

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

1. ROLL CALL

Alexander Kuras, Chairman
Jay Everson
Martin Garrett
John Hagee
Donald Hunt
Willafay McKenna
A. Joe Poole, III

ALSO PRESENT

Leo Rogers, Deputy County Attorney
O. Marvin Sowers, Director of Planning
Gary Pleskac, Planner
Paul Holt, Planner
Tammy Rosario, Planner

2. MINUTES

Upon a motion by Willafay McKenna, seconded by Alex Kuras, the minutes of the March 3, 1997 and March 24, 1997 meetings were approved as presented by unanimous voice vote.

3. DEVELOPMENT REVIEW COMMITTEE REPORT

Martin Garrett made two statements. First, was on the application of First Coastal Bank. He stated that it was determined that the color of the building requested was not compatible with the surrounding area. He added the DRC recommended that the Planning Director coordinate with the applicant on this matter. Second, Stonehouse requested two areas be revised without having to go through the process of a Master Plan revision. He stated the DRC recommended the Commission approve the request since there had been no development in those areas.

Alex Kuras added that the DRC voted on the renaming of Alternate Route 5 to Monticello Avenue.

John Hagee stated, for the record, that he would be abstaining from voting on the DRC cases for Manorhouse and Rivers Edge.

Upon a motion by Martin Garrett, seconded by Alex Kuras, the Development Review Committee Report was approved by voice vote.

4. CASE NO. SUP-6-97. WILLIAMSBURG POTTERY FACTORY NEW TWO-STORY BUILDING.

Gary Pleskac presented the staff report for a special use permit to construct a new two-story building of approximately 82,000 square feet at the existing Williamsburg Pottery complex. He stated staff recommended approval of this request with conditions as outlined in the staff report.

Alex Kuras opened the public hearing.

Preston Smith, Vice President and General Manager of the Williamsburg Pottery stated that he would be happy to answer any questions of the Commission. He also introduced Richard Costello of AES Consulting Engineers.

Willafay McKenna and Martin Garrett both questioned if there would be sufficient landscaping along the front of Richmond Road.

Joe Poole suggested that 75% or more of the landscaping be brought to the front area along Richmond Road and added that this might be achieved through condition number four of the staff recommendation.

There being no further speakers, Alex Kuras closed the public hearing.

Martin Garrett made a motion, seconded by Willafay McKenna, to recommend approval. By a roll call vote the motion passed: AYE: Garrett, McKenna, Hagee, Hunt, Everson, Poole, Kuras (7). NAY: (0).

5. CASE NO. SUP-10-97. JCSA WATER & SEWER MAINS - CHANGE IN CONDITIONS.

Tammy Rosario presented the staff report in which the James City Service Authority had applied to amend the conditions for its special use permits on water and sewer mains that extend outside the Primary Service Area to bring them in compliance with the Utility Connection Policy adopted as part of the 1997 Comprehensive Plan. She concluded her report by stating that staff recommended approval for SUP-42-89, SUP-43-89, SUP-47-90 and SUP-25-93 and that staff would bring forward a recommendation on SUP-20-88 at the May 5, 1997 meeting.

Alex Kuras opened the public hearing.

Ingrid Jahn asked if any existing parcel were to have problems with the well and septic could they then connect to the water and sewer.

Tammy Rosario responded by stating that if no other connection had been made on the parcel, then the property owner could connect to water and sewer.

Howard McDermott of 2792 John Tyler Highway felt that homeowners should be able to connect to the lines as many times as they need since the facilities were available.

There being no further speakers, Alex Kuras closed the public hearing.

Marvin Sowers asked the Commission if he could address the concern of the last speaker. He stated that, during the Comprehensive Plan Review, the Planning Commission and the Board explored several options and the proposal before them tonight was the one which the Commission and Board both agreed upon.

Martin Garrett made a motion, seconded by Willafay McKenna, to recommend approval. By a roll call vote the motion passed: AYE: Garrett, McKenna, Hagee, Hunt, Everson, Poole, Kuras (7). NAY: (0).

6. CASE NO. Z-1-97. LYNETTE DRIVE DUPLEXES.

Gary Pleskac presented the staff report to rezone approximately 3.99 acres for the purpose of joining the subject parcel with an existing 13 acre property to develop 24 new two-family

structures in a residential cluster development for a total of 56 individual dwelling units. Staff requested that this case be deferred indefinitely. He stated the applicant would reactivate this case after the amendments to the Zoning Ordinance and Residential Cluster Ordinance were completed.

Jay Everson asked when the changes in the Zoning Ordinance would be completed.

Marvin Sowers stated that a schedule was being developed and that it had been the desire of the Commission and Board to have it completed by mid-summer.

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

Alex Kuras stated the case would be deferred based on the concurrence of the Commission.

