

A REGULAR MEETING OF THE PLANNING COMMISSION OF THE COUNTY OF JAMES CITY, VIRGINIA, WAS HELD ON THE THIRD DAY OF MAY, 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

John T.P. Horne, Development Manager
O. Marvin Sowers, Planning Director
Leo Rogers, Deputy County Attorney
Andrew Herrick, Assistant County
Paul Holt, Senior Planner
Matthew Maxwell, Senior Planner
Jill Schmidle, Senior Planner
Chris Johnson, Planner

*Ms McKenna arrived during the presentation of Case No. SUP-10-99.

2. MINUTES

Upon a motion by Joe Poole, seconded by Don Hunt, the minutes of the April 5, 1999 meeting were approved by unanimous voice vote.

3. DEVELOPMENT REVIEW COMMITTEE

Alex Kuras presented the DRC report stating the two cases, Longhill Station and Greensprings West, were routine and recommended approval. Joe Poole seconded his motion. In a unanimous voice vote, motion passed.

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

Paul Holt presented the staff report stating that at the April 5 meeting, the Commission voted 7-0 to defer this case so the applicant and staff could have the opportunity to further discuss the conditions. Both staff and the applicant were now requesting deferral until the June 7 meeting to allow for additional time to review the conditions.

Don Hunt asked if there were any serious conflicts to be resolved between staff and the applicant that caused this request for deferral.

Marvin Sowers stated that staff and the applicant had been unable to meet due to a variety of scheduling conflicts.

Martin Garrett made a motion, seconded by Alex Kuras, to recommended deferral. In a unanimous voice vote, motion passed. The public hearing remained open.

5. CASE NO. SUP-10-99. JCSA WARHILL GRAVITY SEWER EXTENSION.

Chris Johnson presented the staff report stating the applicant applied for a special use permit to allow the construction of approximately 3,800 feet of 12-inch gravity sewer main from the rear of the Longhill Station Subdivision off Centerville Road to the rear of the Mallard Hill Subdivision off Longhill Road. Staff found the proposal to be consistent with the surrounding zoning, development, and the Comprehensive Plan and recommended the Planning Commission approve this application as outlined in the staff report.

John Hagee asked if the two-year requirement for replacing vegetation was a typical time table for projects.

Chris Johnson stated it was typical to require two years for replacement for any applicant and said that Larry Foster of the Service Authority stated they should be able to do it well in advance of that requirement.

Marvin Sowers added that the two-year period allowed for a full planting season to be available.

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 this application. In a roll call vote, motion passed 7-0. AYE: McKenna, Hagee, Hunt, Kale, Poole, Kuraş, Garrett (7); NAY: (0).

6. CASE NO. Z-2-99 AND SUP-11-99. EPSTEIN REST HOME.

Jill Schmidle presented the staff report stating the applicant requested to rezone 6.62 acres from R-5, with proffers, to R-5, with revised proffers, and requested a special use permit to construct a 48-unit rest home/congregate housing facility for the elderly. She stated this proposal was virtually the same project that was approved in 1991 with two minor text changes in the proffers. Staff found the proposed proffer amendments to be acceptable and the application consistent with the surrounding zoning and development. Staff recommended the Planning Commission approve this proposal as outlined in the staff report.

Wilford Kale asked why there was proposed enhanced landscaping along Pocahontas Trail but not enhanced to the rear of the property adjacent to a residential area.

Jill Schmidle stated the Community Character Corridor designation triggered the enhanced landscaping along Pocahontas Trail and staff felt the existing landscaping requirements in the ordinance would be sufficient along the rear.

Wilford Kale felt the conditions and proffers, which indicated specific percentages, would take care of the frontage along Pocahontas Trail but wanted to express his concerns so the surrounding neighbors would also be protected as much as they could.

Alex Kuras stated the Development Review Committee would consider the landscape plan during site plan stage.

Martin Garrett opened the public hearing.

Vernon Geddy spoke on behalf of the applicants, Leonard Epstein and Rick Epstein, stating this was essentially an application to review the prior approval that had expired in 1994. The only change to the proffer related to a different federal program that this project would be built under. He stated they reviewed and agreed with the new conditions proposed by staff and were in agreement with staff's recommendation for approval. He asked the Commission if they had any questions.

