

A REGULAR MEETING OF THE PLANNING COMMISSION OF THE COUNTY OF JAMES CITY, VIRGINIA, WAS HELD ON THE EIGHTH DAY OF SEPTEMBER, 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.

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| 1. <u>ROLL CALL</u>
Martin Garrett, Chair
John Hagee
Don Hunt
Wilford Kale
Alexander Kuras
Willafay McKenna
A. Joe Poole III | <u>ALSO PRESENT</u>
John T. P. Horne, Development Manager
Marvin Sowers, Director of Planning
Leo Rogers, Deputy County Attorney
Andrew Herrick, Assistant County Attorney
Paul Holt, Senior Planner
Matt Maxwell, Senior Planner
Tammy Rosario, Senior Planner
Jill Schmdle, Senior Planner |
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2. MINUTES

Upon a motion by Willafay McKenna, seconded by Joe Poole, the minutes of the August 2, 1999 meeting were approved by unanimous voice vote.

3. DEVELOPMENT REVIEW COMMITTEE

Alex Kuras presented the report for the DRC meeting held on Wednesday, September 1, stating the committee recommended approval of Brandon Woods, Powhatan Secondary Apartments, and Ford's Colony. He also reported on a special DRC meeting held prior to tonight's meeting for 61 Powhatan Secondary Townhouses and recommended approval. He made a motion to recommended approval of the DRC report. Joe Poole seconded the motion. In a unanimous voice vote, motion passed.

4. RESOLUTION: ZONING AND SUBDIVISION ORDINANCE AMENDMENTS

Martin Garrett read a resolution to initiate consideration of the proposed amendments in cases SO-1-99, ZO-12-99, and ZO-11-99 to the Code of the County of James City, Virginia in accordance with the Virginia Code.

Alex Kuras made a motion, seconded by Alex Kuras, for approval of the resolution. By unanimous voice vote, motion passed.

5. CASE NOS. Z-8-99 AND SUP-23-99. EXPANSION OF PRIME OUTLETS

Paul Holt presented the staff report stating the applicant requested a deferral of this case. Staff concurred with this request and recommended the Commission defer until their October 4 meeting.

Martin Garrett opened the public hearing.

Alvin Anderson of Kaufman and Canoles represented the applicant. He gave a brief history of the Prime Outlets and of the proposed addition to the existing shopping center.

There being no further speakers, the public hearing remained open, and the Planning commission deferred the case to their October 4 meeting.

6. CASE NO. SUP 14-99. JCSA WATER MAIN & SEWER FORCE MAIN

Matthew Maxwell presented the staff report for a revised special use permit that was

approved by the Commission at their August 2 meeting. The revised plan included a site for a Hampton Roads Sanitation District (HRSD) pressure reducing station designed to reduce pressure in the force main on the upstream side. He stated the station would not be built for another ten to twenty years. Staff found the proposal to be consistent with the Comprehensive Plan and with previous actions taken by the Board of Supervisors. Staff recommended the Planning Commission approve the revised special use permit with the conditions outlined in the staff report.

Alex Kuras asked if the property would be acquired at this time even though the pressure reducing station would not be build for another ten to twenty years.

Matthew Maxwell stated it was the intent of the Service Authority to acquire the property at this time.

Willafay McKenna asked why staff had a condition that required commencement of the project within 24 months of the date of issuance of the special use permit if the facility was not going to be built for another ten to twenty years.

Matthew Maxwell stated the condition requires that the construction of the force main and water mains be commenced within 24 months but it did not set a specific time for the construction of the pressure reducing station.

Willafay McKenna stated that staff described two buffer widths in condition #16, one 20 feet and one 40 feet, and that the Planning Director could grant a reduction in the required buffer widths if there was sufficient enhanced landscaping. She asked how far the 20 foot buffer area could be reduced.

Matthew Maxwell stated that particular condition, while it applied to all buffers, was specifically to address the buffer along the northern property line. HRSD stated they might need to reduce the buffer if they needed to re-orient the building or if the building were to be pushed further back. HRSD did not know exactly how large of a building would be needed.

Alex Kuras stated the pressure reduction station would be quite isolated except for the area east of the property and asked if that was developable property and what might go in that area.

Matthew Maxwell stated it was staff's understanding that the property would remain undeveloped.

Marvin Sowers stated the property was part of a conservation area that was put in place when the Hiden Master Plan was adopted.