7. CASE NO. SUP-1-97. LYNETTE DRIVE OFFICE PARK.

Gary Pleskac presented the staff report for the construction of an office building of approximately 4,200 square feet with parking. He continued his report stating that the staff recommended the Commission approve this special use permit with the conditions stated in the staff report, if the Commission felt this would not set a precedent for future development.

Alex Kuras opened the public hearing.

Gil Bartlett, representing Mr. Lewis, stated that his applicant had proffered a dedicated 10' bike right-of-way making the buffer area 85' not 75'. He also stated that this proposed project would be a great improvement to the area and that Lynette Drive would be required to meet VDOT standards. He asked that the Commission recommend approval of this application.

Joe Poole asked if there was a secured tenant for the proposed building and what would be the hours of operation.

Mr. Bartlett stated that, at this time, there were no tenants and, due to the conditions, there would be a delay of up to 24 months. This delay was due to tonight's indefinite deferral of the rezoning of the Lynette Drive Duplexes.

There being no further speakers, Alex Kuras closed the public hearing.

Willafay McKenna made a motion on the first question that staff asked the Commission to consider. "Would approval of this application set a precedent for like proposals in the future?" She stated she would like to move that the Commission make a finding that this would not set a precedent given the unique character of this parcel. Martin Garrett seconded and Alex Kuras concurred. By unanimous voice vote the motion was approved.

Jay Everson made a motion, seconded by Willafay McKenna, to approve the special use permit application. By a roll call vote the motion passed: AYE: Garrett, McKenna, Hagee, Hunt, Everson, Poole, Kuras (7). NAY: (0).

8. CASE NOS. Z-9-96/MP-4-96. HIDDEN PROPERTY.

Paul Holt presented the staff report (appended) to rezone approximately 404 acres from R-8, Rural Residential, to R-4, Residential Planned Community, in order to construct 540 single-family and timeshare units. He stated that to date, the proffers, the Master Plan, and the services and improvements analyses were inadequate as submitted and recommended that the Planning Commission deny this rezoning request. He also added that should the applicant wish to withdraw this application, complete the study, and resubmit the plan in an acceptable time frame, staff would complete their review, compile a staff report and forward a recommendation.

Joe Poole commented that the participatory session held at the Human Services Building was a very productive one and commended the applicant, staff, and residents who were present. He encouraged staff to have this type of session for future applications. Alex Kuras concurred.

Alex Kuras opened the public hearing.

Vernon Geddy, representing the applicant Lewis Waltrip, introduced the planning and traffic consultants, Steve Romeo, Debbie Lenceski of Langley and McDonald and the environmental consultant Dave Ramsey of The Williamsburg Environmental Group. He proceeded to present his presentation to the Commission. He stated that indeed there had been many changes, but, these changes were ones based on the request of staff. He stated the major changes: the single-family homes that would have access to Powhatan Crossing were reduced from 120 lots to 85 lots; moving Alternate Route 5 south eliminated a development pod and added additional buffer area of several hundred feet; the multi-family timeshare area would have a maximum of 280 units, allowing the single family area to expand from 200 to 220. He stated that the development proposed adjacent to Powhatan Crossing would have the same density and be an extension of the present development. He also stated that the development adjacent to Powhatan Secondary would be consistent with that area. He continued his presentation explaining the phasing process of the entire development. Vernon Geddy concluded his presentation stating that he was surprised to learn, when he received the staff report, that there were certain key issues staff felt the applicant had not addressed. He clarified those issues and requested that the Planning Commission approve this rezoning application.

John Hagee requested an explanation of Item #3 under Traffic in the staff report. He asked if it was indeed a 60' access easement or a protective easement.

Paul Holt stated that it was presented as an access easement.

Marvin Sowers stated that, due to the lateness of the information submitted, staff could not comment on the new materials provided by the applicant and suggested the Commission not consider this information in their deliberations.

John Hagee also asked for clarity of the timbering that had taken place. He stated that there was a 200' protection buffer, 100' RPA and another 100' which the applicant had proffered. He asked if there had been any encroachment on the 100' proffered area due to the timbering.

Vernon Geddy stated that timbering was being done in accordance with the applicable ordinance and regulations and that timbering could be and was being done in the buffer area.

Marvin Sowers stated that in past cases staff knew what the buffer conditions were and it could be evaluated against the development proposal. In this case, an urban situation was being created with very little idea of what the natural environmental protection capability would be since timbering was taking place.

John Hagee asked if the protection of the creek would be compromised in any way by the timbering.

Don Ramsey said he agreed with the County stating that, at this time, it was difficult to address until completion of the timbering. He added that with a good restoration plan of a dense understory and a greater stem count, the water quality benefits would be enhanced after the completion of the plan versus what was there now.

