

AT A REGULAR MEETING OF THE PLANNING COMMISSION OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE ELEVENTH DAY OF JULY, NINETEEN HUNDRED AND NINETY-FIVE 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. Jay H. Everson
Mr. Donald C. Hunt
Ms. Willafay McKenna
Mr. Martin Garrett

ALSO PRESENT

Mr. O. Marvin Sowers, Jr., Director of Planning
Mr. Gary A. Pleskac, Planner
Mr. Mark J. Bittner, Planner

2. MINUTES

Upon a motion by Mr. Kuras, seconded by Mr. Everson, the Minutes of the June 13, 1995 Planning Commission meeting were approved as presented.

3. DEVELOPMENT REVIEW COMMITTEE REPORT

Mr. Garrett presented the staff report. Upon a motion by Mr. Garrett, seconded by Ms. McKenna, the report was approved by unanimous voice vote.

4. POLICY COMMITTEE REPORT

Ms. McKenna presented the Policy Committee Report and stated that the consensus of the meeting was summarized in the Minutes of the Policy Committee which reads as follows:

In summary, it was the consensus of the Policy Committee not to change the current Archaeological Policy, that the issue of assigning priorities to archaeological periods should receive greater public input. That input should be obtained during the Comprehensive Plan Review. Also, it was recommended that when the Archaeological Assessment/Risk Analysis was completed, the County may be in a position to further clarify when a Phase I archaeological study is or is not needed. As the policy stands, the costs of all voluntarily proffered or required archaeological studies are those of the land developer.

Ms. McKenna made a motion, seconded by Mr. Garrett, to accept the Policy Committee recommendation, with the noted change to obtain citizen input regarding prioritizing historical periods for Phase II study. The motion passed by unanimous voice vote.

5. CASE NO. Z-6-95. POWHATAN ENTERPRISES, INC.

Mr. Sowers stated that because the location of alternate Route 5 had not been resolved with VDOT, staff and the applicant have agreed to continue this case indefinitely, and readvertise the public hearing when it is reactivated.

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

6. CASE NO. Z-10-95. JAMESTOWN LANDING/ESTATE OF MICK ZUZMA

Mr. Pleskac presented the staff report (appended) and stated that staff concurs with the applicant's request to defer this case to the August Planning Commission meeting in order to discuss matters with adjacent property owners and to address issues raised by staff.

Mr. Kuras opened the public hearing. There being no speakers, and with the Commission's concurrence, the public hearing was continued to the August 8, 1995 meeting.

7. CASE NO. SUP-22-95. WILLIAMSBURG POTTERY FACTORY MINIATURE GOLF COURSE

Mr. Pleskac presented the staff report (appended) for a special use permit to allow a miniature golf course and batting cage at 6730 Richmond Road. Mr. Pleskac stated that staff recommended approval with the conditions detailed in the staff report.

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

Mr. Garrett made a motion, seconded by Ms. McKenna, to accept the staff's recommendation of approval. On a roll call vote, the motioned passed: AYE: Garrett, McKenna, Hunt, Everson, Kuras (5). NAY: (0).

8. CASE NO. Z-8-95. R. M. HAZELWOOD, JR.

Mr. Bittner presented the staff report (appended) and stated that this case was deferred at the May and June meetings to allow staff and the applicant to finalize the voluntary proffers. Mr. Bittner further stated that since the printing of the staff report, updated proffers had been received (distributed to Commissioners) and he reviewed the contents of the proffers.

In summary, the updated proffers (appended) include the following:

Recreational Facilities. Basketball court. Staff finds the recreational facilities proffers to be satisfactory.

Setback from Interstate Right-of-Way. The applicant proffered language regarding increased setbacks from the interstate right-of-way. Staff feels this proffer is satisfactory.

Archaeology. No proffer has been submitted although the latest set of proffers indicate that the applicant intends to provide some form of archaeological proffer at this meeting. The applicant has not informed staff about what that proffer may be. Staff continues to recommend inclusion of the County's Archaeological Condition Policy.

Mr. Bittner further stated that staff agrees with the applicant on the content of the proffers, with the exception that an archaeological study had not been proffered. For this reason, it is staff's recommendation that the Planning Commission vote to deny this application.

Mr. Kuras opened the public hearing.

