

A REGULAR MEETING OF THE PLANNING COMMISSION OF THE COUNTY OF JAMES CITY, VIRGINIA, WAS HELD ON THE SECOND DAY OF APRIL, TWO-THOUSAND AND ONE, AT 7:00 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101-C MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

1. ROLL CALL

Martin Garrett, Chair
John Hagee
Don Hunt
Wilford Kale
Joe McCleary
Joe Poole
Peggy Wildman

ALSO PRESENT

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

2. MINUTES

Upon a motion by Joe Poole, seconded by John Hagee, the minutes of the March 5, 2001, meeting were approved by unanimous voice vote.

3. DEVELOPMENT REVIEW COMMITTEE

John Hagee presented the DRC report stating the Committee recommended approval of three requests for a waiver from Section 24-200 of the Zoning Ordinance which requires all new utilities to be placed underground. He stated the DRC also reviewed and recommended approval of Monticello at Powhatan Apartments, Phase II, which came before them because it exceeded 30,000 sq. ft. and the applicant requested a modification to the sidewalk requirements. The last case was WalMart, Phase II, which they reviewed and recommend approval of prior to this evening's meeting.

Joe Poole made a motion, seconded by Wilford Kale, to recommend approval of the DRC report. In a unanimous voice vote, motion was approved.

4. CASE NO. SUP-2-01. JCSA ROUTE 5 WATER MAIN INSTALLATION.

Paul Holt presented the staff report stating the applicant had requested indefinite deferral of this case and staff concurred with this request.

5. CASE NO. SUP-03-01. COLONIAL VIRGINIA COUNCIL (BOY SCOUTS OF AMERICA).

Paul Holt presented the staff report stating the applicant had requested deferral of this case until the next regular meeting of May 7, 2001, and staff concurred with this request.

6. CASE NO. ZO-1-01. TIMBERING BUFFER ORDINANCE AMENDMENTS.

Marvin Sowers presented this report stating the Board directed staff to prepare several amendments to the ordinance. The purpose of these amendments was to further discourage unauthorized timbering within required buffers and to improve enforcement activities in the event of any violations and maximize the public benefits of required plantings. Staff recommended that the Planning Commission approve the ordinance amendments as outlined in the staff report.

Don Hunt commented that once an area was timbered and replanted and those trees reached twelve to fifteen feet it provided a screen again. He felt there should be some provision to allow the owner to go into the buffer area and harvest some of those trees.

Marvin Sowers stated there was a provision already built into the ordinance that would allow the property owner to do partial timbering in the buffer areas.

Wilford Kale asked what were the civil fines per occurrence as suggested in item #5 of the proposed ordinance.

Leo Rogers stated that this fine was not for clearing the buffer but for failure to do the replanting.

Wilford Kale asked if the fine was per day or per occurrence.

Leo Rogers stated the clearing would be one offense and then the maximum the County could cite the property owner would be once every ten days per offense. He said that in the summons form, it had to state when the violation occurred and the next time the land owner could be cited was ten days later and so on.

Wilford Kale asked Leo Roger to give a better example because he felt the penalties offered here would not deter someone from timbering the buffer area. He asked if the County had enforced everything on the incident that occurred on Olde Towne Road, what would be the fine and what penalties would go on that piece of property.

Leo Rogers stated that on the Olde Towne Road site, there were two properties timbered in both buffer areas along Olde Towne Road and Route 199. He stated there were two violations and they could both be cited criminally for up to a \$1,000 fine under the Zoning Ordinance for timbering in the buffer. In addition, if a timbering plan was not submitted within thirty days, the County could charge up to \$100 every ten days up to \$3,000 per violation. It could then result in an additional maximum fine of \$6,000 and then the land owner would still be required to replant the buffer, which they estimated on Olde Towne Road to be upwards of \$20,000 to \$25,000 dollars.

Marvin Sowers stated the replanting is the primary financial deterrent for timbering the buffer.

Joe Poole asked if additional comments had been received by the Board or citizens regarding these changes.

Marvin Sowers stated the Board directed staff at its work session in November to make changes to the ordinance and staff brought those changes to the Board in February. He stated that the ordinance was also given to the Chair of the Agricultural and Forestal District Advisory Committee and the State Forestry Department, but no comments had been received.

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

Joe Poole made a motion, seconded by Wilford Kale, to approve this ordinance. In a roll call vote, motion passed 7-0. AYE: Poole, Hagee, Wildman, Hunt, McCleary, Kale, Garrett (7); NAY: (0).

8. CASE NO. ZO-2-01. MIXED USE DISTRICT ZONING ORDINANCE - PRIVATE STREET AMENDMENTS.

Allen Murphy presented the staff report stating the purpose of the amendments was to establish a process for the review of construction and design and approval of private streets in the Mixed Use zoning district. Staff recommended the Planning Commission recommend approval of this proposal.