Willafay McKenna asked if the changing of the federal program related to the funding of the building of the project and were there conditions placed upon the residents.

Vernon Geddy stated the change in the federal program did relate to the funding of the project and that the project was targeted for the elderly and handicapped.

Vernon Ross, a property owner across the road on Pocahontas Trail, asked what this facility had provided regarding parking for the residents and how would that impact the traffic on Pocahontas Trail.

Vernon Geddy stated the 1991 approved plan provided for 48 spaces with the entrance from Magruder Avenue and stated there would be no access from Pocahontas Trail.

Paulette Toliferro, an adjacent property owner, asked if the new federally funded project allowed for less stringent building requirements and would the design change or remain as first approved. She also asked what type of improvements would be made to screen the facility from the residential areas.

Vernon Geddy stated the design might change but still would require building code approvals. He said the proposed plan provided for evergreens on two of the property lines, with trees and shrubs along another, and additional landscaping along Pocahontas Trail.

Abram Frink, an adjacent property owner, stated he did not receive notification of this proposal. He also stated he was concerned about screening of this facility from the existing residents and whether the income level of the residents would be for high, middle, or low income.

Lucille Minkins, another adjacent property owner, asked if any improvements would need to be made to Magruder Avenue if there would be no access from Pocahontas Trail.

Marvin Sowers stated that Magruder Avenue already had turn lanes and that was one of the main reasons why staff felt access should be off of Magruder Avenue as opposed to Pocahontas Trail, which has had a problem with traffic congestion.

Joe Poole asked how VDOT's plans for Pocahontas Trail would affect the 50' buffer proposed for this project and at what point would VDOT determine when the road improvements to Pocahontas Trail would begin and end. He also asked if this proposal had taken into consideration the widening of Pocahontas Trail.

Jill Schmidle said there were so many different scenarios and options for road widening but staff felt that even with a worst case scenario, this project could be built.

Marvin Sowers said that VDOT has had only one meeting regarding the widening of Pocahontas Trail and only a small amount of information was provided, and they were expected to have another meeting where they would present more information so the public could gauge impacts. He stated the meeting would not take place until some time in the year 2000.

Joe Poole said he was concerned about additional development along Pocahontas Trail since plans for the widening were uncertain. He also felt since this project had been delayed since 1991, he wasn't sure what another year or two wait would do to see what VDOT had planned.

Vernon Geddy said, if Joe Poole was looking for a time table for the applicant to build, the applicant would like to build as soon as the necessary approvals were made and added that the applicant had recently purchased the property.

Martin Garrett asked if the applicant would consider setting the building back far enough that widening would not impact it.

Vernon Geddy said that could be considered and the screening could also be put back further from the current right-of-way in case the road was widened so the screening would remain in place.

Paulette Toliferro asked how the building could be set back any further, due to the easement that exists.

Jill Schmidle stated that no development could be done within any easement and the 300' setback included the easement area.

John Hagee questioned if the development could be moved back any further than illustrated on the site plan.

Vernon Geddy stated the building was positioned up to the edge of the easement as shown and his comment only referred to the shifting of the screening along Pocahontas Trail, further away from the existing right-of-way.

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

Wilford Kale again expressed his concern regarding the landscaping for residents surrounded by this facility. He felt the Commission should go on record as being as much concerned about the residents that surround the property as they were about how the project looked from Pocahontas Trail and asked how this would be accomplished.

Marvin Sowers said the Commission could have staff could come up with something regarding landscaping before the case was brought to the Board of Supervisors or the Commission could defer and give staff time to develop a condition.

John Hagee felt the percentage of screening was not the issue and stated that the type of trees chosen to screen the area would be more important.

Alex Kuras agreed with Wilford Kale's concern and suggested that he attend the DRC meeting and give his input at that time.

Marvin Sowers stated that adjacent property owners would also be notified, in writing, prior to the DRC meeting so that they could attend.

Willafay McKenna make a motion to amend condition #2 to read: The required rear landscape buffer shall screen this project from the adjacent properties and shall be located on the east edge of the Hampton Roads Sanitation Department easement.

