

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

1. ROLL CALL

A. Joe Poole
George Billups
Don Hunt
Wilford Kale
Joe McCleary
Peggy Wildman

ALSO PRESENT

Greg Dohrman, Assistant County Attorney
Marvin Sowers, Planning Director
David Anderson, Planner

2. MINUTES

Joe McCleary made a motion to approve the minutes of the March 4, 2002, meeting and commented that Ms. Giuliano deserved special recognition for having produced not only an accurate set of minutes but very well organized ones that would be useful to anyone who read them. In a unanimous voice vote, motion passed.

3. COMMITTEE AND COMMISSION REPORTS

A. DEVELOPMENT REVIEW COMMITTEE (DRC)

Peggy Wildman presented the DRC report stating they reviewed five cases that were not controversial. She stated the Williamsburg Landing and Williamsburg Plantation (units 184-251 and units 134-183) projects were before the DRC because each one exceeded 50 lots. She said the applicant for Ironbound Village requested a modification to the required 50' structure setback and requested to amend the master plan. She stated the DRC recommended approval of all cases.

Joe Poole stated he would abstain from the Williamsburg Landing vote since he was a member of its board.

Wilford Kale asked if the County was watching the rear property of Williamsburg Plantation as its developed toward the wetlands adjacent to Route 199.

Joe Poole said absolutely and added that has been a concern of the DRC. He said there was a BMP partially on VDOT property and partially on Williamsburg Plantation property that has met the environmental regulations.

By a unanimous voice vote, motion passed.

B. DEVELOPMENT POTENTIAL ANALYSIS

Joe McCleary stated several years ago the Board directed staff to do a study of the development potential in the County and that engendered further discussion as to the accuracy of those figures. He said as a preparation for the review of the Comprehensive Plan, the development potential analysis study would be redone in a more in-depth method which involves the employment of a consultant. He stated the DPA Committee would be working with staff and the consultants from Kimly-Horn and added that the potential development analysis was being done strictly within the PSA. He said there were four scheduled meetings, one of which was held on March 29, and the next one would be on April 22, 2002 at 3 p.m. in Conference Room E.

Don Hunt asked if the study would be defining the number of lots by economic classification. He stated that there has been talk about the need for affordable housing and asked if there would be a distinction made as to how many potential sites/or lots would fit lower income.

Joe McCleary said not per say, but it could be inferred.

C. PROPOSED CLOSURE OF CENTERVILLE ROAD

Joe Poole stated he wanted to follow up on the March 4th meeting on the proposed closing of a section of Centerville Road. He stated that Joe McCleary, members of staff, and members of the National Park Service met shortly after that March meeting to come to terms with how best to accommodate a range of interests in this matter. He stated that before the Commission tonight was a proposed resolution he hoped could be acted on at the May meeting and then sent to the Board. He asked if the Commission had any substantive items regarding the resolution and to either offer those comments tonight or as soon as possible so the final resolution could be prepared for the next meeting.

Peggy Wildman stated there were two issues of concern which she felt weren't specifically addressed. She proposed that the Commission put forth a speed limit on the road, suggesting 25 mph for safety reasons and to avoid traffic issues within the Park. She felt the use of pea-gravel on top of the road surface was a wonderful idea but asked if there was any assurance that the road would hold up with use by Fire, Police, and EMT emergency vehicles.

Joe Poole asked if anyone else had any comments.

Joe McCleary stated the County Attorney recommended several changes in the resolution and he agreed to strike the word *iterative* and inserting *incremental* in the first paragraph and to delete the word *fulsome* in the last paragraph.

George Billups asked if this would be discussed at the May meeting.

Joe McCleary stated that this resolution was not being officially considered at this time because there was not enough time to have tonight's consideration publicly announced.

Alec Gould of the National Park Service stated he had spoken with Joe McCleary and then put in writing comments regarding the resolution that was before the Commission.

Joe McCleary informed Alec Gould that the other Commission members had received a copy of the resolution and the letter from the National Park Service.

Alec Gould stated there were two main concerns regarding the resolution. He asked that there be an acknowledgement that many citizens of the County did, in fact, support Alternative C and that it be noted that the long range goal of the National Park Service was to do Alternative C. He said he preferred the word *incremental* to *iterative* because it better expressed what the Commission was saying and felt that was positive position.

Don Hunt made a motion, seconded by Wilford Kale, to bring this issue before the May 6, 2002 meeting. In a unanimous voice vote, motion passed.

Marvin Sowers stated the Commission closed the public hearing at its March 4, 2002, meeting and that would affect the way staff would advertise the May meeting. He asked if the Commission wanted the matter to be a public hearing or a consideration.

Joe Poole said his first thought would be to have another public hearing.

Wilford Kale stated there had been a public hearing and felt this now should be the Commission's handling of what was heard during the public hearing in March. He was reluctant to reopen the public hearing because it could be a redundancy of the March meeting.