John Hagee commented that, in the staff report, the Service Authority had significant concern over the entire proposal and the feasibility of the intended improvements. He asked staff to clarify.

Paul Holt stated there were several items of concern by the Service Authority. The main concern was two of the main service nodes that would be taken off the Ironbound Road water main would cause the water pressure to drop below 20 lbs. per square inch. He added, if the development had that much impact, additional improvement would be needed and would need to be proffered.

John Hagee asked what the number of units would be in order to make a negative impact on the water. He also commented that the development would be done in phases and that the concerns could be taken into consideration at those times.

Paul Holt stated staff did not know the number of units which would cause a negative impact, but added that the County should be given assurance that improvements would be made to accommodate the development.

Marvin Sowers commented on the replanting aspects of the timbering that were being offered. He felt there was at least one other aspect not addressed by the proffers and that was the phasing aspect. He added that we do not know what the full extent of the damage would be after the completion of the timbering. Another aspect was the greenbelt and corridor protection of Alternate Route 5.

John Hagee commented that the concern seemed to be the development in the immediate future of the 45 or 85 lots that would be near the Powhatan Crossing Subdivision. He asked if there would be any impact on the creek if the 85 lots were development.

Marvin Sowers responded by stating that the environmental staff would need to look at that issue.

Martin Garrett asked if, in fact, staff did not see a copy of the revised Master Plan.

Vernon Geddy stated that at the time of the public review meeting of March 26, 1997, staff did see the revised plan.

Marvin Sowers stated that the plan was viewed at the meeting, but staff did not receive any copies until 4:55 p.m. on Thursday and proffers were received at 11:00 a.m. that same day. He stated, due to the short period of time, staff could not revise their report to make a different recommendation regarding the new information which addressed staffs' concerns, and also felt it unfair to the public to continue deferring this project.

Paul Holt added that staff was not the only factor in the making of any decision. Plans are transmitted to various agencies within the County and they too are an important part of the process.

Leo Rogers addressed the Commission and stated that if they had any questions on Alternate Route 5 or any issues brought forth by the applicant's representation, he had corporate knowledge as to what occurred with the district. He informed the Commission that the Hiden Property had not been a participant in the discussions that occurred; were not a petitioner of Alternate Route 5; no promises were made to Hiden and no promises could be made. If there were any promises made they were not only improper, but void. This was a land use decision and the other was a transportation district issue. He felt that the Commission should understand that the County, in 1993, did not make any agreement that this development or any type of development would occur. What was agreed upon was following the state code that the laws would not change with respect to this parcel. He also stated the proffer offered was not acceptable because it does not meet the minimum standards the County required and asked of the applicant.

Vernon Geddy stated that the proffer was worded exactly as staff suggested in respect to the sale and site plan. As to Alternate Route 5, he had a list of three specific items: one was the language of the proffers, a letter from John Horne, and the financial model.

Marvin Sowers stated the proffer was received on Thursday and Leo Rogers had not seen the latest proffer.

Willafay McKenna asked Paul Holt about the reference in the report that the Planning Commission vote on this case but should the applicant wish to withdraw this application, complete the study, and resubmit the plan in an acceptable time frame, staff would complete their review, compile a staff report and forward a recommendation.

Paul Holt stated that it was at the discretion of the Commission to vote or to defer this application, but if the applicant wished to resubmit, staff would re-evaluate the case.

Jay Everson asked how long staff would need to prepare another recommendation based on the new information given by the applicant.

Marvin Sowers stated that since this project was already in motion, if the documents were received by Tuesday as required, and not Thursday, staff would have been obligated to receive comments back in time in order to present all information to the Commission.

Jay Everson asked if this meeting could be deferred for 72 hours in order to give staff an opportunity to respond. He commented that staff did not bring an environmental engineer tonight assuming that a decision would not be made and felt it unfair to the applicant if we did not defer.

Joe Poole stated that he would be opposed to another deferral since this case had been submitted in September of 1996.

John Hagee felt the entire development was awkward. He continued by stating the request for an R-4, Residential Planned Community, usage appeared to have no continuity. He further explained what he concluded as the purpose of a planned community. He added that there was really no conformity due to the lay of the land. It appeared to him as though it were just individual areas of development and the main focus seemed to be the around the Powhatan Crossing Subdivision.

Martin Garrett agreed with John Hagees' statement but felt that meant the developer would have to return with an entire new plan.

J. D. Wright of 4484 Powhatan Crossing spoke on behalf of the Homeowners' Association stating that many of their concerns were ones also raised by the Planning staff and by the Historic Route 5 Association. He asked, on behalf of the Association, that the Planning Commission vote to deny this rezoning application.

