

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

ALSO PRESENT

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

2. MINUTES

Upon a motion by Willafay McKenna, seconded by Joe Poole, the minutes of the November 6, 2000, meeting were approved by unanimous voice vote.

3. DEVELOPMENT REVIEW COMMITTEE

John Hagee gave the DRC report stating there were five cases presented at the December 1 meeting. He stated the applicant for Stonehouse, Inc. requested a change in the master plan proposing multi-family residential units within Land Bay 10; Ford's Colony submitted a subdivision plan of 98 lots, which requires approval of the DRC; C & N Dining, LLC requested approval of the revised internal entrance locations within Ewell Station; the application for Courthouse Green was brought to the DRC because the project exceeded 30,000 sq.ft.; and in the final case, Greensprings Grocery, the applicant requested a reduction of the front setback requirement from 50 feet to 25 feet. John Hagee stated the DRC made a recommendation of approval for all cases.

Willafay McKenna made a motion, seconded by Joe Poole, to approve the DRC Report. In a unanimous voice vote, motion passed.

4. CASE NO. SUP-25-00. STONEHENGE KENNELS.

Christopher Johnson presented the staff report stating the applicant had requested that the Commission defer this case until its January 8, 2001, meeting. Staff concurred with this request.

Martin Garrett opened the public hearing and stated it would remain open until the next meeting. He said that those who wished to speak tonight could, but stated that comments would have more impact if heard after the presentation of staff and the applicant.

Kay Little of 5580 Riverview Road stated she did not understand why this proposal had to be deferred because she felt that nothing would change in the way the kennel was operated between now and then. She commented that both the noise and traffic were nuisances and any additional runs to the kennel would make the situation worse.

Marvin Sowers stated that the deferral was requested to enable the applicant to schedule a meeting with area residents to speak about some of the issues of concern.

Christopher Johnson stated the applicant was in the process of arranging a public meeting at the Norge Library on Croaker Road on December 13th and would be sending out notification letters to the residents who were most affected by this application.

Randy Roughton of 8360 York River Park Road commented that he was one of the closest residents to the kennel and stated noise was a big problem.

There being no further speakers, the Commission deferred this case to its January 8, 2001, meeting and the public hearing remained open.

5. CASE NO. AFD-8-86. CASEY AGRICULTURAL AND FORESTAL DISTRICT (DIGGES WITHDRAWAL).

Christopher Johnson presented the staff report stating the applicant was requesting the withdrawal of approximately 45.28 acres from the Casey AFD. Staff found that this application met all three criteria of the Board adopted withdrawal policy and staff found the proposal consistent with the surrounding zoning and development and the Comprehensive Plan. Staff stated that on November 16, 2000, the AFD Advisory Committee recommended approval of the proposed withdrawal by a vote of 7 to 0, with three absences. Staff recommended that the Commission recommend approval of this application.

Martin Garrett opened the public hearing.

Gary Besnier of 110 Whistle Walk commented that his property would be most affected by this application and asked if this parcel was to be withdrawn from the AFD, would a church be the best use for the property or would it be better served remaining in the AFD and used for farming or forestry as proposed on September 24, 1996 when the AFD was approved.

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

John Hagee made a motion, seconded by Don Hunt, to recommend approval of this application.

In a roll call vote, motion passed 6-0. AYE: McKenna, Hagee, Hunt, Kale, Poole, Garrett (6); NAY: (0).

6. CASE NO. SUP-24-99/Z-7-99. GRIESENAUER RESIDENTIAL DEVELOPMENT.

Jill Schmidle presented the staff report stating that this case had been referred back to the Commission from the Board of Supervisors at the applicant's request due to changes to the affordable housing proffers. Staff supported the revised affordable housing aspect of this application but continued to find that the significant traffic impacts outweighed the affordable housing benefits. Staff recommended denial of the rezoning and special use permit applications and stated if the Commission chose to recommend approval, staff recommended the conditions outlined in the staff report.

John Hagee stated that he understood from the report that staff's main issue was Powhatan Springs Road and its upgrade. He asked if the upgrades were done, would staff then recommend approval. He also asked if there was anything else regarding the mitigation of traffic other than Powhatan Springs Road.

Jill Schmidle said staff probably would recommend approval but staff also had some concerns about the right-of-way along Ironbound Road for a turn lane. She stated that since the last Planning Commission meeting, staff had received a letter from VDOT stating that the right-of-way was probably there and if this was the case this would no longer be an issue for staff.

Martin Garrett opened the public hearing.