Don Hunt said he believed there was a fair and open airing from both sides on this issue and felt the resolution was beneficial.

There was support from other Commission members not to open the public hearing and it was agreed this would be a consideration.

4. PUBLIC HEARINGS

A. CASE NO. SUP-4-02. J. W. CROSSING EXPANSION

David Anderson presented the staff report stating the applicant had applied to amend a previously approved special use permit in order to increase the size of the permitted retail shopping center to 17,149 sq. ft. and to eliminate the previously approved automobile service station center and fast food restaurant. He stated the proposed conditions would mitigate traffic and visual impacts of this development. Staff found the proposal to be consistent with the surrounding commercial zoning and development and the Community Commercial designation of the Comprehensive Plan. Staff recommended that the Planning Commission recommend approval with the conditions as outlined in the staff report.

Joe Poole opened the public hearing.

Sheldon Franck of Geddy, Geddy, Franck, and Hickman spoke on behalf of the applicant. He stated the earlier special use permit was approved in March of 1999 and said it was necessary to file suit in order to get some of issues resolved between the owner of the out parcel and the owner of the shopping center. He said one result, determined by the courts, was that the configuration of the automobile service facility did not comply with the covenant restrictions. He said the other two issues were agreed upon by a settlement that was incorporated into a court order in that suit. He said the process took almost 18 months and by that time, the prospective user for the fast food restaurant was no longer interested in locating at the site. He stated that before the Commission tonight was a modified proposal for that site. He noted that the proposed buildings would have the same exterior appearance and retail use as the existing building. He said the applicant agreed with the staff report with the exception of Condition #8. He said what this condition was doing was putting the owner of the out parcel in a "catch 22" situation stating the County won't approve this application until the owner of the shopping center approves it and the owner of the shopping center won't approve it until the County approves it. He believed the length of the litigation was considerably greater by virtue of this condition and respectfully asked that this special use permit be approved without Condition #8. He said he would answer any questions of the Commission.

Peter Paluzsay spoke on behalf of Ewell Station, Inc. stating that the special use permit that was being applied for tonight did affect them. He said there were restrictive covenants on the property and noted that the County and applicant were fully aware of what they have to do with these covenants in order to develop the property. He stated the applicant to this date had not given Ewell Station, Inc. any information as to the changes in the special use permit. He said the applicant was applying for a modification of a special use permit which, in fact, has expired. He asked the Commission to take a hard look at this case and said that Ewell Station, Inc. had not yet approved this application as required in the covenants and objected to it at this time.

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

Joe McCleary asked the Assistant County Attorney on his views on Condition #8.

Greg Dohrman stated there were no legal problems with Condition #8. He said that the condition was in the original application because there was an issue of whether the development could be done due to the restrictive covenants and the Commission did not want to be in a position of approving something that was generally against covenants. He said Condition #8 allowed the applicant to go forward to the Board and then for the owner of Ewell Station Shopping Center to take the applicant to court since approval of the SUP was granted by the County. He felt that the Commission could be in the same position today since the owner of the shopping center stated that they had not approved this proposed change. He also stated that the County did not have any obligation to enforce any private covenants between private parties. He concluded that the SUP condition could be removed without affecting the rest of the application.

Marvin Sowers added that this was a very unique instance and staff felt that site plans should not be processed unless there was a guarantee that what was actually applied for could actually happen and condition #8 addressed this issue.

Dave Anderson concurred with Marvin Sowers stating that staff did not want to approve a site plan unless the use was going to be allowed on the property.

Marvin Sowers stated this was a solution worked out when the case was before the Commission last time.

Joe McCleary asked Greg Dohrman to be more specific regarding Condition #8.

Greg Dohrman stated that there was not a legal need for this condition and felt it was a staff and Commission policy as to whether it should be in. He said the County Attorney's office position would be that they would not want to be in a position of monitoring compliance with restrictive covenants but because of the unique history of this case, they did not have an objection to Condition #8 in this case.

Wilford Kale asked Sheldon Franck to confirm that Peter Paluzsay had not seen this application prior to today.

Sheldon Frank stated they had not formally submitted anything on the revised proposal to the owners of Ewell Station because they needed to have the approval of the special use permit first.

George Billups asked if there was a possibility, if this application were approved, that there could be an agreement among the parties and that they would not have to go back to court.

Sheldon Franck said they hoped they would not have to go back to court noting that many of the elements of this development had already been approved by the owner of the shopping center when they approved the old SUP. He said what the owner of the shopping center hasn't approved was the different size, exterior appearance, and location of the two buildings and they can't be submitted to him until the applicant obtains the approval from the County.

Joe Poole stated he was supportive of this application with the conditions listed. He said he was impressed with the finished product that evolved from the 1999 SUP and was pleased with this application because it continued to retain the Comprehensive Plan intent for this parcel.

