

AT A REGULAR MEETING OF THE PLANNING COMMISSION OF THE COUNTY OF JAMES CITY, HELD ON THE TWELFTH DAY OF JULY, NINETEEN HUNDRED AND NINETY FOUR AT 7:30 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101C MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

1. ROLL CALL

Mr. Alexander C. Kuras, Chairman  
Mr. Raymond L. Betzner  
Mr. A. G. Bradshaw  
Mr. Jay H. Everson  
Mr. John F. Hagee  
Mr. Donald C. Hunt  
Ms. Willafay McKenna

ALSO PRESENT

Mr. O. Marvin Sowers, Jr., Director of Planning  
Mr. John T. P. Horne, Manager of Development Management  
Mr. Leo P. Rogers, Assistant County Attorney  
Mr. Allen M. Murphy, Jr., Principal Planner  
Mr. Mark J. Bittner, Planner  
Mr. Matthew W. Maxwell, Planner

2. MINUTES

Mr. Everson stated that on page 12, Community Appearance Booklet, his comment should read, "Mr. Everson was concerned that this project should not get off the ground without an annual review."

Upon a motion by Mr. Everson, seconded by Ms. McKenna, the Minutes of the June 14, 1994 meeting were approved, with the change, by unanimous voice vote.

3. DEVELOPMENT REVIEW COMMITTEE REPORT

Mr. Kuras presented this report and moved for approval, seconded by Ms. McKenna. The report was unanimously approved by voice vote.

4. CASE NO. SUP-11-94. STADIUM, INC./CONVENIENCE STORE

Mr. Bittner presented the staff report (appended) for a special use permit to allow the construction of a convenience store and gas station at 7877 Richmond Road, Toano. Mr. Bittner stated that because the traffic study was not received in sufficient time to allow a review prior to this meeting, the applicant requested a deferral to the August 9, 1994 meeting.

Mr. Kuras opened the public hearing.

The Commission expressed an interest in having the project designed in a manner that is compatible with the character of Toano.

The public hearing was continued to the August meeting.

5. CASE NO. Z-2-94. WALLACE ESTATES

Mr. Bittner presented the staff report (appended) stating that this case was deferred on June 14 to allow the applicant to prepare proffers addressing impacts associated with the proposal. Mr. Bittner stated that the issues addressed were: left and right turn lanes into the development from Centerville Road, an archaeological study in line with staff's Archaeological Condition Policy, and improvements to James City Service Authority Life Station 7-3 and its associated force main. Mr. Bittner stated that these proffers would adequately address the issues raised by staff and make the proposal consistent with the Comprehensive Plan; however, there is potential for the buffer between the site and adjacent subdivisions to be ineffective. Mr. Bittner stated that staff recommended approval of this application, with proffers.

Mr. Kuras opened the public hearing.

Mr. Allan Staley of Diamonstein and Staley, attorney for the developer, stated that in regard to the Fox Ridge residents' not being in favor of the connector road, the developer was willing to work with the Commission and staff.

Mr. Staley stated that he and Mr. Henry Stephens, the applicant, were available to answer questions.

Ms. McKenna asked if the proffered buffer could be enlarged.

Mr. Staley responded that Mr. Stephens, in working with the engineer developing the site plan, had discussed a draft site plan with the Fox Ridge residents, and on this plan much of the open space would be buffering between the two subdivisions so the conservation easement would actually be running through open space and the 35 foot setback from the rear property line would be in addition to the 25 feet and substantially more than the 25 feet in most areas.

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

Mr. Everson stated that he felt "a road connection from the property to the adjacent Fox Ridge Subdivision," for vehicular traffic, as stated in the proffers was not appropriate, but a pedestrian byway/bikeway between the properties was appropriate. Mr. Everson requested that the statement be deleted.

Mr. Rogers suggested that if the Commission voted to recommend approval, the Board should be informed that the Commission had concerns and would recommend that a vehicular interconnection not be a part of the approval. Mr. Rogers stated that proffers could not be amended or deleted by the Commission.