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

John Hagee made a motion, seconded by Peggy Wildman, to approve these amendments. In a roll call vote, motion passed 7-0. AYE: Poole, Hagee, Wildman, Hunt, McCleary, Kale, Garrett (7); NAY: (0).

9. CASE NO. SUP-5-01. BRUCE'S SUPER BODY SHOP.

Jill Schmidle presented the staff report stating the applicant had applied for a special use permit in order to construct a 24,150 sq. ft. building for vehicle services with major repair limited to a fully enclosed building. Staff found this proposal to be consistent with surrounding zoning and land use and the Comprehensive Plan. Staff recommended the Planning Commission recommend approval of this proposal as outlined in the staff report.

Joe Poole commented on the large number of parking spaces that the applicant was offering and asked the applicant to address that issue.

Wilford Kale had concern about the revised condition regarding the gate and curb cut on Olde Towne Road. He stated that according to the revised plan, there was a potential for four curb cuts between the Williamsburg Bowl and the Exxon Station. He felt that if the security gate was going to be open, it would invite everyone to use it and noted that the Commission did everything they could to minimize curb cuts across the street last year when there was an SUP application for the Ewell Station Shopping Center. He felt the Commission needed to also look at this side of the street more closely. He asked that the applicant address the curb cut issue on Olde Towne Road.

Jill Schmidle clarified one item prior to the applicants response. She stated as part of the application, it was the same property owner that owned the adjacent parcel to the bowling alley and they have agreed not to add an additional curb cut when that site is developed. She said the entrance shown for this project would also serve as a joint access for that parcel.

Martin Garrett opened the public hearing.

Vernon Geddy, III spoke on behalf of WWB Partners and stated that the applicant agreed with staff's recommendation and proposed conditions. He explained, in reference to Joe Poole's concern over the additional parking, that the parking plan only showed five more parking spaces than what the ordinance required. He gave a brief history of the two existing auto body shops in the Richmond area and stated the applicant had already contacted the Williamsburg/James City County School Division about setting up a vocational job-training program for local students. He said this was a low traffic generating business and they would be using joint entrances on both Richmond Road and Olde Towne Road with any future adjacent development. He concluded by stating this project would be an excellent addition to the business community and requested the Commission approve this application. He said he would answer any questions of the Commission.

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

Joe Poole said the reason he asked about the parking spaces was due to his concerns of unnecessarily taking down of trees to allow for the additional spaces.

Wilford Kale asked what was the possibility of moving the entrance further down toward the adjacent parcel on Olde Towne Road.

Vernon Geddy stated the applicant would take it under consideration.

Joe McCleary said he had visited the Richmond site and was very impressed with the business operation but shared Wilford Kale's concern of the entrance on Olde Towne Road but felt it could be taken care of in due course.

Don Hunt commented that it would be more preferable to have the tow trucks bring in cars off of Olde Towne than from Richmond Road.

Wilford Kale stated he was unable to visit the Richmond site but had someone go on his behalf and it was reported to him that the business would be an asset to the community.

Joe Poole commented that he was pleased to see that a number of storm water issues would be taken care of in the area through the site plan submitted for this project.

Peggy Wildman stated she was pleased to see this application and felt it was a good location and supported this application.

John Hagee made a motion, seconded by Joe McCleary, to approve this application. In a roll call vote, motion passed 7-0. AYE: Poole, Hagee, Wildman, Hunt, McCleary, Kale, Garrett (7); NAY: (0).

10. CASE NO. Z-6-00. LOULYNN ACRES (Chesapeake Bank).

Paul Holt presented the staff report stating the applicant had requested a rezoning and special use permit for a master plan in order to construct a new branch bank on the 9.8 acre parcel plus four buildings of 6,000 sq. ft. each and being one or two stories. Staff found the proposal was not compatible with immediately surrounding uses and zoning and found the proposal inconsistent with the Comprehensive Plan. Staff recommended denial of this application.

John Hagee asked why staff felt this was a strip development and what retail would staff be concerned about.

Paul Holt stated staff believed it was a fairly straight forward strip commercial development having five uses with five equal parcels straight across the entire frontage of the site all facing Rochambeau Road.

John Hagee said that looking at the master plan it appeared to be more of a cluster than straight strip development because parking would be on the sites and there was significant landscaping all around. He felt if this was mixed use and these were offices, there wouldn't be much of a difference as far a layout and believed it had a lot of merit.

Don Hunt also agreed that the proposal did not look like a typical strip development. He said from the area in which the bank would be situated, it slopes down to the bottom so the different buildings would not be on the same level.