Wilford Kale asked what would be the trigger mechanism that would get the Commission or staff involved again with this project.

Matthew Maxwell stated that the special use permit would continue to be in effect and the applicant would need to file a site plan application for approval. He said that the proffers would be reviewed to make sure the site plan was in compliance.

Martin Garrett opened the public hearing.

Martin Garrett asked Larry Foster to inform the Commission about the analysis of alternate routes for this system.

Larry Foster stated they looked at a couple options that they felt were the most feasible. One would be to rebuild two existing pump stations and install a major force main up Jamestown Road and the other was the one presented to the Commission tonight.

Martin Garrett also asked about the probability of a leak in the force main.

Larry Foster stated there was always a possibility but felt the industry had done well in providing new materials and construction standards to minimize that possibility. There have been major force main compromises in the County over the last several years and unfortunately with this size of a force main there would be a sizable amount of waste water. He felt the County had become more efficient in responding to and in providing and planning for them in their design standards and materials to help minimize the risk.

Ann Hewitt of 122 Raleigh Lane on Powhatan Creek stated she did not know exactly where the sewer line was going but understood the need for it. She understood that it would be in a resource protection area and asked how many acres of wetlands would be destroyed, what species would be impacted, what the mitigation plans would be to replace the species that were there, how wide would the buffer be, and how much area in land disturbance would the sewer line cause. She concluded by stating that Powhatan Creek was already polluted and asked how much more wetlands would be destroyed with this project.

Larry Foster felt there were good answers to her questions and suggested that the Planning Commission defer this case in order to give the citizens the opportunity to speak with the Service Authority about their concerns.

Martin Garrett stated the Commission would defer this case until the next meeting and those interested citizens should contact Larry Foster to answer their questions and see exactly what was intended for the project.

Bev Johnson of 210 Red Oak Landing Road had some questions and concerns, one being requiring a buffer area as small as twenty feet and then stating that with enhanced landscaping that it could be reduced. She opposed the substitution of a mitigation plan upon the approval of the Director of Planning and was concerned about the entire plan especially the technicalities of the actual laying of the lines along the creek and the extension of the access and right-of-way. She requested that there be a public information meeting to insure the citizens of the controls that would be taken to insure that contractors would meet the specific guidelines for protecting sensitive areas.

Page Hewlett of Neck-O-Land Road spoke of her concern for the Powhatan Creek watershed and stated if she requested a permit to do something in twenty years, she'd be told to come back then.

Ann Hewitt spoke again briefly stating the Department of Conservation and Recreation had designated Powhatan Creek as a significantly impaired stream and they would be doing a "Total Maximum Daily Load Study."

There being no further speakers, the public hearing remained open.

Joe Poole commended the applicant for their request for deferral and requested that the applicant and staff reconsider the condition that states the pump house facility should look like a residence. He felt that with such a large setback, the monies for the pump house aesthetics could be better spent on some type of environmental mitigation. He also suggested the DRC and not solely the Planning Director approve any buffer reduction.

By a unanimous voice vote, the case was deferred until the October 4 meeting.

7. CASE NOS. Z-5-99/SUP-15-99. ARMISTEAD/TAYLOR RESIDENTIAL DEVELOPMENT

Tammy Rosario presented the staff report for a request to rezone approximately 25 acres from R-8 Rural Residential, and approximately 3 acres from R-5, Multifamily Residential to R-2, General Residential, to build 50 single-family homes in a conventional development. Although the water supply and school capital cost impacts of the development had not been mitigated, staff found the proposal consistent with the surrounding properties and uses and with other provisions of the Comprehensive Plan. Staff recommended the Planning Commission approve this special use permit with the conditions found in the staff report.

John Hagee had a question regarding the development conditions on page 6 which stated "Permit the location of new uses only where public services, utilities, and facilities are adequate to support such uses." He asked why staff was expecting proffers when the development appeared to meeting all the standards of the Comprehensive Plan.

Martin Garrett felt if they permitted this subdivision to come in and not pay anything and then the facilities and for services reached capacity, it would force another subdivision to pay for everything.

John Hagee stated, in the course of doing other rezonings, he did not recall anyone having to proffer cash for schools as long as the schools were adequate in the area of development. He asked why they were now expecting it.