Wilford Kale made a motion, seconded by Joe McCleary, to approve this special use permit with the inclusion of all 11 staff recommended conditions.

In a roll call vote, motion passed (6-0). AYE: Wildman, McCleary, Hunt, Kale, Billups, Poole (6); NAY: (0).

5. PLANNING COMMISSION REQUESTS

A. CASE NO. SUP-18-01. WALTRIP CELLULAR TOWER

Joe Poole stated that the cellular tower application that was before the Planning Commission in February and forwarded to the Board has had a subsequent reduction in height by the applicant. He stated a balloon test was conducted last week and he requested that the Commission endorse a resolution asking the Board to allow them to review this case again.

Wilford Kale made a motion, seconded by Peggy Wildman, to support Joe Poole's request.

In a unanimous voice vote, motion passed.

B. COMPREHENSIVE PLAN METHODOLOGY

Joe Poole said that last Tuesday, March 26th, the Commission had the opportunity to listen to staff's presentation on the Comprehensive Plan revision process with suggestions of methodology options. He said the methodology options were: staff would do it almost exclusively with some technical consulting assistance, there would be a blended approach between staff and a consultant, or the consultant would do the revisions entirely. He stated the Commission was in charge of steering the process and noted staff had been very helpful. He asked if any Commissioners had any thoughts on the methodology.

Don Hunt commented on the DPA Committee that would be looking at the residential areas and the consideration of the Primary Service Area (PSA). He felt that affordable housing might be one criteria for the expansion of the PSA.

Joe McCleary said the citizen survey indicated that the citizens wanted a review and tweaking of the plan with adjustments in some areas but no major overhaul of the plan. He said that Plan B was a reasonable employment of consultants to be used in specific areas. He felt that staff could do a good and fair job and with all the citizen input and the oversight of the Commission, he believed they needed to keep the expenses to a reasonable level and the use of consultants to a reasonable level.

Joe Poole concurred and felt a blended approach of staff and consultants made a lot of sense. He said what he heard at the work session from the Board was that they wanted to see more citizen participation throughout the entire process.

George Billups said that in the development of the Comprehensive Plan he would not like to see things that would agitate the attitudes of this community in a divisive way. He knew of their concerns about affordable housing, Ironbound Road and, the realignment of Route 60.

He said he would hate to see the Commission make decisions that would escalate and aggregate those particular attitudes. He referred to Centerville Road stating that it was still a major corridor and evacuation route, it still had an economic impact, there would still be emergency services and ferry travel. He said the Commission was embarking upon certain things that they needed to think about and noted they were moving into a new era with more participation among the citizens.

Peggy Wildman said the County had an exceptionally good staff that was capable of doing so much to get citizen participation in the process and felt there was no need in spending the kind of money that was being discussed at the work session for a consultant. She said the County had a Planning Commission that was very involved, caring, and knowledgeable. She commented that the citizens survey done by a consultant did not bring out anything that was different from what they already knew but it did confirm what they had known.

Joe Poole asked Marvin Sowers if he understood the consensus of the Commission to do a resolution and said there was a strong sense among everyone that they would support Methodology Option B, A Blended Approach.

Marvin Sowers suggested that the Commission Chair and Vice Chair contact the Board Chair and the representatives for their particular district of its support for Methodology Option B.

6. PLANNING DIRECTOR'S REPORT

Marvin Sowers stated the 2002 Draft Greenway Master Plan has been handed out to the Commission and it will be on the agenda for the May 6, 2002, meeting.

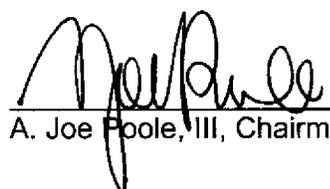
Peggy Wildman commented that she spent many hours working as a member of the Steering Committee on the development of the 2002 Greenway Master Plan and said that everyone who helped work on this plan did an outstanding job.

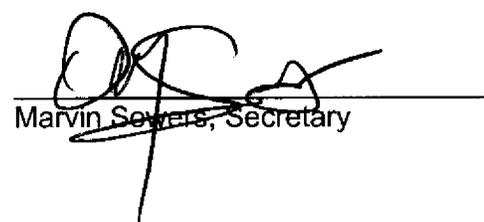
Marvin Sowers also stated that the JCSA Desalinization Plant application would be coming back to the Commission in May along with the brine line for waste water. He said a field trip would be scheduled for the Commission to visit a similar facility in Newport News for the second or third week in April.

Joe Poole asked that perhaps some citizen association representatives from adjoining residential communities might be able to attend the field trip as well.

7. ADJOURNMENT

There being no further business, the April 1, 2002, meeting of the Planning Commission was adjourned approximately at 8:15 p.m.


A. Joe Poole, III, Chairman


Marvin Sowers, Secretary