done at Pierce Brothers Bar and Tavern located adjacent to this property. He felt the case should be looked at on its individual merit and just because of something that was happening next door, whether it was very desirable or undesirable, it should have no effect on the case in question.

Marvin Sowers asked the Commission to address that further since staff was concerned that this case would open the door a little further on the interpretation of the Comprehensive Plan of what the County considers are appropriate commercial uses in Rural Land areas because they require a specialized location. He suggested the Commission also address how this application meets the Comprehensive Plan criteria that such uses should minimize the effect on agricultural and forestal activities. He recommended that the Commission, if they were to approve this application, send a record to the Board specifically addressing those particular points so the Board would understand how the Commission believed this case met these key Comprehensive Plan criteria and to narrow the precedent this approval would create.

Martin Garrett said that there were diverse feelings towards the Comprehensive Plan because despite the fact that a business had been in the area for more than 25 years, there have been many

changes to the Comprehensive Plan and zoning ordinance since then.

Wilford Kale commented that if he had been on the Commission during the Comprehensive Plan he would have never put in the exception for uses requiring a specified location. He stated the exception was there and it allowed for specialized uses and special situations. He believed that this case was a special situation and was therefore consistent with the Comprehensive Plan.

Willafay McKenna felt that, since the applicant was willing to keep a 100' buffer in the front, required a special use permit, the owner-operator would live on the premises, the house was by right, and it was a small scale business, it was not inconsistent with the Comprehensive Plan and supported this application.

By unanimous voice vote, the Commission deferred this case.

9. CASE NO. SUP-3-99. HORVATH DENTAL OFFICE.

Matthew Maxwell presented the staff report for the proposed dental practice at the residence of the applicant. Staff believed that this request for a dental office was inconsistent with the Low-Density Residential designation in the Comprehensive Plan and requested the Commission deny this application as outlined in the staff report.

Martin Garrett opened the public hearing.

Vernon Geddy, representing the applicant, Gabriella Horvath, presented her case stating his applicant wished to create a dental practice here in James City County at her existing home located at 3700 Rochambeau Drive. He stated the only change to the exterior of the home would be a handicap ramp and said the applicant had no problem with the landscaping conditions required by staff in order to screen the parking area from adjacent neighbors. He said staff based their recommendation on the Comprehensive Plan and when he looked at the Plan he came to the opposite conclusion from staff, his reason being that this was only a 900 sq. ft. dental office located in a residence and should be considered as a limited commercial use or even more as a limited professional office use. He asked that the Commission approve this application.

Willard DeLara of 92 Sand Hill Road handed out a letter from four adjacent property owners on Sand Hill Road expressing their opposition and a petition, circulated through the neighborhoods of Sand Hill and Great Woods, with 40 signatures of opposition to the Commission. He said he concurred with staff's recommendation and asked the Commission to deny this application.

Gordon Wright of 97 Sand Hill Road commented that the map illustrated for viewing was outdated since there were numerous homes already built or being built on the vacant lots shown. He stated there should be a greater buffer area between the residential and commercial uses if the Commission were to approve this application. He requested the Commission except staff's recommendation of denial.

There being no further speakers, the public hearing was closed.

Willafay McKenna make a motion, seconded by Joe Poole, to approve staff's recommendation of denial for this application.

Willafay McKenna felt there was a distinction between this case and the one they just heard because this was a very intensive use due to the vehicle trips per day, an enterprise that would require a sign that couldn't be screened and she felt it was clearly inconsistent with the surrounding area.

John Hagee referring to the wording in the Comprehensive Plan, asked for examples of the types of commercial uses permitted in low-density residential areas.

Willafay McKenna stated it was hard to define what type of business would fit into that area, but this was all residential on this side of the road.

John Hagee asked for staff comments.

Matthew Maxwell commented that, one example would be a home care facility where one person looked after several elderly people that would have very limited traffic. He felt that an important consideration to keep in mind was that there were many areas within the County designated low-density residential. He felt that the flexibility was there not only from a use standpoint but from a geographic standpoint. He stated that in this particular application, there was a clear separation between B-1 and A-1 since they were divided by a major highway.

Wilford Kale concurred with Willafay McKenna and noted this was a well established residential area on this side of the road.

Joe Poole stated he opposed to this application as well as the previous one due to the Comprehensive Plan.

In a roll call vote, motion to deny was approved 5-2. AYE: McKenna, Kale, Poole, Kuras, Garrett (5); NAY: Hagee, Hunt (2).

The Commission took a five minute break.