Wilford Kale seconded her motion.

Joe Poole suggested that in condition #5 there be a required 50' landscape buffer along any relocated Pocahontas Trail frontage to insure that, if the right-of-way were to increase or be adjusted, there would still remain a 50' buffer.

Alex Kuras asked if at this could be done at this stage without the future road right-of-way defined by VDOT.

Don Hunt stated there was no way that it could be defined at this time.

Joe Poole felt it should be defined if they were to proceed with this case.

Alex Kuras commented the applicant was working with current plans and the current approved right-of-ways and felt that they should try to find where any future right-of-way might be so the applicant

could plant the screening in the best possible place. He did not believe the Commission could require that, if the screening were to be in the wrong place, the applicant would have to replace it.

Joe Poole suggested the Commission act on Willafay McKenna's motion to amend condition #2.

Martin Garrett requested that Willafay McKenna restate her motion.

Willafay McKenna restated her motion for condition #2. "The required rear landscape buffer shall screen this project from adjacent properties and shall be located on the east edge of the Hampton Road Sanitation District easement."

In a unanimous voice vote, motion passed.

Marvin Sowers asked Wilford Kale if condition #2 entailed what he was interested in or would he like staff to look for additional language for screening buffer conditions between now and the Board meeting regarding specific planting materials and quantities, etc.

John Hagee stated that based on Willafay McKenna's motion it did not cover one area regarding the screening. He suggested the condition be changed to cover the east and south boundaries of the property.

Joe Poole moved to amend condition #5 to read: "There shall be a 50' landscape buffer along any relocated Pocahontas Trail frontage . . ."

Marvin Sowers commented that the ordinance had a site plan requirement for setbacks that dealt with buffers along the road that required landscape buffers to be setback from any future for VDOT right-of-way. He stated in those situations, staff looked to VDOT for guidance as to where the right-of-way was located.

Willafay McKenna suggested the word frontage be changed to right-of-way.

Leo Rogers stated there needed to be a definite boundary in which to set the landscape buffer. He stated there was a definition in the ordinance of a planned roadway but that was a roadway that was defined on a map adopted by the Planning Commission, Board of Supervisors, and VDOT. He said that the condition could not be stated that in staff's best judgement there would be a landscape buffer. He added that he understood that VDOT did not have a boundary for an adopted, relocated Pocahontas Trail.

Joe Poole said, given that information, he would retract his motion for additional text to condition #5.

Willafay McKenna made a motion, seconded by Wilford Kale, to approve this application as amended. In a roll call vote, motion passed (6-1). AYE: McKenna, Hagee, Hunt, Kale, Kuras, Garrett (6); NAY Poole (1).

7. CASE NO. SUP-9-99. VICTORIAN ACRES BED & BREAKFAST.

Matthew Maxwell presented the staff report stating the applicant was requesting approval for a Bed and Breakfast to house two guestrooms for rental within her residency with a third guestroom added at a future date and a planned gift shop located in a small accessory structure located to the rear of the house. Staff found that this proposal was consistent with the Rural Lands land use designation and recommended the Planning Commission recommend approval of this application.

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

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

The Commission took a five-minute recess.

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

Paul Holt presented the staff report stating the applicant had requested to rezone approximately 2.2 acres from LB, Limited Business, to R-8, Rural Residential. He stated the rezoning was a companion to the special use permit approved by the Planning Commission on April 5, 1999. Staff recommended the Planning Commission recommend approval.

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

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

Paul Holt presented the staff report stating the applicant had applied to rezone approximately 75 acres from A-1, General Agricultural, to PUD-R, Planned Unit Development Residential, with proffers. Staff found the proffers unacceptable, and while meeting with the applicant regarding the possible methods available to mitigate the public education costs, the applicant was unwilling to make acceptable proffers in response to the information given by staff. Since this rezoning would accelerate public costs, as outlined in the staff report, staff recommend the Planning Commission deny this application.

John Hagee asked if the property could be developed in any other way other than through Stonehouse property.

Paul Holt stated that the property was owned by Stonehouse and if this application were denied, they would develop the property by-right with an estimate of approximately 20 lots.