Willafay McKenna stated that if the development came in at one unit per acre there would be no discussion, but, this application before us almost doubles the units per acre and to treat that the same would be unfair.

John Hagee asked if an application went beyond the one unit per acre, would the Commission then expect impact fees. He stated there were a lot of things that were proffered prior to the required changes made to the Zoning Ordinance. He stated he did not remember there being a discussion that the Commission would still be looking for additional impact fees and stated he was against the Commission requiring anything more from the developer.

Alex Kuras agreed with Willafay McKenna but also felt there should be some type of policy approved by the Board of Supervisors before cash proffers were expected.

Martin Garrett opened the public hearing.

Henry Stephens, the applicant, stated he had no formal presentation and that he stood by the staff's report which recommended approval. He said that after the Commission heard from the public and issues came up, he would be happy to an answer them.

Alex Kuras asked what price range the home were expected to be.

Henry Stephens stated he was a land developer and would sell the lots to builders. He stated they were trying to keep the price of the lots under \$40,000 so the builder could target the middle income family. He stated there were costs associated with the conditions of the rezoning and special use permit and they were struggling to keep the price under \$40,000.

Drew Mulhare, president of the Ford's Colony Homeowners Association and vice-president of Realtec Inc., commended staff for their help and stated the developer was very proactive in dealing with their concerns. When the developer became aware of their primary concern of the buffer surrounding Ford's Colony, he was responsive and agreed to double the size of the buffer

area. He stated he received a petition from members of Fords Colony asking him to present some issues that had been raised. He said they were not opposed to this case, but had questions regarding the buffer, density of development, the proposed impact, any mitigation to those impacts, application of the natural areas policy, need for turn lanes since a school was close by, and why they did not proffer cash for roads and the fire station as Ford's Colony had.

Neil Cooper of 129 Sugar Bush had a question regarding the capacity of Lafayette High School at 1,388 students with a 1999-00 projection of 1,269 students. He stated the actual number of students was more than projected and that the design capacity was for only 1,250 students. He felt at this time the school already exceeded its capacity as reported in the local paper.

Willafay McKenna felt he made a good point and said it was important to recognize that the adequate school facilities test was a broad based test that did not necessarily apply to a particular school but to the entire system.

Tom Havard of 124 Sugar Bush was concerned about the buffer area and the number and size of the required tree plantings.

Roosevelt White of 5410 Centerville Road and adjacent to the right-of-way to the properties in question was concerned about how the developer would manage the problem of drainage so it would be directed away from his property.

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

Martin Garrett stated he normally did not like to read from notes but on this occasion felt it was important to read his prepared statement. (A copy of this statement is attached to the minutes.) He concluded by stating he could not support staff's recommendation of approval since the project did not mitigate all of its public costs and made a motion for denial.

Willafay McKenna seconded his motion. She stated with the increased units per acre and proposed housing cost, it put this into a category where the Commission needed to consider the impact costs of the development.

Wilford Kale had some concerns and felt the Commission went through an elaborate procedure to determine that they wanted one unit per acre and therefore, he could not support this application as presented because he saw no redeeming social value in increasing this beyond the one unit per acre.

Alex Kuras asked Leo Rogers if there were any legal problems.

Leo Rogers stated the property owner had an economically viable use for the property and stated the Commission had to consider the proposal as it was presented and they should not be asking the developer to put anything else before them. He added that he saw no legal problem with either approving or denying this case tonight.

John Hagee reminded the Commission that prior to the zoning ordinance changes, any applicant that had proffered to have streetscapes, sidewalks, or a larger setback on a community character corridor was considered above and beyond the norm. He stated these things were now required as part of the ordinance update and felt the changes outlined in the new ordinance provided for the quality type of development we were looking for and could not understand why the Commission was looking for more. He felt that the requirements were laid out very specifically so

that if the schools met the adequate facilities test and water was adequate development should be permitted, but now we are asking for water and school cash proffers. He concluded by stating that he supported the application as presented by the applicant.

Don Hunt agreed with the comments made by John Hagee and supported this application.

Willafay McKenna stated that the developer was asking for something beyond the requirement of one unit per acre and felt if the County was to approve this request then the developer needed to give something back to the County and such as affordable housing.

Joe Poole stated the benefits to this community weren't compelling enough for him to approve the special use permit application and supported Martin Garrett's motion to deny.