In response to Mr. Kuras' inquiry as to why Mr. Everson felt there would be a lot of traffic on the connector road, Mr. Everson responded that because there is one entrance coming out of Atlantic Homes with 200 homes, and Fox Ridge with approximately 100 homes has two entrances, traffic backing up at Centerville Road would short cut through the Fox Ridge Subdivision.

Mr. Betzner asked if Mr. Everson thought that the right and left hand turn lane added to the new entrance into the new subdivision would make a difference in the turn movements.

Mr. Everson felt it was difficult to visualize what the road improvement would be like at this point and reiterated that with half as many vehicles leaving the Fox Ridge Subdivision that it's likely that the traffic would increase and would be a hazard.

Mr. Everson stated that the intent behind connector roads was to make traffic between the subdivisions easy, but the intent here, in fact, is to have traffic going between the subdivisions.

Ms. McKenna pointed out that without the connector road the new subdivision would have only one way out. However, if the connector road was only available to public safety vehicles (as in First Colony) then another way out would be provided without incurring further traffic in Fox Ridge.

The Commission generally agreed that more than one access in emergency situations was desirable.

Mr. Horne pointed out, regarding the previous reference to the access between Berkeley's Green and First Colony, that while it was the intent of the Commission that the road be open to emergency vehicles, the County was never able to satisfy the requirements of the State Highway Department that there be a substantial lockable gate that prohibits everyday traffic, and the requirements of the Fire Department that in the event of an emergency their trucks could get through. Mr. Horne stated that the County had not been able to achieve any emergency access at the Berkeley/First Colony location and felt that it would not be achieved in this case. Mr. Horne felt the pedestrian and bike access could be achieved but as the emergency access had not been achieved in the past it was unlikely to be achieved between Fox Ridge and the new subdivision.

Mr. Horne pointed out that whenever there have been discussions about vehicular traffic using access roads invariably there have been objections. This means that the traffic is diverted to some heavily traveled road, as, in this case, to Centerville Road which becomes congested and the public coffers then end up accelerating the need to upgrade those major public roadways. Mr. Horne further pointed out that the system of housing subdivisions in the County that have no internal interconnecting roadways and the only interconnecting roadways being the arterial highways, does not create an efficient transportation system.

Mr. Horne stated that the County has a policy that very explicitly encourages interconnecting subdivisions but each time there is an opportunity to have an interconnecting road there have been reasons not to implement it.

Mr. Hagee stated that it is usually because the residents of the adjacent subdivision object.

Mr. Betzner pointed out that recently an interconnecting road was approved for The Meadows Subdivision because there was no one objecting to the road.

Mr. Horne reminded the Commission that there is a proffer to interconnect to the Armistead property which will be developed residentially.

Ms. McKenna stated that the configuration of the Fox Ridge property encourages traffic to drive through Fox Ridge to get to the new area. Ms. McKenna felt this was a burden on Fox Ridge that was not anticipated and that residents should not have to deal with. Ms. McKenna further stated that "access road" means a way of getting from one to the other, but does not mean diverting traffic from a main artery to get to a different subdivision, which she felt was the problem with this particular road.

Mr. Horne felt it was necessary to look at the particular problem and if there is a particular problem with this roadway to be able to distinguish it from the next case.

Mr. Everson felt that the layout of future access roads should be looked at carefully so that small roads do not handle a major flow of traffic or encourage cut-thru traffic.

Ms. McKenna made a motion, seconded by Mr. Everson, to suggest to the Board that the proffers be amended to substitute the pedestrian/bikeway for vehicle access which could be used for emergency access as well, and that the access be paved.

On a roll call vote, the motion passed: AYE: Bradshaw, Everson, Hagee, Hunt, McKenna (5). NAY: Betzner, Kuras (2).

Mr. Kuras stated he voted against the motion because he did not feel the subdivision was big enough to create sufficient traffic to worry about.