John Hagee stated staff had mentioned the cost figure for school children and said he did not recall any other cases where that focus had been drawn in terms of expecting a development to pay for each school child.

Paul Holt stated staff felt those costs were needed to be mitigated by Stonehouse because, as part of the overall package mitigated in 1991 and amended in 1994, they proffered to help mitigate impacts on public services such as the school system by proffering school sites. One proffer was for an elementary school site of about 20 acres and the other for a middle school site. Due to changed circumstances, the elementary school has been relocated, and staff felt Stonehouse was no longer mitigating impacts to the school system as originally done. He said the payments were in lieu of the land that was no longer useful to the County.

Marvin Sower stated the new Comprehensive Plan placed more emphasis on mitigating impacts than the previous plan for residential development.

John Hagee said another issue was that the overall volume of units had not changed, therefore, there was no net difference in the number of school children.

Paul Holt stated there would be no net difference in the number of school children but there would be an acceleration of development because they would have immediate access to this property as compared to the current plan.

Willafay McKenna pointed out that it was the decision of James City County not to use the land proffered by Stonehouse for the new elementary school. She stated Stonehouse did not do anything to cause that mitigation to be withdrawn.

John Horne stated there was not sufficient infrastructure for roads, water, or sewer to that school site on the time frame that the County needed the land. He said it was not an intentional act by the County, but the fact remained it did not and could not be used to mitigate the particular school site needs that were being generated.

Martin Garrett opened the public hearing.

Vernon Geddy spoke on behalf of the applicant, Stonehouse, Inc. and Stonehouse LLC. 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 Fernandez 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 stating it was not binding and Stonehouse could do 52 units now and what the requirements were for the PUD ordinance. He stated that while reading the staff report, he felt staff was ready to recommend approval since they concluded the proposal was consistent with the Comprehensive Plan, surrounding development, and zoning; recognized the tract was in the primary service area, passed the public school adequacy test, serviced by public utilities, and there were no traffic issues. But, at the conclusion of the report, staff raised several issues that were not related to the proposal submitted by Stonehouse and were factually off base. He proceeded to go through the issues of the reservoir, the I-64 Interchange, schools, and the fiscal impact study done in 1991 and the 1999 update for Stonehouse Commerce Park. He stated the County approved abandoning the reservoir with no mention of off setting proffers and no value of the reservoir was included in the fiscal impact analysis. He stated that the I-64 MIS did not conclude that the new interchange was not feasible or not needed later. He also stated the school sites were still valuable, the fiscal impact analysis was positive, and Stonehouse Commerce Park was very successful. 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?

Willafay McKenna recalled that one of the reasons for the phasing was due to the fiscal impact on the County and asked how many housing units there were at this time within the development.

Vernon Geddy stated there were five occupied housing units and that there was a proffer that limited the number of other residential units that could be constructed until at least 600,000 sq. ft. of business use was in place. He said the construction of the John Deere project will complete the initial phase of the Commerce Park.

Alex Kuras asked why the 52 units could not remain in the Phase II project since both phases were being done simultaneously.

John Horne stated the issue was not the regulatory phasing but the practical phasing on the ground. He stated a significant additional infrastructure investment would need to be made before

developing Phase II and it was more likely that they would proceed with Phase I where all the infrastructure presently exists.

John Hagee felt that this was not the real issue as far as staff was concerned.

John Horne stated that this was a very important issue with staff. He stated there had been a change in circumstances that staff believed lead to a different conclusion today as to the relative balance between public costs and public benefit that staff reached in 1991.

Norman Mason of Langley and McDonald made a brief comment regarding the phasing issue. He stated that with the development of John Deere there will be no further opportunity for large industrial development in Stonehouse without the extension of LaGrange Parkway which would lead into Phase II. He said they were currently working on plans for that extension.

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

Martin Garrett commented on the impact statement provided by Stonehouse and stated he felt that the education expenditures supplied by Stonehouse were much lower than what he had calculated and could not figure out how they came to their end result.

John Hagee asked if on this particular situation was he suggesting that the mitigation should be 136 or 52 times the dollar amount and asked what was the appropriate mitigation.

