

A REGULAR MEETING OF THE PLANNING COMMISSION OF THE COUNTY OF JAMES CITY, VIRGINIA, WAS HELD ON THE SIXTH DAY OF SEPTEMBER, TWO THOUSAND 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
Willafay McKenna
A. Joe Poole III
Peggy Wildman

ALSO PRESENT

Marvin Sowers, Director of Planning
Leo Rogers, Deputy County Attorney
Paul Holt, Senior Planner
Jill Schmidle, Senior Planner
Christopher Johnson, Planner
Ben Thompson, Planner
Karen Drake

2. MINUTES

Upon a motion by Willafay McKenna, seconded by Joe Poole, the minutes of the August 7, 2000, meeting were approved by unanimous voice vote.

3. DEVELOPMENT REVIEW COMMITTEE

John Hagee presented the report in which the DRC heard four cases. He stated the owner of the Toano Hair Salon requested approval of four parking spaces rather than the required five parking spaces. He stated since this was a one person operation, the DRC felt there would be sufficient parking with only four spaces. He stated Williamsburg Crossing came before the DRC because it was a mixed use development on a private road and the ordinance required it come before the DRC. He commented that he asked staff to look into the reasons why the DRC needed to review this type of application. He said the Kingswood Recreational Center was more difficult since the applicant requested a dome over the pool and the adjacent residents had a problem with it. The DRC deferred this case until the next meeting. The final case was Ford's Colony which submitted a subdivision without first submitting a conceptual plan therefore it was required to come before the DRC. The DRC recommended approval of three cases and deferral of one case.

Willafay McKenna made a motion, seconded by Peggy Wildman, to approve the DRC report. In a unanimous voice vote, motion passed.

4. INITIATING RESOLUTION FOR ZONING ORDINANCE AMENDMENT.

Martin Garrett read the resolution to initiate the Zoning Ordinance Amendment changes.

Marvin Sowers stated the purpose of the resolution was to initiate discussion of the ordinance amendment which the Commission would act upon later. He said this resolution was part of the state legal requirement and he stated the Commission had the option of acting on the resolution now or later on during the meeting when the ordinance came before them.

Willafay McKenna made a motion, seconded by Peggy Wildman, to recommend approval. In a unanimous voice vote, motion passed.

5. CASE NO. Z-3-00. IRONBOUND VILLAGE.

Marvin Sowers introduced Karen Drake the newest member of the Planning Division stating she would primarily be working on Comprehensive Planning and from time to time handle current planning cases.

Karen Drake presented the staff report stating the applicant had requested deferral to the October 2, 2000, Planning Commission meeting. Staff concurred with this request.

Martin Garrett opened the public hearing.

William Tucker of 508 Ironbound Road spoke in opposition of the commercial aspect of this rezoning case.

There being no further speakers, the Commission deferred this case and the public hearing remained open.

6. CASE NO. SUP-8-00/SUP-9-00. LEE-BICKFORD BORROW PIT.

Paul Holt presented the staff report stating staff had worked with the applicant since the writing of this report and they finally reached an agreement over the proposed language regarding the revised timbering condition. He stated the conditions did allow a minimal amount of timbering to occur in the 100-foot buffer, but qualifiers had been added to ensure the buffers' continued effectiveness. Both staff and the applicant agreed with this issue and no further issues remained. Staff recommended approval of the applications with the proposed conditions.

Vernon Geddy spoke on behalf of the applicant and stated the agreement with staff was a very agreeable compromise and asked the Commission if they would reconsider the five year time limit in light of condition #13.

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

Martin Garrett asked if the Commission wished to reconsider the time limit imposed by the applicant.

Don Hunt, along with John Hagee, felt the time limit could be extended beyond the five years.

Willafay McKenna made a motion for approval as written. Peggy Wildman seconded the motion.

In a roll call vote, motion passed 5-1. AYE: McKenna, Hagee, Hunt, Wildman, Garrett (5); NAY: Joe Poole (1); ABSENT: Wilford Kale (0).