Henry Stephens asked to speak to the Commission. With concurrence, the Commission agreed. He stated he appreciated the time to speak after the public hearing was closed. He said they did not prepare a presentation because they felt they worked out their issues with staff. He said the issues that were raised tonight were different from what had been expected. He stated that by-right they could develop 38 units on the property and the increase in density with this application would only be 12 units. He also stated that in the ordinance if a developer wanted to go beyond the one unit per acre, they needed a special use permit with conditions that were not contained in the ordinance but created by staff. Finally, he addressed declining to offer proffers which included specific impact fees. He stated there was a tremendous inventory of zoned property, including lots in Ford's Colony, and those homeowners were not paying for impacts on the schools; yet, as the lots are developed they would have the same impact as the lots proposed in this application. He felt the basic problem was in finding a fair way to distribute the impact costs and stated that cash proffers were a flawed way to address this issue, and a way was needed to fairly spread those costs. He asked how he could develop a more affordable development when the County was requiring him to put in sidewalks, curb and gutter, and have a landscape plan that required hundreds of trees to be planted along with a recreational area and park. He did not object to these requirements and at this point he felt they met every requirement requested by staff to justify the density.

Alex Kuras stated he agreed with Willafay McKenna and would like to see impact fees but felt this was a policy that should be debated at the Board of Supervisors level before these were requested. He made a motion to amend the motion of denial by Martin Garrett to include the statement he read as part of the minutes.

John Hagee asked how the Commission could deny this application after the conditions that were put into place for increasing the density were met by the developer.

Willafay McKenna stated that when the Commission spoke of the policies those were the guidelines they would go through in making a determination. But there was a certain amount of subjective judgment in assessing whether one met those guidelines.

John Hagee felt the Commission had laid out what quantified a quality development and the Planning Commission shouldn't have to ask the developer for more. He stated impact fees need to be formally discussed with the developers and others invited.

Leo Rogers stated there were two cases before the Commission. The rezoning case and the special use permit conditions case. He stated they could vote on them separately or together.

Marvin Sowers stated the motion was to deny the rezoning and the special use permit concurrently.

In a roll call vote, motion passed. AYE: McKenna, Kale, Poole, Garrett. NAY: Hagee, Hunt, Kuras.

8. CASE NO. SUP-18-99. OLDE TOWNE ROAD TIMESHARES.

Jill Schmidle presented the staff report for a special use permit for the purpose of constructing timeshares within a residential cluster of greater than one dwelling unit per acre. She stated residential clusters were permitted with a special use permit for developments up to 4 dwelling units per acre. This project proposed a density of 3.57 units per acre consisting of 3 and 4 unit, two-story timeshare structures. Staff found the proposal to be consistent with the surrounding zoning and uses and with the requirements of the residential cluster ordinance and the Comprehensive Plan. Staff recommended the Planning Commission approve this application with the conditions outlined in the staff report.

Joe Poole asked when there would be adequate information regarding Rte. 199 alleviating traffic on Olde Towne Road.

Marvin Sowers stated that a new traffic count would be taken in April of 2000 and it normally took several months for road patterns to stabilize after a new road was opened.

Martin Garrett asked if a timeshare unit was in perpetuity or could it be used for another purpose at some other time.

Leo Rogers stated there's usually a declaration recorded and also the interest in real estate would be split up into shares. He stated nothing would be impossible and said it would be possible to consolidate the numerous owners of a timeshare and consolidate the deeds but that it would be extremely cumbersome to do so.

Martin Garrett stated he was concerned about fifty years from now when these timeshares could become rental housing. He tried to find information regarding the appreciation value of timeshare units compared to housing but timeshares had not been around long enough for studies to be done.

Martin Garrett opened the public hearing

Vernon Geddy, III spoke on behalf of the applicants, Philip Richardson and his company Philip Richardson & Company. He stated the property has been under contract to the Berkeley Group and its principle and founder Jim Lambert. He said Jim Lambert had been in the timeshare business for over 28 years with 19 timeshare projects throughout the country including the Williamsburg Plantation Timeshares. He stated they agreed with and supported staff's recommendation of approval. He felt this was a preferable use for this property rather than the alternative traditional use of a single family or multi-family residential. He said that staff had thoroughly analyzed this project and wanted to highlight a couple of points. He said the traffic study submitted and approved by VDOT used a very conservative trip generation based on condominium-townhouse trips and that the study also did not take into account the completion of Rt. 199 and how the traffic on Olde Towne Road was expected to decrease. The second point he highlighted was the right-of-way exchange with VDOT which would help expedite the construction of the realigned

Olde Towne Road. He concluded by stating there were extensive conditions that would insure that the County would get what was presented to them tonight and urged the Commission to support staff's recommendation for approval. He said he would answer any questions they might have at this time.