Greg Dodd of Horton and Dodd was representing the applicant, Joe Terrell, in his endeavor to rezone this property for affordable housing. He stated that based on information and discussions for the need of affordable housing, the applicant decided to come back to the Commission to offer 100% affordable housing in the subdivision. He stated Rick Hanson of the Office of Housing Community and Development had a list of qualified citizens for this type of housing. He stated that regarding the Powhatan Creek Watershed, the applicant was committed to making sure that there would be no detrimental impact on the environment from this development. He commented on Powhatan Springs Road stating he had given the Commission photographs of many roads in James City County that did not meet VDOT standards as they were being defined for this particular road. He stated this was an off-site road and not part of the subdivision and as it presently existed, had the capacity to handle the traffic from the subdivision. He noted the applicant had proffered to improve Powhatan Springs Road to a 22 foot width and said this road could not be compared to Ironbound Road. He concluded by stating that everyone felt it was a worthy project because if offered affordable housing and asked the Commission to realize that the applicant would be improving Powhatan Springs Road even though it would not meet VDOT standards. He said he would be happy to answer any questions of the Commission.

Joe Terrell commented that the application for the church on Ironbound Road would have 8,000 people in attendance on Sundays and traffic did not seem to be a problem. He asked the Commission if they did not have a concern about that traffic why they thought 62 homes would create a traffic problem. He also stated that the Commission approved a similar project near the VDOT offices on Ironbound Road and said that the road was also ranked as a Class C road. He felt if a development was approved for that area, then a development should be approved for this area along Ironbound Road.

Leo Rogers noted to the Commission members that proffer #3 regarding the affordable housing did not necessarily mean that it would be sold to a qualifying buyer but said it could be sold to an investor. He said staff suggested that the proffer be tied to the Housing and Community Development Office with a list of qualified buyers and the developer favorably agreed, but, at this time, had not changed the proffer accordingly. He said these homes could still be sold to buyers on the list but it was not required by the existing proffer.

Stephen Deer of 1304 London Company Way spoke on the issue of water drainage in the Powhatan Creek Watershed which was his main concern of this project. He asked that the Commission deny this application.

Julie Leverenz of 3313 Running Cedar Way and representing the Historic Route 5 Association spoke in support of staff's recommendation for denial of the application. She handed out copies of her presentation to Commission members then spoke of the concerns of the Powhatan Creek Watershed based on the Watershed Management Plan Study and the traffic on Ironbound Road stating that the increased traffic from this development, in addition to the already approved developments nearby, would exceed the capacity of this two-lane road. She noted that Ironbound Road near the VDOT offices was scheduled to be widened to four lanes, whereas the area in discussion tonight was not. She concluded again by requesting that the Commission deny this application.

John Hagee asked what would be the impact on the watershed caused by development north of the proposed project.

Julie Leverenz stated that researchers had divided the watershed into 10 or 12 subzones and they listed the level of impervious cover as noted on Table One of the handout she supplied to the Commission members.

John Hagee asked whether it made a difference how close it was to certain areas of the watershed and would the development in the northern area of the watershed have less of an impact than the development closer down stream.

Julie Leverenz stated she was not qualified to answer that question. She continued her presentation to the Commission and concluded by requesting again that the Commission deny this application.

Beth Deer of 1304 London Company Way thanked John Horne and Wayland Bass for their efforts in trying to develop a more effective drainage system for the properties located in Jamestown 1607. She stated the property was built in a flood plain and as development continued within the Powhatan Creek Watershed the impact of the creek encroached on their properties because the water had no where else to go. She commented that James City County has always had a problem with a shortage of housing and asked that the County protect the people who were already living in the community before providing housing for those who have not yet moved here. She requested that the Commission deny this application.

Dave Jarmon of 117 Landsdown and Vice President of the Friends of the Powhatan Creek Watershed gave a brief history of the group and their concerns. He noted that in the summer of 2000, James City County contracted the Center for Watershed Protection to develop a Watershed Management Plan for the County focusing on the Powhatan Creek Watershed. He stated that the proposed Griesenauer Development on Powhatan Springs was located in a particularly sensitive area of the watershed and that the Friends of the Powhatan Watershed organization felt that any decision on proceeding with this development should be deferred until the Center's Watershed Management Plan had been formally presented to and reviewed by the public and County officials. He said he would be happy to answer any questions of the Commission.

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

Martin Garrett felt that there were three issues, but only two major ones that the Commission should devote to discussion. Those being the infrastructure of Powhatan Springs Road that the applicant had not proffered to bring up to VDOT standards and the SUP that would increase the housing density. He did not feel it was necessary to discuss the issue of adequate public facilities criteria at this time.