7. CASE NO. SUP-19-00. WELLSRING UNITED METHODIST CHURCH.

Christopher Johnson presented the staff report stating the applicant applied for a special use permit to allow the construction of approximately 3,745 sq. ft. of additions to the existing church to provide a kitchen and classroom space. Staff found the proposed additions consistent with the surrounding zoning and development and the Comprehensive Plan. Staff recommended approval of this application.

Martin Garrett opened the public hearing.

There being no speakers, the public hearing was closed.

Joe Poole made a motion, seconded by Willafay McKenna, to recommend approval of this application.

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

8. CASE NO. SUP-18-00. A LITTLE SPACE DAY CARE AND CHILD DEVELOPMENT CENTER.

Ben Thompson presented the staff report stating the applicant applied for a special use permit to operate a child day care center. He stated that presently the applicant operated a child day care center from her residence and wished to expand the operation to fifty children. In order to do that, the applicant needed to locate to another site. The proposed project would now be located in the old radio station building on Ironbound Road. Staff found the proposal consistent with the surrounding property uses, the Comprehensive Plan, and previous actions taken by the Planning Commission. Staff recommended approval of this application.

Peggy Wildman stated she visited the site and had some concern about the ditch and asked if anything would be done to it.

Ben Thompson stated there was adequate property to provide safe play areas and that it was also a state requirement for the area to be fenced.

Martin Garrett opened the public hearing.

There being no speakers, the public hearing was closed.

Willafay McKenna made a motion, seconded by Joe Poole, to recommend approval of this application.

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

9. CASE NO. Z-7-99/SUP-24-99. GRIESENAUER RESIDENTIAL CLUSTER.

Jill Schmidle presented the staff report stating the applicant had proposed to construct a 62-lot single-family subdivision with a residential cluster of greater than one dwelling unit per acre. The applicant intended to develop the project as an affordable housing subdivision offering low-to moderate-income priced homes. Staff supported the affordable housing aspect of this development but felt that significant traffic impacts were not adequately mitigated, the upgrade of Powhatan Springs Road would become the responsibility of the County's Secondary Road Six-Year Plan and the affordability proffer as written would expire in three years. For those reasons, staff recommended denial of the case, but stated should the Commission choose to recommend approval, staff recommended the conditions listed in the staff report.

John Hagee stated the applicant agreed to submit design standards and asked how would that work.

Jill Schmidle stated the proffer offered by the applicant indicated that, in order to establish consistent materials, style and colors, the owner would submit to the DRC design criteria for all dwelling units to be constructed for their approval.

John Hagee asked about the applicant needing to acquire additional right-of-way and how that concern could be mitigated.

Jill Schmidle stated staff preferred to see something where the applicant had provided information that they were working with the property owners of the land to see what negotiations needed to take place in order to acquire additional right-of-way.

John Hagee asked if that had to occur in order to get VDOT or County approval.

Jill Schmidle stated that VDOT's comments on roads outside of the subdivision were recommendations and that VDOT could not make them requirements on the developer.

John Hagee commented that the only way to resolve that concern would be if the applicant had made a contract to purchase.

Marvin Sowers stated there is a proffer mechanism used in the past that triggers administrative approval of the development upon receipt of acceptable right-of-way. This would allow the rezoning to proceed but final subdivision could not occur until final negotiations were resolved. He said this had been used for both residential and commercial cases.

Wilford Kale asked what precluded the use of Ingram Road in this development and if it were used would it have any mitigating fact on the Powhatan Springs Road problem.

Jill Schmidle stated when staff first reviewed this proposal, it was suggested and encouraged that the applicant obtain access off of Ingram Road. She said it had been the policy of the County to encourage multiple entrances and exits for safety reasons. She suggested the Commission ask the applicant why that had not been pursued.

Willafay McKenna commented that Clara Byrd Baker School was already above its design capacity and asked if staff had the new figures for school children at this time.

Jill Schmidle stated the figures were developed in the middle of the summer and at that time there were no figures for the new Stonehouse Elementary School but, they could be obtained.

Martin Garrett opened the public hearing.