Mr. Everson made a motion to recommend to the Board that page 26, No. 3 of the proffers entitled Archaeology, that the first sentence be changed to read: If an archaeological research study determines that a significant archaeological potential exists on the property then a Phase I Archaeological Study for the entire property shall be submitted to the Director of Planning for his review and approval prior to land disturbance.

Mr. Everson stated that the underlined was language that the developer provided before the last meeting and that basically it says that before large amounts of money are spent to determine whether or not there are significant findings, that a research study be funded to determine if there are significant findings, and if there so to proceed with a Phase I survey.

Mr. Kuras stated that the Phase I study is what determines the potential need to proceed.

Mr. Sowers pointed out that should the motion pass it would be a significant change to the Archaeological Policy and the Commission should inform the Board of the reasons for doing so.

The motion died for lack of a second.

Mr. Everson asked that the Policy Committee review the Archaeological Policy.

Ms. McKenna agreed to the review and also a review of the Commission's policy on access roads.

Ms. McKenna made a main motion, seconded by Mr. Bradshaw, to accept the staff recommendation with the recommended change in proffers to the Board of Supervisors regarding the access road.

On a roll call vote, the motion passed: AYE: Betzner, Bradshaw, Everson, Hagee, Hunt, McKenna, Kuras (7). NAY: (0).

6. CASE NO. SUP-10-94. ST. GEORGE'S HUNDRED RESIDENTIAL CLUSTER.

Mr. Maxwell presented the staff report (appended) for a special use permit to allow a residential cluster development of 24 lots in the St. George's Hundred Subdivision. Mr. Maxwell stated that staff recommended approval subject to the conditions detailed in the staff report.

Mr. Hagee questioned condition No. 4 in which the County requested land, fee simple or by a perpetual easement, for a pedestrian/bicycle greenway connection.

Mr. Rogers stated that the County can require that the developer build it and dedicate it to the homeowners association but cannot acquire the land in this way.

Mr. Hagee questioned how the County would acquire land for a greenway connection.

Mr. Rogers responded that the land could be reserved as a greenway at this time so that it could not be developed but the County would need to acquire title through a condemnation or through some type of agreement with the owner. This would allow development elsewhere on the site and potentially reduce the acquisition value of it.

Mr. Hagee clarified that by allowing the clustering it leaves some open land that in the future would be available because no one would develop on it if we wanted to go through condemnation and use it for greenway.

Mr. Hagee clarified that the cluster development allows for some undeveloped open land that would be available for greenway in the future if the County chose to go through condemnation.

Mr. Horne felt that the land could be acquired through a friendly acquisition by demonstrating benefits to the community

Mr. Horne felt the County could demonstrate to the community the many benefits from greenways and avoid any question of condemnation.

Mr. Kuras stated that St. George's Hundred would benefit from the greenway. Mr. Horne concurred that it was a wonderful area to run a greenway between St. George's Hundred, Powhatan Creek, and the high school site.

Mr. Rogers stated that while the intent of condition No. 4 could remain, the language should be changed. Mr. Rogers will review the language prior to the case going to the Board of Supervisors.

Mr. Betzner questioned if there was other undeveloped land designated for residential use in the area, and could there be similar requests in the future.

Mr. Bittner responded that property to the immediate west was undeveloped R-1 and some undeveloped R-8 to the immediate south. The land to the west has some wetland areas but was not certain about the area to the south.

Mr. Kuras opened the public hearing.

Mr. Alvin Anderson, the attorney representing Mr. Jimmy Chisman, the owner and developer of this property, reviewed the history of the property, including the rezoning (Z-21-86) and the road improvement implementation schedule (master Plan). Mr. Anderson discussed the benefits of cluster development, and the economic and aesthetic impacts. Mr. Anderson stated that Mr. Chisman informed members of staff that the average price of a house and lot in Section 6 would be \$160,000 which compares favorably to many of the homes in St. George's Hundred. Mr. Anderson further stated that 70% of the total land bay would be either preserved (aside from the lot) because it is environmentally sensitive or open area required by the ordinance. Mr. Anderson asked for approval of this case.