Martin Garrett did not feel that the amount offered by Stonehouse was sufficient and did not believe that just because another community offered \$1,000 that we had to accept their offer. He stated as long as he was a member of the Commission, he would strive to push for more and more balance. He felt the \$4,600 was an excellent mitigation which he calculated by taking the Community Service contributions for Phase I of \$3,531,000 and divided that by the number of households.

John Hagee asked how they could come up with a reasonable or equitable amount if the project was not changing the number of units but just adding 75 acres.

Martin Garrett felt it should be based on the total build out of Phase I.

Leo Rogers expressed his concern over the conversation being directed. He stated there was a proposal in front of the Commission and staff had taken their position and presented it to the Commission. He stated the Commission should not try to negotiate proffers with the developer in an open session since proffers were voluntarily offered.

John Hagee felt the Commission should accept the proffers provided by the applicant. He stated the applicant had a parcel of property that would be developed by Stonehouse, it was in the primary service area, and designated low-density residential. He said he was satisfied with the proffers provided by the applicant and supported this application.

Martin Garrett stated he would support staff's recommendation because he felt it very important that sufficient mitigation be provided if the County was to maintain the character of this community.

Willafay McKenna agreed with Martin Garrett's statement but felt that what was unique with this development was the combination of residential and commercial and that the commercial had been incredibly successful. She felt that under that circumstances, the Commission could be a little more flexible in this case.

Alex Kuras commented that the reservoir was no longer an issue nor was the interchange and felt the County did an excellent job with the applicant in phasing the commercial, industrial, and residential. He agreed with John Hagee's comments and supported this application.

John Horne asked to correct a factual matter in a statement by Alex Kuras. He said that what Alex Kuras read from were traffic proffers and not phasing of residential versus non-residential. He stated there were only two levels of phasing as it related to residential and non-residential and once the developer went over 600,000 sq. ft. of non-residential they would be released to go beyond 2,400 units.

Joe Poole said he concurred with John Hagee on this matter. He stated because there wasn't an overall increase in the number of permitted residential units, there was conformance with the Comprehensive Plan, and the proffers were acceptable, he was satisfied with the applicant and supported their application as it stood.

Wilford Kale could not understand why the County would turn down the opportunity for land. He found that the willingness of the applicant to allow the property to be set aside for an elementary school and could be used for other public uses, if needed, was a good, strong proffer. He said if this parcel could be used for anything besides this development, He might have understood staff's position a little better. He found there was not reason why He could not support this application.

Don Hunt concurred with both John Hagee and Wilford Kale and supported this application.

Joe Poole made a motion, seconded by Wilford Kale, to approve this application with the amended proffers as submitted by the applicant. In a roll call vote, motion passed 6-1. AYE: McKenna, Hagee, Hunt, Kale, Poole, Kuras (6); NAY: Garrett (1).

10. PLANNING DIRECTOR' REPORT.

Marvin Sowers brought to the attention of the Commission several items of importance. The first being the Treyburn Drive Extension. He stated there would be further discussions by the City of Williamsburg and the County on the project and then the project would be brought before the Planning Commission for approval. The second item also being coordinated by the County with the City of Williamsburg was the Rt. 199 Corridor Study. The main focus would be the Jamestown Road intersection. He told the Commission a committee would be set up and said he spoke with Martin Garrett and asked him to appoint a Commission member to be part to the committee. He stated John McGlennon would represent the Board of Supervisors.

Martin Garrett stated he asked Alex Kuras to be on the committee and that Alex has accepted.

Finally, the Capital to Capital Bikeway Study had been delayed due to work by VDOT and the Federal Highway Administration, but meetings should begin late summer or early fall.

Wilford Kale asked if he could express his concern regarding the construction on Centerville Road saying it was interminable. He stated it had been six months of effort on that project and asked if staff knew when it was scheduled for completion.

Marvin Sowers offered the suggestion that staff could write a letter to VDOT for Martin Garrett's signature.


Joe Poole thanked staff for getting the staff reports to the Commission well in advance of the actual meeting.

11. ADJOURNMENT

There being no further business, the Planning Commission adjourned at approximately 9:05 pm.



Martin A. Garrett, Chair



O. Marilyn Sowers, Secretary