Greg Dodd of Horton and Dodd spoke on behalf of the applicant giving a brief presentation on the background of this development and the aspect of affordable housing. He stated he had worked diligently with staff but had to disagree with some of their comments in the staff report. He handed out a conceptual layout of the subdivision showing the topographic and physical features and stated the applicant made every effort to stay off of the 25 foot slopes. He said they did a hydraulic model and JCSA was comfortable with the supply of water and sewer to the project and their ability to handle it. He commented on the surrounding residents concern about the Powhatan drainage basin and stated the applicant offered a proffer which stated he would make stormwater runoff better than it was prior to development. He supplied photographs of various roads within the County to the Commission and then explained, that after discussion with VDOT, that the developer could put in a right-turn lane without obtaining additional right-of-way. He stated VDOT had indicated that they would like to see a minimum of a 22 foot travel way. He spoke of the standards that VDOT suggested for new subdivisions and then showed examples of existing roads that carried typical amounts of traffic noting that those roads were less than the 22 foot requirement. He explained that at full development of this subdivision the impact would be no greater on Powhatan Springs Road than it was on the examples he had shown. He also noted that the traffic would decrease with the completion of Alternate Route 5. He concluded by asking the Commission to approve this applications.

John Hagee asked how the developer would ensure that the 18 homes would be low-cost housing.

Greg Dodd stated they presented a proffer that did need some word smithing regarding the low-cost housing. He also ensured the Commission that he had also spoken to Rick Hanson of Housing and Community Development and the applicant would place those 18 homes on their inventory. He stated those homes would be in the \$90,000 range and the remaining homes would run \$105,000 to \$125,000 depending on the options the homeowners chose.

Wilford Kale asked if the applicant was locked in on the three year phrase or would other wording be adequate.

Greg Dodd stated he tried to explain to staff that the developers intent would be to have the development completed within three years but if all the off-site improvements were not completed in time the cost could become a factor in building the homes. He noted if the economy was doing well, then the applicant might be able to extend the three-year period. He stated the applicant would entertain other language regarding the affordable housing.

John Konstantinu, an attorney representing the applicant, stated that he had spoken to the County Attorney in order to work out the language regarding the 18 low-income homes within the subdivision. He stated that they came to an understanding and what they would do was to give the 18 homes to the JCC office of Housing and Community Development and the real estate company working with the applicant would handle the remaining home sites.

J. D. Wright of 4484 Powhatan Crossing and representing the Homeowners Association stated that 88% of the homeowners were strongly opposed to this development and asked the Commission to consider the cumulative aspect of all development that had not yet been completed or even started. He continued to state that the number of homes proposed was too great for this site and felt that significant environmental damage could occur to the area. He discussed the concerns of the homeowners regarding traffic and schools. He stated the homeowners felt this proposal fell far short of the standards they had set for James City County. He concluded by stating that their friends and neighbors, and the voters of James City County deserved the Commission's full support in protecting their quality of life in the County.

Julie Leverenz of 3313 Running Cedar Way and president of Historic Route 5 Association spoke on behalf of the HR5A to support staff's recommendation of denial. She spoke of the merit and concept that the developer was proposing but also noted that the HR5A could not support this in its present configuration. She elaborated on the concern of traffic and topography. She asked that the Commission deny this application.

Nickie Lunsford of 3604 London Company Way and president of Jamestown 1607 spoke on the concerns of the traffic on Ironbound Road but more importantly on the impact this development would have on the Powhatan Creek. She spoke about the flooding in her subdivision due to Hurricane Floyd and the improper construction of the ponds. She stated the County needed to address the problems existing in neighborhoods along the creek before they considered any additional construction. She asked to Commission to deny this application.

Hampton Jesse of 3500 Hunters Ridge spoke of his concerns regarding the 25° slopes and said in walking the area, he noted that the property was very hilly. He stated with the combination of small lots on this type of topography, he felt there would be some severe water problems. He stated he supported the concept of affordable housing and said the proffer offered needed to be more specific and suggested the proffer guarantee that the 18 homes would remain affordable.