Robert Moulk of 4481 Powhatan Crossing stated that he was opposed to the Hiden Property rezoning and asked the Planning Commission to deny this rezoning. He complimented the citizens of his neighborhood for all their help and information and listening to his concerns, as well as the developer, Lewis Waltrip, for his time and courtesy, and the County for the ability to handle a controversial situation in such a professional manner.

George Wright, President of the Historic Route 5 Association and a resident of 148 Cooley Road stated that the Historic Route 5 Association had voted unanimously to oppose this request. He continued by stating that an additional 2,000 cars per day on the already congested Route 5 were projected with the opening of Jamestown High School and the approval of the Woodbury Subdivision. He suggested that the Commission look into the February proffer from the developer which stated that he would limit development until he completed a connector road between Alternate Route 5 and Powhatan Crossing. He requested that the Commission insist that all traffic in and out of the proposed development be serviced by connector roads from Alternate Route 5. He concluded by stating that the citizens of Powhatan Crossing, Route 5 corridor, and James City County would be best served by waiting until Alternate Route 5 was in place before approval of a development on this property.

Jay Sexton of 4488 Powhatan Crossing spoke against the rezoning stating his concerns of the infrastructure within the subdivision, the wetlands and destruction caused by timbering, the fact that the developer targeted this area for future development before he even owned the property. He added that the community believed that the property would not be developed for at least ten years at which time they felt that Alternate Route 5 would be in place. He concluded by stating, that until the County builds an infrastructure that can support this type of development, the Planning Commission should deny this application.

Martha Madeira of 4492 Powhatan Crossing spoke against the rezoning and asked that the Planning Commission deny this application.

Rosemary Travers of 3412 Deerlope Trail had a question relating to the access road for the development of the 45 lots. She wondered if the road would be adjacent to the recreation area that would be developed in the future for the enjoyment of the Association. She also asked for clarity on the construction road that she understood would not be sufficient for residents to drive on.

Vernon Geddy stated that the road was not intended to be a permanent residential entrance and that the amount of construction traffic would be low volume.

Alex Kuras stated that construction roads have different standards than those of residential.

Karen Kniffinger of 3525 Hunters Ridge asked if Powhatan Plantation did not acquire the area designated for timeshares, what would happen to that parcel and what guarantees would they have that multi-family housing or other type of development would not occur.

Alex Kuras stated that if the property was not used for timeshares, the applicant would then have to request a change in the Master Plan which would require the same procedure that was now being followed. He added that there were no guarantees as to what could or would be developed in that area.

There being no further speakers, Alex Kuras closed the public hearing.

Martin Garrett commented on the excellent presentation by Vernon Geddy stating he had raised some questions he was not aware of but, he was also in agreement with staff. He added that based on the statements by John Hagee on the R-4 development, he felt that the property was not suitable for a residential planned community. He said, for that one reason, he would have to vote no on this application.

Willafay McKenna commented that the request was to rezone the parcel from R-8, which was intended to hold land until it could be developed in an orderly process, to R-4, which states that it shall consist of 400 acres or more and purpose to develop, with a master plan, a large cluster type community. She also felt that John Hagees' statement was correct. This parcel did not lend itself to that type of zoning and she too could not vote in favor of the rezoning. She concluded by saying that she had known Lewis Waltrip for a long time, respected him as a developer, and aside from its location, the application was a good use of the land and he did take into account the surrounding areas. She added that the main issue tonight was one of land use, not one of developer against citizens.

Alex Kuras stated there was a lot of emotion and perception. He felt that the perception was worse than the actual result and that Powhatan Crossing Road could handle 200 homes.

Joe Poole commented that he did not dispute that R-8 was a holding pattern for future development. He disputed trying to put an R-4 designation on the parcel particularly because he felt there needed to be an appropriate application at the appropriate time. He felt Alternate Route 5 should be in place before any decision were made. He stated he could not support this application at this time.

Don Hunt felt, as a land owner, the developer had a right to develop his property. He understood the sentiments of the Commission but felt there should be no further delay in the development of the parcel.

Jay Everson agreed with Don Hunt. He stated that, since the developer offered more than what the county asked and there would be no negative impact on the area, he could only support the approval of this rezoning.

John Hagee made a final comment. He stated that, if the proposal were presented with just the development of the two subdivisions, he would have had a different perspective of the property but, at this time, he would not be able to support the rezoning.

Willafay McKenna made a motion, seconded by Martin Garrett, to deny the application. By a roll call vote, the motion passed. AYE: Garrett, McKenna, Hagee, Poole, Kuras (5). NAY: Hunt, Everson (2).

9. PLANNING DIRECTOR'S REPORT

Marvin Sower's presented the staff report which was approved as presented.

10. ADJOURNMENT

There being no further business, the April 7, 1997 Planning Commission meeting adjourned at approximately 9:55 PM.



Alexander Kuras, Chairman



O. Marvin Sowers, Secretary