Joe Poole commented that if he understood correctly, in the traffic study, they took a very conservative approach, that is, impacts or mitigation by Rt. 199 were not necessarily factored in and the level of service on Olde Towne Road would remain at "D," with "A" being more favorable and "E" being the least.

Wilford Kale had a question regarding the curve on Olde Towne Road and asked if the project was discussed with VDOT and did they have a time frame for its completion.

Rich Costello of AES stated the applicant did work with VDOT but the project would need to become part of the Six-Year Secondary Road Plan and the County would need to add it and to prioritize the project. He also stated there were three properties involved with the curve and this was only one of them.

Alex Kuras commented that in this area the timeshare units were almost approaching the number of hotel rooms and felt Martin Garrett's concerns regarding the life of a timeshare was very conservative. He asked, if this one should go into bankruptcy, what would happen if the timeshare holders stopped paying on their units.

Vernon Geddy suggested that Frank Eck, an attorney from Richmond speak on that matter.

Frank Eck stated he did the timeshare work for Williamsburg Plantation and the Berkeley Group. He said the Berkeley Group would be establishing a timeshare program of fee-simple ownership and the Association would own all the common grounds, roads, and amenities when they are turned over by the developer.

Martin Garrett stated he was aware of a timeshare development in Florida that went bankrupt because the value of the property depreciated and the owners did not even want to pay the annual fee.

Frank Eck stated the reality was that this type of situation, where the Association did not take care of the amenities, people became tired of using it, stopped paying their dues and everything declined could also occur in a condominium or townhouse development. He stated it was the responsibility of the Association to make sure that the amenities are afloat.

Jay Ottino of the Berkeley Group, and an appointee of the late Governor Chiles as Chairman of the Florida Council of Condominiums, stated he saw a lot of these situations come before the council and in almost 99 percent of those cases, they were single-site developments by a sole developer and not owned by a company that had done multiple projects as is the case in this project. He said those cases also had a second commonality of being hotel conversions where the rooms would be converted to an efficiency timeshare unit on a direct one-to-one basis and were not built to be timeshares. Over time, these owners realized the market was producing timeshare units of 1,700 sq. ft. at the same price or less and they began to walk away from that product because it was no longer competitive. Thirdly, he stated that each unit was assessed according to the individual sale, therefore, a unit of \$15,000 x 52 equaled a cost of \$780,000 and the tax assessment

were based on those figures.

Bob Stowers of 619 Beechwood Drive in the City of Williamsburg commended the staff because they were very patient and helpful in explaining what the timeshare proposal entailed. He had concerns about how this timeshare development would impact the community and the adjacent residential subdivision. He asked the Commission to deny this application.

Rita Lopez of Scotts Pond Subdivision stated that the traffic has not decreased on Olde Towne Road since the completion of Rt. 199 and felt that this development would have a definite impact on the residents who live in this area. She asked the Commission to take in consideration the impacts on the roads, water, and residents of the community when making their decision to approve or deny this application.

Philip Herbst of 5113 Ginger Court stated the developer had done a lot of work to try to accommodate the County and the zoning requirements. He had no problem with the development but was very concerned about the traffic impacts on Olde Towne Road and asked if the developer could possibly wait a little while until there was more evidence that Olde Towne Road traffic was really declining due Rt. 199.

Phyllis Langhorne of Scotts Pond gave a word of caution to the Commission saying that the citizens of James City County are at a premium. She said she relocated here with her family because she was looking for the same environment for her children as she had growing up in Virginia Beach which had become over grown. She stated the County still had beautiful open spaces and wildlife and asked if we necessarily needed more density and more people.

Rich Costello of AES, located on Olde Towne Road, stated that with the opening of Rt. 199 he felt the backup of traffic at Olde Towne Road and Longhill Road had decreased especially during the rush hour.

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

Willafay McKenna stated she had a hard time thinking of this as a residential development and had some concerns about placing this commercial product into a residential cluster analysis.