Joe Terrell spoke stating the citizens speaking against this application didn't want it in their backyard or because they would have to wait two extra minutes at the light. He stated that someone paying \$90,000 for a home had the same rights as someone paying \$200,000 for a home and said

that factor was never considered. He spoke on the procedures and costs of developing a subdivision and why he had the three year limit on the completion of the 18 affordable housing lots. He stated the County had a backlog of seventy-four people who needed affordable housing and felt that as soon as the roads were put in construction could begin and the 18 lots would be sold. He also felt that Alternate Route 5 would alleviate some of the traffic on Ironbound Road and felt it was not a concern. He concluded by stating that in planning, one builds from the core out and this was indeed a good location for this project. He requested that the Commission approve his application.

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

Martin Garrett asked if the existing roads, mentioned by Greg Dodd, that did not meet VDOT standards were maintained by the state, such as Cooley Road.

Marvin Sowers stated the state did maintain the roads. He said the county relies on the state for widening roads when necessary with the Six-Year Secondary Road Plan. He stated the older roads, such as Cooley Road and John Rolfe were solely maintained by VDOT and if VDOT felt roads should be widened they would place them on its Six-Year Secondary Road Plan. The other roads mentioned were constructed at an earlier date and did meet the current VDOT standards.

Martin Garrett stated one of his concerns was the traffic and the road itself that lead to the development but he was even more concerned about the environment.

Willafay McKenna stated that the proffer as written appeared to be modified by the letter of explanation and the statement made tonight by the applicants. She asked where they stood since the proffers were signed by the property owners.

Leo Rogers stated that there needed to be signed proffers for this meeting tonight in order for the case to go forward. He stated that in reviewing the proffers, there were some deficiencies and their intent might not be clearly explained in the language of the proffers and there could be an amendment to the proffers prior to the next Commission meeting or to the Board of Supervisors if the Commission acted on this application tonight.

Joe Poole felt this application had little to do with affordable housing from his perspective because it was only 30% of the development. He stated that due to the density proposed for this site and the impacts it could generate he could not support this application.

Joe Poole made a motion, seconded by Peggy Wildman, to approve staff's recommendation of denial. In a roll vote, motion passed 5-2. AYE: McKenna, Kale, Poole, Wildman, Garrett (5); NAY: Hagee, Hunt (2).

John Hagee commented that even though there was only 30% proposed for affordable housing there was also a need for the proposed homes in the \$125,000 range and that needed to be taken into consideration. He stated he had no problem with Powhatan Springs Road regarding its width but had a question about traffic on Ironbound Road and how Alternate Route 5 would effect it and asked staff if that information was available.

Marvin Sowers stated information is available in the 1997 Comprehensive Plan Update and the plan did consider Alternate Route 5 and the analysis at that time concluded that Alternate Route 5 would off load some of the traffic but not enough on that particular section of Ironbound Road to avoid the need to 4-lane it in the future. He stated currently they were working on updating the Regional Transportation Plan, and estimated that in another twelve months there would be a re-evaluation of that area but it would be completed before Alternate Route 5 is actually open.

John Hagee also spoke of the drainage situation and how it affected the Powhatan area. He commented that in the report it stated the drainage situation would be better after the development of the site as opposed to how it currently existed. He stated he did not see anything in the plans that refuted that and asked if there was something that he had not seen.

Jill Schmidle stated that the proffer language as written assured that the post development drainage would be less than pre-development based upon the Environmental Division Standards.

John Hagee asked if there were any environmental issues.

Jill Schmidle stated staff believed the environmental issues on the property could be mitigated by the special use permit conditions and the proffer.

John Hagee stated if the mitigation on the environmental was correct, then the focus for him would be on Alternate Route 5. He felt that the road would off-set the traffic at least for the minimal amount at this area of Ironbound Road. He felt that whatever is developed on the property would add traffic on Ironbound Road. He said his biggest problem was the fact that Mr. Greisenauer had owned the property a long time and paid taxes on it and from what he had been hearing that perhaps the owner would have to wait until 2015 when the 4-lane road was constructed before he could develop his property. He felt the Commission should look at the big picture and put this development into context. He concluded by stating Ironbound Road was his main issue and requested additional information and would consider deferring this case.