10. CASE NO. ZO-1-99. PUD. PLANNED UNIT DEVELOPMENT DISTRICT AMENDMENTS.

Jill Schmidle introduced Joe McCleary, a member of the Business/Industrial Zoning Ordinance Update Committee, who presented the staff report.

Joe McCleary introduced other members of the committee to the Planning Commission. He stated that the recommended changes to PUD were not extensive and that they were agreed to by the majority of the committee members. He reviewed the changes as outlined in the staff report and stated both the committee and staff recommended approval of these changes.

Martin Garrett opened the public hearing. There being no speakers, the public hearing was closed.

Willafay McKenna made a motion, seconded by Alex Kuras, to recommend approval of the zoning changes. In a roll call vote, motion passed: AYE: McKenna, Hagee, Hunt, Kale, Poole, Kuras, Garrett (7). NAY: (0).

11. CASE NO. ZO-10-98. MANUFACTURED HOME PARKS.

Paul Holt introduced Jeff Barra, Co-Chair of the Grab Bag Zoning Ordinance Update Committee, who presented the staff report. He stated the committee recommended several changes be made in order to make this section more consistent with the residential districts, such as R-1 and R-2, as outlined in the staff report. The committee and staff both recommended the Commission approve this ordinance.

Alex Kuras asked when this ordinance was last used for a Manufactured Home Park.

Marvin Sowers stated it was used for the Manufactured Home Park on Centerville Road near Marston Court.

Martin Garrett opened the public hearing. There being no speakers, the public hearing was closed.

Willafay McKenna made a motion, seconded by Alex Kuras, to recommend approval of the zoning changes. In a roll call vote, motion passed: AYE: McKenna, Hagee, Hunt, Kale, Poole, Kuras, Garrett (7). NAY: (0).

12. CASE NOS. ZO-8-99 AND ZO-9-99. CONCEPTUAL PLAN SUBMISSION FOR SITE PLANS AND MAJOR SUBDIVISIONS.

Jeff Barra presented the staff report on behalf of the Grab Bag Zoning Ordinance Update Committee stating that the changes required so that prior to formal plan submission, developers would be encouraged to submit conceptual plans for review by the Planning Department as outlined in the staff report.

Martin Garrett opened the public hearing. There being no speakers, the public hearing was closed.

Alex Kuras made a motion, seconded by Willafay McKenna, to recommend approval of the zoning changes. In a roll call vote, motion passed: AYE: McKenna, Hagee, Hunt, Kale, Poole, Kuras, Garrett (7). NAY: (0).

13. CASE NO ZO-19-98 AND ZO-20-98. LANDSCAPING AND PARKING ORDINANCES.

Matthew Maxwell introduced John Hagee, a member of the Community Character Zoning Ordinance Update Committee, who presented the report to the Commission. He reviewed the changes for both the landscaping and parking ordinances. He stated that both the Community Character Committee and the staff recommended approval of the revised ordinances as outlined in the staff report.

Willafay McKenna asked why there was the requirement for peripheral fencing.

John Hagee stated they would only be temporary around construction activities.

Alex Kuras asked if the staff reviewed the cost of trees for the 1.5 vs the 2.5 caliper.

Marvin Sowers stated the larger trees provide some immediate benefit and only a small portion of the trees must be 2-1/2". He stated staff had looked extensively at this cost issue during consideration of the original landscape ordinance and again several years ago when the ordinance was amended to reduce costs for industrial projects. Both times it was concluded that landscaping was a very small portion of overall projects costs.

Martin Garrett opened the public hearing.

Wilford Kale commended those volunteers who participated in the Zoning Ordinance Update Committees and especially wanted to thank Mark Sexton who served as a proxy for him on the Grab Bag Committee.

There being no speakers, the public hearing was closed.

Joe Poole recommended that a VA Certified Landscape Architect be required in Sec. 24-87.

Willafay McKenna made a motion, seconded by Joe Poole, to recommend approval of the zoning changes, as amended. In a roll call vote, motion passed: AYE: McKenna, Hagee, Hunt, Kale, Poole, Kuras, Garrett (7). NAY: (0).


14. PLANNING DIRECTOR' REPORT.

Marvin Sowers informed the Commission of the upcoming public plan review on April 20 at the James River Elementary School from 4-7 pm regarding VDOT's project for the "Relocation of Route 60." He also handed out flyers for the upcoming 1999 Hampton Roads Planning Commissioners Forum to be held on May 20 and asked if anyone was interested in attending to please notify Carole Giuliano to make the arrangements.

15. ADJOURNMENT

There being no further business, the Planning Commission adjourned at approximately 9:50 pm.


Martin A. Garrett, Chair


O. Marvin Sowers, Jr., Secretary