Wilford Kale had several concerns including the traffic on Olde Towne Road and the location of the entrance of the timeshare development in relation to the curve in the road. He stated he had serious reservations about the size of this commercial venture and said if they considered the residential aspects that the developer was pushing, then he would have a problem with more than one unit per acre. He also had a problem with the design, that there was not a second entrance, and would prefer that the project was not there, but at another site.

Martin Garrett asked the Commission what their thoughts were regarding housing as opposed to commercial use.

Willafay McKenna stated there was some discussion years ago when one of the early timeshares was being built. She said the Planning Commission discussed that they might not want to use the County's commercial property for timeshares. She said she could look at this project and see the positive things it offered to the County but the commercial aspect was something she could not get rid of. She agreed with Wilford Kale that the timeshares just didn't belong on that property.

Joe Poole agreed and did not feel this location was acceptable due to the level of service "D" designation of Olde Towne Road.

Alex Kuras also agreed that this was not a good location for the timeshares and felt at this time it was premature to say that the traffic would decrease. He said there were so many timeshare units already he did not think there would be much benefit to the County.

John Hagee commented that when the Commission discussed timeshares in previous situations, it was his understanding that they had to treat them as residential properties and that they not be looked upon as a commercial entity. He stated he preferred timeshare communities to be nearer the tourist corridor and that was one thing he did like about this development. The only concern he had regarding this application was the legal issue if they must look at this as a residential project would they be bound by the requirements of the zoning ordinance and should they look for mitigation on the road because of it's service of level "D."

Leo Rogers stated there were two questions. How do you treat a timeshare development? He believed the timeshare act stated that you have to treat it like the nature of the structure which was a residential style structure. Therefore, the Commission had to treat it like a residence. Regarding the improvements of the road, he stated that what was before the Commission was a special use permit and they have to consider the use and how much traffic would be put on the road due the nature of the use. Being a timeshare use that would be one of the impacts that would be considered as part of the special use permit and the decision of the Commission would be approval or denial based on this use of the property. He stated that it was not a rezoning so there could not be any off-site mitigation. If it was the wish of the Commission, these concerns should be made known to the applicant and there are alternatives where they could rezone this with proffers and meet the mitigation needs of Olde Towne Road. He said he was not suggesting this, but that was the only way of getting Olde Towne Road proffers in addition to what was already offered.

Martin Garrett asked Leo Rogers if he was telling the Commission that they had to view the cluster ordinance with respect to timeshares as they would for other types of housing.

Leo Rogers responded yes to Martin Garrett's question.

Wilford Kale made a motion, seconded by Joe Poole, to recommend denial of the special use permit due to the impact on the existing roadway.

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

9. CASE NO. SUP-22-99. HAIRWORKS BEAUTY SALON.

Tammy Rosario presented the staff report stating the applicants were requesting a special use permit to allow for a beauty salon, a contractor's office, and another office in existing structures on Powhatan Springs Road. She stated that applicant requested the beauty salon and the general office space to occupy building #4 and the contractor's office to occupy the entire building #3 for the purpose of a commercial plumbing contractor. She stated staff could support the beauty salon and contractor's office in terms of the Comprehensive Plan uses but not the use of the general business office. Staff suggested an amended plan that the beauty shop and contractor's office all be located in building #4 and building #3 remain as a residence. She stated that given the character of the area and exiting uses, staff found the proposal, as amended by staff, consistent with the surrounding

properties and uses, the Comprehensive Plan, and the previous actions taken by the Board of Supervisors. Staff recommended approval of this application, as amended, and with the attached conditions.

Martin Garrett asked if staff's recommendation was agreeable to by the applicant.

Tammy Rosario stated the applicant would like a broader use of the property to include the general business office, in addition, they would prefer their proposal of having businesses in both building #3 and #4.

Wilford Kale asked staff the rationale in not allowing the general business office and moving the contractors office so everyone would be contained in a single unit.

Tammy Rosario stated there were two reasons. Staff felt the general business office use exceeded the very limited commercial use permitted in a low density residential area and into a broader commercial use especially since the specific use had not been identified yet. Also, staff felt that by containing all the businesses in one structure the majority of square footage on the site would remain residential.

Marvin Sowers added that the site contained two lots, and the applicant's proposal would create a situation where one of the parcels was entirely commercial, and staff did not believe this was the intent of the area's low density residential designation.