Martin Garrett stated he philosophically disagreed. He stated his feeling as a Commission member was the need to protect the public and not the private property owner and to have a better community.

John Hagee stated it wasn't that he didn't want to protect the public but he felt this particular application was well within the bounds of what was required for the development. He believed the impact was in the traffic but felt it would be mitigated by Alternate Route 5. He liked the fact that this was a higher density project in an area that was suited for higher density. He again suggested deferring this case.

Wilford Kale stated, as he has expressed before to the Commission, that he had a problem with the density and said he could support the concept but not the number of units. He stated for the record that if someone came in with a cluster, he would want to see something that was unique and nice. He said he did not think that affordable housing made something unique and nice. He said he wanted to see a design that made it better than the one across the street. He also stated that if an applicant had a density like the one before them tonight he would not support it. He commended the developer for the work he has done but felt that this project was not suited for the location and could not support the application.

John Hagee spoke about the Residential Zoning Ordinance Update Committee and said in the process of reviewing the ordinance they looked at cluster development and discussed whether they should specify what should be in a cluster or allow the developer to present a proposal. He said the decision of the committee was to specify what they wanted to see, such as buffers, setbacks, density standards, streetscape guidelines, recreation facilities, etc. He said if the Commission wanted to continue to discuss clusters, he wanted to know what was considered a quality cluster development.

Martin Garrett stated that what the Commission has seen in clusters was nothing other than detached single-family unit homes with the exception of one.

John Hagee stated they were detached single-family units with all the required conditions and asked what more did the Commission want.

Martin Garrett stated they wanted something more along the lines of what Wilford Kale suggested.

John Hagee said he felt very frustrated after working for over a year on the ordinance and hearing comments like those heard tonight.

Martin Garrett commented that both he and John Hagee have agreed that the cluster ordinance they passed was not working.

Willafay McKenna stated she visited the site and was concerned about the width and safety of the roadway to the property and felt one entrance into the subdivision with 62 families was dangerous. She didn't think it passed the Adequate Facilities Schools test. She felt the concept was a good one but because the area was not a pedestrian friendly one, it was not the right location for this proposal and could not support this application. She commented on a remark by Julie Leverenz that no building be done in the Powhatan water shed area below the 50 foot line. She said she would like to see what would be developable. She felt they did not have enough information in order to consider this proposal. She could not support this application at this time due to her concerns.

Don Hunt asked if the Commission would now be denying every development plan that they see based on the fact that it endangered public safety.

Martin Garrett stated there were a few members who suggested deferring this case in order to acquire more information. He felt that they would not get sufficient information to make the vote any different.

Joe Poole made a motion, seconded by Peggy Wildman, to deny this application. In a roll call vote, motion passed (5-2). AYE: McKenna, Kale, Poole, Wildman, Garrett (5); NAY: Hagee, Hunt (2).

10. CASE NO. ZO-1-00. SIGN ORDINANCE AMENDMENT - EXTERIOR SIGNS.

Jill Schmidle presented the report stating staff received a request from John Deere Vehicle Group to revise the sign ordinance in order to allow larger free-standing monument signs. Staff was informed that a 45.5 sq. ft. sign had been ordered and shipped to the site in advance of the company applying for a sign permit or discussing the sign with staff. She stated that the current zoning ordinance allows for a 32 sq. ft. sign for the specific on-site location where it was proposed and noted that the sign has not been erected. She stated that John Deere Vehicle Group had applied for a variance from the Board of Zoning Appeals and it was clear to staff that there was no legal hardship in this case warranting the variance. She stated that John Deere subsequently sent a letter to the County Administrator requesting that a Zoning Ordinance amendment be made to accommodate their request and that it apply to industrial parks. At this time, the Board of Zoning appeals case had been deferred pending the outcome of the proposed amendment and in late August John Deere submitted a revised sign permit application moving the sign to an on-site location that permits the requested 45.5 sq. ft. sign, but had not withdrawn its Zoning Ordinance amendment request. Staff recommended that the Commission make no changes to the sign ordinance. Staff found that permitting larger free-standing signs for industrial uses in industrial parks was inconsistent with the Comprehensive Plan and would set a precedent for larger signs in the county.