John Hagee stated that the Commission owed it to the applicant and to the property owner to look at all the issues. He stated he spoke with staff regarding the Adequate Public Facilities Test for the Clara Byrd Baker School system and due to the redistricting, that issue had been satisfied. He said he hoped that if anyone had a concern about the Adequate Public Facilities Test that they would ask staff to get numbers for them. He stated his main concern at the last meeting was traffic on Ironbound Road. He stated what the Commission did not have available to them was the impact of Alternate Route 5 on Ironbound Road and he felt they needed to know that information. He felt environmental issues should also be looked at. He stated on the discussion of clusters, he and Martin Garrett disagreed in terms of what the cluster ordinance stated and what the intention of a cluster was. He added when looking at low density development of more than two units per acre, it automatically required a cluster development and stated there were no specifications that cluster development needed to be special other than the requirements that appeared in the existing ordinance. He recommended that the Commission review and discuss each item with applicable data and not on just pure conjecture.

Martin Garrett stated it was clear that the project raised the watershed issue but one major concern to him was the lack of infrastructure from the main road into the subdivision.

John Hagee stated at the last meeting, during the presentation of this case, the Commission was given a different perspective on Powhatan Springs Road and he felt at that time several people were convinced that was not an issue. He also stated they spoke of environmental issues and according to staff there were no environmental issues but now we have the Watershed Study. He asked what impact would BMPs have on the watershed if in fact the applicant was proffering to go above and beyond the BMPs requirements. He felt there was a lot more to learn because beside the Griesenauer application of 62 homes, there was the Hiden Tract that had 500 homes. He said if there was no protection of the watershed built into any subdivision that had already been approved, he felt these 62 homes wouldn't make a great difference. He thought in order to protect the watershed further there should be restrictions placed in our Zoning Ordinance and requirements of development. He stated the only thing he was asking was that the Commission put the issues on the table that they think were important to this development, that they discuss those issues and if they felt there was enough information on an issue they could put that issue aside and continue to discuss each issue until they were satisfied with all information before making a decision.

Willafay McKenna said she looked at the project differently. She stated what she saw in the application was an offer of 62 affordable housing units, which everyone wanted, but at a cost and she felt that giving a higher density than ordinarily given in R-2, the possible impact on the watershed, the unmitigated traffic impact at a heavily traveled intersection, and the school impact were too substantial and could not support this application.

John Hagee said he was suggesting that they make an attempt to ferret out all the information and not to jump to any conclusion until they had that information they needed.

Willafay McKenna stated it appeared to her that there should be a deferral of this case and they needed to list the information.

John Hagee said they needed to do one of two things. They could discuss some of the items that they have information on and then ask for information specifically on everything else or they could go down the list and state what they felt they had or still needed.

Wilford Kale said it was not clear to him how staff differentiated the highway department's evaluation of Ironbound Road, which was designated Level of Service "C," and Powhatan Springs which was also designated "C." He stated in the proffer the applicant said he would upgrade to a width desirable for everyone, but would not have shoulders, as a requirement of the highway department. He wanted staff background as to why they accepted one and not the other. He also asked, in relation to the Powhatan Watershed Study, where, on the category identification, the project actually was and what was the impervious situation in this area and what would be the impact based on what the experts thought. He had three concerns: Was this special enough due to affordable housing to override 42 by-right homes; how would this affect the watershed; and how did the County staff view the road the developer had made a proffer to improve. He said he would need more information on these concerns before he could make a decision.

Don Hunt asked what seemed to be the problem with the design of the BMP's as they presently were. If they were mitigating the runoff of the development, how were they inadequate.

Willafay McKenna stated the applicant had proposed that the BMP plan would be much better than what would be required by the County. She questioned whether there was a potential here that by putting a higher density of development on the property that it would tip the scale that would be harmful to everything downstream.

Don Hunt felt the development should not be harmful to everything downstream if it was being mitigated with a BMP. He also felt that the Commission was forcing the developer in this particular area to make up for the development that had already been approved within the Powhatan Watershed.

Willafay McKenna stated the developer had the by right ability to build 42 units but was asking for a higher density that would impose a cost beyond what the County could afford or would be willing to pay for and that was what the Commission needed to look at. She said the cost was not only in dollars but the impact on the environment and other areas previously developed.

Joe Poole stated he was fine with the suggestion that the Commission list the various issues because he had two concerns: traffic along Ironbound Road and the environmental impact. He stated that until Alternate Route 5 was completed and there was quantifiable data on how it was affecting traffic in the area, he said a deferral of one or two months would not change his concerns regarding this project.

Martin Garrett felt no one could disagree with John Hagee's comments but it was also known that they could not have all the necessary information in order for them to assess and make an objective decision. He asked if the Commission wanted to table this application for a long time or go forward with the case.

John Hagee's recommendation was to get a list of issues the Commission wanted additional information on and that this case should be deferred to next month.