Wilford Kale asked what would be staff's view if the applicant simply requested a contractor's office of 900 sq. ft. against staff's proposal of 180 sq. ft. with the contractor's office in one structure and the beauty shop in the other. Would staff still have a problem with the residential emphasis.

Tammy Rosario stated they would still prefer to have it all contained on one structure so that the commercial would not spill over to all of the residential structures in one parcel. She also add that she did not know whether the contractor's office would need to limit itself to 180 sq. ft. of the structure. She suggested the applicant explain how the building could be adapted for the different uses. A possible scenario could be if the contractor's office could take up the total second floor and take up 360 sq. ft. She stated there were options available to the applicant.

In response to a previously approved special use permit for a glass making business at the corner of Ironbound Road, Marvin Sowers stated that case was similar in that the property had two buildings, one of which would continue to be a residence while the other would contain the business, but the business owner would not live on the property.

Martin Garrett opened the public hearing.

Margaret Moyer, one of the applicants, stated the general business office was intended for someone who needs a phone, desk, and filing cabinets. She said a small bedroom would be converted into the general office area. She concluded that they could live with staff's recommendation but would prefer if their proposal was approved.

Philip Hull, co-applicant, spoke saying he and his wife were for small business owners and preferred a small out of the way area rather than going into any type of strip mall. He also stated they preferred their proposal but would be very happy with staff's recommendation.

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

Alex Kuras made a motion to approve staff's recommendation.

Willafay McKenna proposed that they consider the uses as outlined by the applicants. She believed there were a lot more businesses on the street than were reflected on the map. She stated they would be using existing buildings and there would be a greater possibility of upgrading them.

Alex Kuras withdrew his motion.

Joe Poole agreed with Willafay McKenna and made a motion, seconded by Wilford Kale, to recommend approval of this application as proposed by the applicant and that the conditions be adjusted to reflect it.

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

10. CASE NO. SO-1-99. COMPREHENSIVE REVISIONS TO THE SUBDIVISION ORDINANCE and CASE NO. Z-12-99. SIDEWALKS AND MULTI-USE PEDESTRIAN CONNECTIONS

Paul Holt presented the staff report stating as part of the 1999 ordinance updated process, the Grab Bag Update Committee had taken a comprehensive look at the County's subdivision ordinance. After reviewing the current ordinance and consulting with staff the committee recommended changes as outlined in the ordinance contained in the staff report. The committee and staff recommended the Planning Commission recommend approval of the attached ordinances and policy.

Alex Kuras commended the committee on these changes. He did ask about where there are ditches for street drainage, a 3:1 slope of the ditch sides be required.

Paul Holt stated that as currently written, this was not addressed in this section.

Alex Kuras commented that shared driveways were required for subdivisions of 3-5 lots and asked why it wasn't 2-5.

Paul Holt stated that was the threshold that was proposed by staff and that would still allow someone who owns a track of land to subdivide one additional lot and they were attempting to curb the higher number of curb cuts rather than the one and two lot subdivisions.

Alex Kuras also asked about the automobile and gasoline service stations under SUP, the way it was worded he presumed it was either an automobile service station or a gasoline service station. He asked what was an automobile service station.

Paul Holt stated he would be answering that question in his next presentation.

Wilford Kale asked how the shared driveway would impact a development, giving the example of the existing subdivision on Ironbound Road near the Berkeley School.

Marvin Sowers stated that the regulation would permit that type of subdivision.

Martin Garrett opened the public hearing

Mark Rinaldi of 103 Leon Drive requested that, due to the late hour, the Commission not take any action tonight. He stated there were issues that he saw that were technical and some were not but felt that there was so much to comprehend and outlined a few of his concerns and urged the Commission to defer this case.

John Horne stated that staff had answers to these questions and they would have been answered if they had them before tonight. He felt that the committee and staff were satisfied and should move ahead with this ordinance, but if it was the choice of the Commission to go through the questions raised tonight, staff would do that. He stated they were confident that the language in the ordinance was in fact sound and ready to go forward.

Alex Kuras asked if the ordinance got out farther than just the committee.

Paul Holt stated there were a couple of members on the committee from the private sector and packets went out, along with the Planning Commission packets, to most of the larger organizations and firms that try to stay involved in what's done on a monthly basis. He added that to the extent possible, they got the word out as soon as possible.