Martin Garrett opened the public hearing.

Phil Tuning of John Deere Management Group spoke on behalf of the company stating that one thing that attracted John Deere to the community was the clear identity of the James City County area and also how the area reflected the traditions and values of John Deere. He spoke of our Comprehensive Plan and stated that they did not think that what they had proposed was counter to that nor did they think it weakened the Comprehensive Plan. He stated that John Deere was not requesting a larger sign, since the ordinance states a sign could go up to 60 sq. ft. if you were 150' from the right-of-way. He said they were asking to allow use of their standard 45.5 sq. ft. corporate sign be placed within the 75' right-of-way. He stated that from the company's perspective they didn't feel this was something favorable for just John Deere, but felt it made sense in a business park. He concluded by asking the Commission not to support staff's recommendation of denial.

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

Joe Poole made a motion that was supportive of staff's recommendation to leave the ordinance as it now stood simply because of his concern of setting a precedent that might encourage others to seek amendments that would enlarge sign sizes throughout the county.

Willafay McKenna seconded Joe Poole's motion and recalled just how long and hard the Commission and Board of Supervisors worked on this ordinance and felt the ordinance had worked well for the county.

John Hagee stated the Commission could have the same problem if another company came to the County and their corporate sign was actually 55'. He said he hoped that the applicant understood the situation the Commission was in and that they could not continue to change the parameters to meet the needs of everyone who came to the county. He supported the staff report.

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

11. PLANNING DIRECTOR'S REPORT

Marvin Sowers reminded the Commission members of the upcoming special meeting on October 6, 2000, at 9 am in which the Board and Commission will discuss the Comprehensive Plan Update Process. He said information would be sent out to the Commission members.

Joe Poole asked what the next steps were for Rt. 199 and Jamestown Road area.

Marvin Sowers stated staff was getting the vast amounts of information together in a more digestible format to give to the Board of Supervisors and City Council members by mid-September. He said there would be some work sessions with the elected officials in advance of any decision being made.

Martin Garrett asked Joe Poole if the committee came up with any decision on the alternative for that intersection.

Joe Poole stated that they did, but unfortunately he was not a part of it since he was out of town on the day the committee voted.

Wilford Kale asked staff to take a look at the ordinance because he had concerns about signs inside buildings. He stated he had seen several businesses that had 5 or 6 neon signs displayed in their windows. He asked, with all the time that had been spent in design of buildings, landscaping and exterior signs, could the County now come up with some requirements for store interior front signage.

Marvin Sowers said he would give the Commission additional information and stated several years ago staff looked at that particular issue. He also stated there was a large discussion with citizens in the business community and after a lot of controversy, it was decided to keep the ordinance as it now stands.

Wilford Kale felt that this might be something to look at again and suggested that staff see if the signs in windows had increased over the years or if this was just a one-site situation.

Don Hunt questioned whether the County had jurisdiction over interior signs unless there was something obscene displayed in the window.

Leo Rogers stated it was considered commercial advertising on the window and was intended for outside display. He said they had regulated signs inside windows before but not to the extent that Wilford Kale had suggested, but if they were in every available window space, they might be in violation of our current sign ordinance.

Marvin Sowers encouraged Wilford Kale to speak with his contacts in the business community since this was a big issue with them.

Peggy Wildman asked if there was any regulation regarding trucks being prominently displayed on a site that had its sign painted on the side in addition to various smaller signs displayed on the property.


Marvin Sowers stated if there was a situation where this occurred, it should be reported to staff.

12 ADJOURNMENT

There being no further business, Martin Garrett adjourned the September 6, 2000, Planning Commission at approximately 9:55 p.m.



Martin A. Garrett, Chairman



O. Marvin Sowers, Secretary