Mr. Philip Hecht, 206 Robertson Street, St. George's Hundred, expressed several concerns; i.e., the undevelopable land would not be useable land (35 foot buffer); chemicals on the 24 lots would run off into the wetlands, the home of beavers and other animals, and in the long run cause a eutrophication. Mr. Hecht stated that the proposal will provide 1.15 units per acre based on the entire area but eliminating the wetlands the 24 lots would be located on 5 acres creating approximately 5 units per acre which is inconsistent with the present development of St. George's Hundred. Mr. Hecht also expressed concern that a retention pond was not indicated on the plan, endangered species (small whorled begonia), beavers, etc. and cultural resources in the area. Mr. Hecht stated that St. George's Subdivision is forested with nice size lots and residents wish for it to remain that way. Mr. Hecht pointed out that when Section 5 is developed St. George's Hundred will have over 210 homes with one access point onto Route 5 which he felt was excessive.

Mr. Phillip Lowrance, 99 Castle Lane, St. George's Hundred, in addition to agreeing with the previous speaker, also expressed concern regarding lot size, encroachment into the wetlands, who maintains the undevelopable area, is it traversable, and the expansion of St. George's Hundred without an additional access point. Mr. Lowrance also disputed the cost per unit stated by Mr. Anderson as being too high considering the size of the lots, which in turn could lower the value of the existing homes.

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

Ms. McKenna felt that cluster development would protect the beauty of the area as it would not require additional roads and carving the land into individual lots. Ms. McKenna confirmed that the site plan would go to the Development Review Committee giving the Planning Commission a further opportunity to review the proposal.

Ms. McKenna made a motion, seconded by Mr. Kuras, to accept the staff's recommendation of approval to the Board of Supervisors.

Mr. Kuras pointed out that the cluster development was developed partially to protect the environment and, in fact, would have less runoff, and other impacts than under standard R-1. Mr. Kuras also stated that a second entrance was proposed, the 25 foot buffer would provide screening and the proposed 10,000 sq. ft. lot size was fairly substantial.

In response to Mr. Everson's inquiry regarding condition No. 4, Mr. Kuras stated that Mr. Rogers would review the language prior to submittal to the Board of Supervisors.

Mr. Rogers informed the Commission that the greenway connection is voluntary in nature and is not being imposed by the County, and that discussion had already taken place and that it is something that could happen very amicably.

Mr. Hagee stated his understanding that there was an agreement between the developer and the County that the property owner was willing to give up the land.

Mr. Horne stated that staff would endeavor to accomplish what they are trying to do; if not a condition, then in some other form.

Mr. Everson asked if the condition was the applicant's idea.

Mr. Horne stated that staff had the idea but the applicant discussed it with staff, had no objections, and thought it was a good idea.

Mr. J. R. Chisman, the applicant, stated willingness to work with Mr. Rogers on the language of the condition. Mr. Chisman further stated his desire that the area be developed not only economically but in a manner that would allow it to be used in conjunction with the science department of the high school and with the environmental concerns.

Mr. Betzner stated that he became convinced during this discussion that cluster development would be a good idea for this property, if only for environmental reasons. Mr. Betzner stated that while he had some concerns about changing the character of a community he did not feel that this was too dramatic in this case.

On a roll call vote, the motion passed: AYE: Bradshaw, McKenna, Hagee, Betzner, Hunt, Everson, Kuras (7). NAY: (0).

7. Case No. Z-4-94 and Z-5-94. Colonial Capitol Landing Development Company.

Mr. Bittner presented the staff report (appended) to rezone approximately 4.5 acres from R-8, Rural Residential, to R-1, Limited Residential, to construct additional single family homes in the Westray Downs Subdivision. Mr. Bittner stated that since the preparation of the staff report, the applicant had verbally indicated that he would proffer an 8 foot high fence as suggested in the staff report. Mr. Bittner further stated that the applicant had not proffered to enter the parcels to be rezoned into the Route 5 Transportation Improvement District, even though they would contribute to congestion along Route 5 and would benefit from the District, and staff recommended denial of the application.