Marvin Sowers stated that this ordinance went through the same process with the Committee as others that had proceeded it, and citizens had an opportunity to attend committee meetings and participate just as in previous amendments.

John Hagee had no problem with deferring this case.

Willafay McKenna agreed that this case should be deferred.

Martin Garrett stated that the Commission would defer this case until next month and the public hearing remained open.

11. CASE NO ZO.-11-99. SUBMITTAL REQUIREMENT FOR REZONINGS AND SPECIAL USE PERMIT REQUESTS.

Paul Holt presented the staff report stating as part of the 1999 ordinance update process, the Grab Bag Update Committee had taken a comprehensive look at the County's submittal requirement for rezonings and special use permit requests. After reviewing the current ordinance and consulting with staff the committee recommended changes as outlined in the ordinance contained in the staff report. The committee and staff recommended the Planning Commission recommend approval of the attached ordinances and policy.

John Hagee asked if the Commission would defer this case and stated that he would like to have more examples of uses with less than 150 hour peak trips. He also asked if fast food restaurants were required to have an SUP.

Paul Holt stated that only convenience stores needed SUP's and fast food restaurants were not specifically listed in commercial SUP's at this time.

Marvin Sowers urged the Commission to act fairly expeditiously because there were some developments that were coming through the informal que and it would be very beneficial if they had

the ability to look at them through a special use permit as opposed to just a site plan.

Joe Poole felt it was a disservice to staff, the County, and the Commission to be entertaining plans of this substance at this late hour of the evening. He stated that if the Commission needed to meet twice a month in order to discuss these cases logically, he felt they needed to do that.

Martin Garrett opened the public hearing.

Mark Rinaldi of 103 Leon Drive stated that staff appeared to be happy with the ordinance they presented before the Commission and asked if they were prepared to deal with it and had the process been as inclusive as it needed to be. He stated that if language was not absolutely clear as it could be, it created a situation for interpretation and that interpretation would occur at the staff level and neither the DRC, Planning Commission, or Board of Supervisors would have an opportunity to be a part of that process except through appeals. He suggested that the County formalize all the zoning interpretations that have occurred or will occur as they do in other counties in northern Virginia. He concluded by thanking the Commission for their time.

Martin Garrett stated this case would be deferred until next month and the public hearing remained open.

12. PLANNING DIRECTOR'S REPORT

Marvin Sowers stated the Commission may be aware that last month the Board adopted a Spot Blight Abatement Program which meant, the Commission would be given another role and responsibility. This would entail review of structures that were being proposed for acquisition and demolition. He stated the Community Development Division was going to come and give the Commission an overview of what their role would be next month. He suggested the Commission read the information beforehand in the Reading File.

Martin Garrett asked Marvin Sowers if the Commission needed to schedule another meeting in order to catch up.

Marvin Sowers stated it might be a good idea to have a separate meeting regarding the Spot Blight Abatement Program where Vaughn Poller and Rick Hanson could explain the program to the Commission.

Martin Garrett suggested a work session rather than a regular meeting.

Wilford Kale informed the Commission that there were no longer work sessions under the Freedom of Information Act adopted July 1, they were all meetings.

Marvin Sowers stated the Commission could recess from this date to another meeting before their October 4 meeting date. He stated he did not want to set a specific time since he did not know the schedule of Vaughn Poller and Rick Hanson. He asked for concurrence from the Commission if that was what they wished to do.

Wilford Kale asked how soon something might come before the Commission.

Marvin Sowers stated they might get something early this fall or winter.

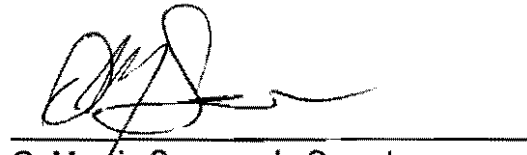
John Hagee asked why a member of the Board of Supervisors was on the Rural Lands Study Committee when there weren't any on the other Zoning Ordinance Update Committees and who was representing the Commission.

Martin Garrett said he was the Commission representative and Andy Bradshaw represented the Board.

Marvin Sowers stated there was a Board approved organizational structure for the committee and this project was not viewed as part of the ordinance update.

There being no further business, the Planning Commission adjourned at approximately 11:00 pm.


Martin A. Garrett, Chair


O. Marvin Sowers, Jr. Secretary

Attachment

1. Statement by Martin Garrett