Willafay McKenna moved for a deferral with the following items that the Commission needed to have additional information on before they reconvened: the impact on the watershed/environment, vehicle trips per day in and out of the development, the affect on Ironbound Road, the location of the entrance to Route 5, and the redistribution of students at the Clara Byrd Baker School so that the Adequate Public Facility Tests would not be affected by this development.

Martin Garrett commented that the information on the Watershed Study and the impact of Alternate Route 5 would not be available for sometime.

Julie Leverage stated that the final draft of that Watershed Study would to be ready in early December and should be available to anyone requesting a copy.

John Hagee stated that if, in fact, an early draft was available, it would be advantages to them if they could get a copy. He asked for staff's perspective since the Griesenauer project would not be the only impact on the watershed, noting the 500 future homes in the Hiden Tract.

Martin Garrett suggested that the Commission have a work session and questioned what it might do to this case.

John Hagee felt it was up to the applicant as to how long he would be willing to wait for a decision. He felt that if this were to be voted on tonight, it would not be approved. He stated he would like to give the project the time that the Commission needed in order to give it a reasonable, thorough review and felt it would not be time wasted because they would be able to learn a lot relative to what they would need to be doing in other cases that could affect the watershed.

Martin Garrett stated what he was looking at would be at least 90 days before a decision could be made and asked if the developer could wait that long.

Marvin Sowers stated that staff had most of the information pertaining to the watershed analysis and it could be made available to the Commission but he did not know if it would answer their questions. He said the traffic projections were based on models and not actual on-the-ground numbers and said those figures would not be available until the road opened next summer.

Martin Garrett asked if the Commission could legally defer this case until February.

Leo Rogers stated this was a unique case because it was referred back to the Commission by the Board of Supervisors. He said the code stated that the Commission had 90 days from the date the case first came to them before it went before the Board. He noted the Commission had already done that so the code section may not be applicable in this situation but the Commission, if desired, could use it for guidance.

Martin Garrett asked the applicant if he were willing to accept the Commissions deferral of the case.

Joe Terrell stated that his option on the property would expire at the end of the month and said he had been working with the property owner for over two years. He asked if he could get back to the Commission on this matter.

Willafay McKenna made a motion, seconded by John Hagee, to defer this case to the February 5, 2001, with the suggestion that the information requested be provided to the Commission members as quickly as possible and that they have a work session in January.

In a voice vote, motion passed 5-1. Joe Poole stated he could not support the motion and any additional information would not change his mind. He also commented on the possibility of there being two new members of the Commission as the terms of two present members would expire on January 31, 2001.

Marvin Sowers explained there were two Commission members up for reappointment in January, Willafay McKenna and Joe Poole. He stated the members, whether they were reappointed or new, would be seated on February 1, 2001.

Due to the possible appointment of new Commission members as of February 1, 2001, Willafay McKenna asked to amend her original motion and to defer this case until the March meeting with a work session after February 1, 2001.

John Hagee did not feel the need to delay this until March. He suggested that they request the Board of Supervisors expedite their selections so that the Commission could have someone in time for the February meeting.

Don Hunt said they could either do as John Hagee suggested or vote on the application tonight as presented.

John Hagee was not in favor of voting tonight.

The Commission continued to discuss this case and concluded with the Commission voting to defer this case until February and having a work session prior to that meeting.

Wilford Kale asked Leo Rogers if the Commission was under legal constraints when an item was referred back to the Commission, would the case need to be continued by the present Commission.

Leo Rogers stated there was no legal impediment to the Commission in voting. He stated, if new members were appointed, they might abstain from voting because they would not have sufficient information on the case. He suggested that the public hearing be left open so that the potential new members could hear from the public. He also stated that if February was the date the Commission decided to consider this case, they would request the Board make the terms of any new appointments effective on March 1, 2001.

Martin Garrett stated he would send the Commissions sentiments to the Board of Supervisors.

7. CASE NO. SUP-25-00. JCSA ROCHAMBEAU DRIVE WATER MAIN.

Ben Thompson presented the staff report stating the applicant proposed the installation of approximately 1,750 linear feet of 8" or 12" water line along Rochambeau Drive. Staff found that this proposal was consistent with the Comprehensive Plan and previous actions taken by the Board of Supervisors. Staff recommended the Commission approve this special use permit as outlined in the staff report.

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

8. PLANNING DIRECTOR'S REPORT

Marvin Sowers reminded the Commission members that due to the holiday on Monday, January 1, 2001, the next Planning Commission meeting would be held on January 8, 2001.

Martin Garrett requested that the information on Hampton Roads Planning District Commission on Selected Population Trends, that appeared in the Commission reading file, be placed on the James City County web site.

9. ADJOURNMENT

There being no further business, Martin Garrett adjourned the meeting at approximately 8:35 p.m.


Martin A. Garrett, Chair


O. Marvin Sowers, Secretary