Mr. Hagee questioned the impact on the six lots if they were put in the Transportation Improvement District.

Mr. Sowers responded that it would be approximately \$125 per year in additional taxes if the rate goes to the maximum rate of ten cents.

In response to Ms. McKenna's inquiry regarding the Transportation Improvement District being designated on the map, Mr. Bittner and Mr. Horne responded that this was so but that the map could be amended if the applicant chose to proffer to petition to go into the district; then the Board could amend the district. Mr. Horne stated that it would be staff's recommendation for virtually all new development along the Route 5 corridor to proffer to enter the Transportation Improvement District.

Ms. McKenna felt it unreasonable to levy additional taxes.

Mr. Horne stated that if funds were not generated in this fashion then they would have to be generated in some other way.

Ms. McKenna felt that while anyone could volunteer to enter the TID, to recommend denial because the applicant does not volunteer was a harsh consequence.

Mr. Horne stated that the concept is to generate sufficient funds to build capacity in the corridor so that existing Route 5 which goes across the frontage of Westray Downs will not be four laned. Further, the more participants in the district the quicker the funds could be generated to pay off the debt of the district and the quicker the additional tax rate placed on people in the district could be reduced to the original taxes. Mr. Horne felt it would be consistent with County policy for all new developments contributing traffic directly to the corridor (Westray Downs) to pay their share of building the new capacity in the corridor so that it would not be necessary to four lane the existing Route 5.

Mr. Horne stated that there is a set procedure for persons to petition to go into the district which was established for a certain set of participants who needed that capacity at the time the original district was being built. Mr. Horne further stated that it is anticipated that others will wish to add vehicles to that corridor, and during the rezoning process, the way to mitigate their impacts, is to provide part of the funds necessary to build the extra capacity in the corridor.

Ms. McKenna stated that if the County wanted to have a policy that states the above then that's good, but if the policy has not been in place it is disturbing to her that suddenly we are dealing with it.

Mr. Horne stated that there is no written policy by the Board of Supervisors that all new development in the corridor shall be subject to the district. Mr. Horne further stated that this is the first case to come before the Commission and it will become consistent staff policy to recommend in each case that the parcel(s) be rezoned into the Transportation Improvement District.

Mr. Sowers stated that the Comprehensive Plan policy indicates that development should do whatever possible to mitigate its impacts. In the past, that has been interpreted to be either road improvements, cash proffers, or development caps that delay development until improvements are in place. One way to meet the policy is to join the district.

Mr. Hagee expressed concern that denial was being recommended because the applicant would not volunteer to join the district.

Mr. Horne stated that the recommendation of denial is because the applicant is not taking necessary actions to mitigate the traffic impacts they are placing on the corridor, as stated in the Comprehensive Plan, and that cash or construction can be contributed.

Mr. Hagee questioned what impact a six lot subdivision would have on the corridor.

Mr. Horne responded, as it is all based on the number of lots, the smaller number of lots, the smaller number of tax payments would be made. Mr. Horne further stated that while they will not contribute much of the funds to the district they will pay their fair share. Mr. Horne emphasized that this is the most heavily traveled section of Route 5 and it will be the section that will be most heavily damaged if four-laned and the section that would benefit the most.

Mr. Hagee stated that if we stopped improvements at Ironbound Road and developed the stretch from Route 199/Ironbound Road that we would not four-lane that stretch. Mr. Hagee felt the whole corridor from 199 accumulatively to the Chickahominy River is the real impact. He stated that he has a hard time picking on 6 lots in this one particular location and trying to draft them into the program. If we have a district, we ought to map it out and have it as a district or at least have a minimum number of lots.

Mr. Kuras opened the public hearing.