Mr. Thomas Dow, the applicant, stated that if the Commission felt that late 1800s type of archaeology was important then he would provide a study, but he was uncertain what to proffer. Mr. Dow felt a 1700s dwelling or settlement might have significant archeological impact but questions the significant impact of late 1800s.

Mr. R. M. Hazelwood, Jr., resident of Toano and owner of the property, briefly reviewed the history of the property and stated that at the time of purchase by his father, there was a house on the property which later burned down. Mr. Hazelwood felt the house was built between 1890 and 1910 and did not see the reason for an archaeological study on "properties this new." Mr. Hazelwood further stated that the cost for such items as an archaeological study would be reflected in the cost of the house which would reduce the availability of low cost housing except for what the County subsidizes.

There being no further speakers the public hearing was closed.

Ms. McKenna stated that the Archaeological Policy Committee discussed whether land that had been farmed for a period of time should be investigated and whether its condition would have sufficient integrity to make it worthwhile. She said Mr. Marley Brown indicated that often times the depth the plow goes into the ground is not very deep and therefore very often the sites are preserved under that layer of ground that is tilled for agricultural purposes. Mr. Brown also indicated that the cost of performing an initial analysis on farmed property is relatively modest because it can be disked instead of dug with a shovel every 50 feet or so.

Ms. McKenna said that the Policy Committee was united in supporting investigations that lead to 17th Century items but the 18th Century was also very important, particularly in the Toano area because it was settled later and there are periods of James City County history that are not represented in any other way than to do an archaeological study as records were burned during the Civil War. Ms. McKenna stated that the Committee came to the consensus that the Policy should stay in effect with the hope that with additional information after update of the Comprehensive Plan and community input we could narrow down those eras that we are interested in exploring in our community. At the present time there has not been community input into prioritizing and there is not much information in order to make a decision.

Ms. McKenna stated that if there is no proffer to do archaeological study in line with the existing Policy, her vote would be to recommend denial of this application. Ms. McKenna further stated that she felt very strongly that this is a new area that is being explored in trying to come to terms with our history. She said the County is sizeable and that it has been inhabited since the very beginning of civilization in this part of the world, and it was important to know whatever we can and the only way to do that is through archaeological studies.

Ms. McKenna made a motion for denial unless there is a proffer that an archaeological study consistent with our present Archaeological Policy is provided.

Mr. Kuras stressed the importance of history in James City County which has brought tourists to the area and increased land values and felt that we should preserve our history to the maximum extent.

In response to Mr. Garrett's inquiry about the applicant's willingness to proffer the Phase I study, Mr. Sowers responded that the applicant could offer to proffer the study at this meeting and work out the details prior to the Board of Supervisors meeting. However, Mr. Sowers asked for clarification as to whether it would be a proffer in line with the County's Archaeological Condition Policy, or simply a Phase I study.

Mr. Everson raised a question regarding whether the house referred to by Mr. Hazelwood was the same house in the RP-3 Study. Ms. McKenna stated the recommendation for an archaeological study was based on the general area and there was no indication it was based on this specific residence. Mr. Bittner stated that he did not know if it was the same structure he found in the RP-3 Study which was an early 19th Century domestic site. That structure's existence was known from a map dating from 1863 which is how it was included in the RP-3 study and eventually into the staff report. Also, Mr. Bittner stated that he recalled the structure in the RP-3 Study was situated in the middle of the site but wasn't sure and he could look into it.

Mr. Sowers felt the house mentioned by Mr. Hazelwood was a different structure than the one listed in the RP-3 Study.

Mr. Kuras seconded Ms. McKenna's motion for denial. On a roll call vote, the motioned passed: AYE: Garrett, McKenna, Hunt, Kuras (4). NAY: Everson (1).

9. CASE NO. Z-11-95. FOXFIELD

Mr. Bittner presented the staff report (appended) to rezone approximately 10 acres from R-8, Rural Residential, to R-5, Multi-family Residential, for the stated purpose of construction of approximately 50 townhomes. Mr. Bittner stated that staff recommended approval of the application with the inclusion of items within the proffer as detailed in the staff report.

Mr. Kuras opened the public hearing.

Mr. Larry McCardle, the developer, stated that he was in agreement with the proffers and available to answer any questions.

Ms. McKenna made a motion, seconded by Mr. Garrett, to accept the staff's recommendation of approval and the inclusion of items within the proffered as detailed in the staff report. On a roll call vote, the motioned passed: AYE: Garrett, McKenna, Hunt, Everson, Kuras (5). NAY: (0).