Mr. Marc Bennett, AES, spoke on behalf of the applicant, Dr. Clifford E. Henderson, stating that the applicant proffers an 8 foot fence between the rezoned properties and adjacent landowner, David Hooker. Mr. Bennett stated that the property is a significant distance from the established Transportation Improvement District for the proposed Route 5, and that the property would be part of a current residential subdivision. Mr. Bennett felt that if the tax was imposed on the lots, at the time of resale, one would have a slightly different tax rate than the other, which he felt would be unfair. Mr. Bennett stated that no additional roadway or right-of-way connections were planned to the current Route 5 as the entrance off Route 5 is perfectly adequate. Mr. Bennett further stated that the applicant had already paid for substantial improvements to Route 5 in the way of right and left turn lanes, and had provided the scenic easement along the frontage of the subdivision.

Mr. Bennett, on behalf of the applicant, declined to proffer to be placed in the Transportation Improvement District and asked the Commission to consider the proffers as amended at this time.

There being no further speakers the public hearing was closed.

Mr. Betzner made a motion, seconded by Ms. McKenna, to defer this case to a work session on July 19 at 4 p.m. Mr. Kuras stated that the public hearing would be continued and that the Commission would vote on Case Nos. Z-4-94 and Z-5-94 at the work session.

Mr. Kuras stated that he supported Mr. Horne's comments, and was strongly in favor of including all newly rezoned lots that will use alternate Route 5 or Route 5. He noted that other subdivisions in the district have lots that are not in the district.

Ms. McKenna stated that the County policy and map must coincide. Ms. McKenna further stated that she had no objection to the district being extended all the way up Route 5 and that all new development be included.

A discussion followed during which Mr. Horne emphasized that at the time the boundaries of the district were established it was impossible to anticipate all the private development activities along the corridor; therefore, subsequent development is not exempt from contributing from the solution as they are directly contributing toward the problem.

8. Case No. SUP-12-94, Stonehouse, Inc.

Mr. Murphy presented the staff report (appended) for a special use permit to allow the construction of a 16" water main. Mr. Murphy stated that staff recommended approval subject to the conditions stated in the staff report.

Mr. Kuras opened the public hearing. There being no speakers the public hearing was closed.

Ms. McKenna made a motion, seconded by Mr. Betzner, to accept the staff's recommendation of approval. On a roll call vote, the motion passed: AYE: Bradshaw, McKenna, Hagee, Betzner, Hunt, Everson, Kuras (7). NAY: (0).

9. Planning Commission Annual Report

Mr. Kuras stated that the report was very comprehensive and that he would make a brief presentation before the Board.

Mr. Sowers stated that it had been a busy and productive year for the Commission and staff. Mr. Sowers reviewed the report, including the case load chart and other activities performed by the Commission and staff.

Mr. Kuras complimented staff on their highly professional performance and on the selection of highly qualified staff replacements.

Mr. Betzner commented that at the same time there was an increase in work load there was also a smooth transition in the turnover in staff who had been put to work pretty heavily in the last several months.

10. Planning Director's Report

Due to the heavy August 9, 1994 Planning Commission agenda, Mr. Sowers requested that the meeting begin at 7 p.m.

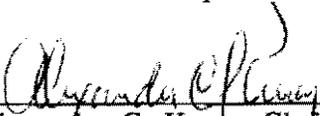
11. Matters of Special Privilege

Mr. Kuras stated that the Policy Committee would review the interconnection of subdivisions and the Archaeological Policy.

Mr. Bradshaw reminded the Commission that the VCPA meeting will be held locally this year and Mr. Sowers will have a significant participatory role in the courses. Mr. Bradshaw encouraged Mr. Sowers to include Commissioners in the program.

12. Adjournment

There being no further business, the July 12, 1994 Planning Commission meeting recessed at 9:42 p.m. to the July 19 work session at 4 p.m.

  
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Alexander C. Kuras, Chairman

  
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O. Marvin Sowers, Jr., Secretary