10. PLANNING DIRECTOR'S REPORT

Mr. Sowers stated that two pending cases would most likely come before the Planning Commission in August as well as Ford's Colony Recreation area, and possibly the master plan amendment for Ford's Colony which involves some additional property into the development.

11. OTHER MATTERS

Mr. Garrett questioned the County's position in requesting developers to install specific types of recreation equipment.

Mr. Bittner explained without some specificity, we can't insure facilities are provided. The applicant agreed with proffering a list.

Mr. Garrett asked for guidelines for recreation equipment to be installed by the developer.

Ms. McKenna stated that if the County did not encourage certain amenities in developments then all of the amenities would have to be provided by the County. Ms. McKenna said we are trying to coordinate what the public and private sectors provide.

Mr. Sowers pointed out that there is a set of recreation standards adopted by the Board and the Commission and by the Parks and Recreation Commission. These are used as a guide, but staff is agreeable to substitutions.

Mr. Bittner stated that the Commission received a copy of a memo at this meeting from Darrell Gray of Parks and Recreation to himself which outlined their suggestions for what recreational facilities should be included with this application based on the standards of the 1993 Comprehensive Plan for Parks and Recreation. The Plan was adopted by the Board of Supervisors in February, 1993. Most, but not all, of the list given Mr. Bittner by Mr. Gray has been proffered by the applicant. There was one minor change in that Parks and Recreation suggested a half basketball court and a play field; staff recommended taking out the play field and substituting a full basketball court which the applicant proffered.

Mr. Kuras stated that certain basic equipment should be proffered.

Mr. Garrett felt that the County was dictating what should be done and should not recommend a tennis court over a basketball court or vice-versa. The facilities should reflect the community.

Mr. Sowers stated that staff works with developers to try to encourage flexibility so that facilities could be replaced in the future as a community changes. Some proffers contain flexibility provisions while in others the developer prefers to be specific. He said the difficulty for staff is that they must work in equivalencies so that if a developer proffers a basketball court but for whatever reason decides to do something different like a swing set, staff can determine if they are providing a similar level of recreation benefit for the community.

Mr. Everson stated he did not see why developers needed to provide such recreation facilities given the recent bond issue. Mr. Everson stated he was also concerned about not knowing what our standards were and that the Planning Commission needs a better understanding of the entire rezoning and special use permit process and standards, especially where staff makes recommendations like this and other things like number of trees in a greenbelt and archaeology studies in the Foxfield and Hazelwood cases.

Ms. McKenna stated that even with the bond issue, the County is still counting on developers to provide their own amenities and it was a shared responsibility.

Mr. Kuras stated that the Planning Commission had adopted the recreation standards and he felt strongly that certain equipment should be proffered and many youngsters in the County fall short of physical fitness standards and would benefit from recreational equipment in their communities.

Mr. Garrett again expressed concern about requiring specific types of facilities, but agreed some should be provided. Ms. McKenna said we need some specificity.

Mr. Sowers stated that staff is willing to build more flexibility into the system and could discuss the matter with the applicant prior to the Board meeting and suggest that additional language be put in the proffers regarding equivalent equipment so that flexibility could be provided. Future applicants could be encouraged to include similar language.

Mr. Kuras agreed we needed to add flexibility, but that what the Planning Commission asked for in this case was reasonable. He stated that having a homeowners association decide facilities up front was not a good approach.

Mr. Sowers agreed to suggest such language to Mr. Dow and future applicants.

In a review of what previously occurred in this regard, Mr. Bittner informed the Commission of the following: Originally Mr. Dow intended to proffer money to be used by the Homeowners Association for recreation equipment. Staff explored this idea with Parks and Recreation who came up with a list of specific recreational equipment based on the adopted study and a monetary equivalent. Staff was receptive to some kind of alternate system involving a nonspecific list that would allow the Homeowners Association to choose what they wanted to have in their neighborhood. Because this was a new procedure, it would have been a complex exercise. Mr. Dow then decided to go with the specific list of equipment as opposed to the cash equivalency.

In response to a question from Mr. Everson, Mr. Sowers stated that enforcement would be against the homeowners association if this type of system was implemented.

12. ADJOURNMENT

There being no further business, the July 11, 1995 Planning Commission meeting adjourned at 8:30 p.m.



Alexander C. Kuras, Chairman



O. Marvin Sowers, Secretary