Paul Holt stated the topography was not great in that area but staff's concern on the commercial uses as mentioned in the staff report were two-fold. First, was to make sure they could adequately mitigate impacts of commercial uses on the surrounding area and second, to make sure they kept commercial as a secondary use as recommended in the Comprehensive Plan. He said at this point there was no limitation on commercial uses and commercial uses could occupy the other four sites entirely.

John Hagee asked if one restaurant out of four buildings would constitute a secondary use.

Paul Holt stated if the other three were developed as office, it might be considered secondary.

Marvin Sowers stated the applicant had proffered out a number of uses which mitigated some concerns but, there still could be impacts such as, odor from dumpsters near adjacent properties, cooking odors from a restaurant, outside music, outdoor machinery, etc. that were not addressed in the proffers.

John Hagee suggested rather than the applicant proposing this as B-1 and leaving it wide open, they propose Mixed Use since this is what the Comprehensive Plan designated.

Marvin Sowers stated that when the mixed use ordinance was created, it was created with the assumption that a specific plan of development would be provided and the uses would be indicated on the plan and approval would be based on a high certainty of future use rather than remaining speculative. He also stated the Comprehensive Plan encouraged this area to be primarily office and light industrial which would have little to no impact on the neighborhood.

John Hagee asked what staff's recommendation would be for this property.

Paul Holt stated staff did not have a specific recommendation in terms of a district, but as mentioned before, staff was reacting to the proposed site layout, the access to Route 30, and what they consider to be strip development rather than the list of permitted uses.

Martin Garrett opened the public hearing.

Vernon Geddy, representing Chesapeake Bank, gave a brief history of the bank and gave a presentation of why this particular parcel was chosen by Chesapeake Bank. He stated the applicant felt that future development in James City County would occur in the western part of the County. He said the applicant would have preferred to come before the Commission with just the bank site but they had to purchase entire parcel of 9.8± acres; therefore, they were before the Commission tonight with a master plan. He stated by providing banking, perhaps dining, professional, and other service type businesses it would enhance the desirability of the Stonehouse Commerce Park. He said the applicant and the consultants had two community meetings in which the adjacent neighborhood had the opportunity to express its opinions of what it would like to see and not see on this property. He said this plan was substantially redesigned after the first meeting by eliminating an entrance, moving and redesigning the storm water management facility, and installing berms. He stated this plan represented the applicant's best efforts to satisfy all the concerns that had been voiced. He stated that the Comprehensive Plan guidance of staff had been in conflict with the clear consensus of the neighbors and the applicant had done what the neighbors asked. He believed the applicant proposed an excellent project for this site; one that would create a positive fiscal impact for the County, provide services to those living and working in the area, and be a good neighbor. He asked that the Commission recommend approval of this application.

Charlie Crawford, a general partner of Loulyn Acres, felt this was a good opportunity to enhance the area and stated that as one of the applicants they listened to the concerns of the neighbors but stated staff did not in regard to the entrance on Old Stage Road. He asked that the Commission recommend approval.

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

Wilford Kale asked if it was the desire of the applicant to plan buildings and then find tenants or find tenants then plan the buildings.

Vernon Geddy stated they would find tenants then plan the buildings.

Wilford Kale asked if they would be prepared to consider the possibility of putting on paper that if one building were to be entirely retail that it would only be one story.

Vernon Geddy stated they would consider that.

Joe Poole said he was very impressed with the applicant and the steps they took to hold community meetings. He stated the applicant had been very effective in rehabilitating existing structures elsewhere, noting the Five Forks location and the one in the City of Williamsburg. He said if this was just one area for the bank, he could support the application, but to rezone 9± acres from A-1 to B-1 and not know what else would go on the site left him uncomfortable. He said at this time he could not support this application.

Wilford Kale said he liked some aspects of this application and agreed with the applicant regarding no entrance on Old Stage Road. He stated as he looked at this plan he did see a strip of buildings but he had a problem of rezoning an area without knowing what would be there beside the proposed bank. He also said he was not comfortable with the application before them tonight and could not support it.

Peggy Wildman commented that the Board of Supervisors made it was very clear that, when they designated the land as Mixed Use they did not want the area developed in a strip type fashion but rather oriented internally with no driveway access to Route 30. She said that was one issue of concern in not recommending approval of this application. She added that this application had no specific information as to what types of uses would occupy the buildings. She concluded by stating she was impressed with the plan and the quality and reputation of the applicant but said that was not the issue.

Don Hunt stated that he had no objection whatsoever to this project and supported the application and said he respectfully disagreed with the other Commission members.

Joe McCleary echoed the concerns of Commissioners Wildman, Kale, and Poole. He also had concern over not having an entrance off Old Stage Road because of the dangerous left-hand turn one would need to make off of Route 30 to enter into the site. He said he could not support this application.

John Hagee stated he liked the layout of this plan and also felt there was a need to work on having a second entrance but this could be resolved. He said he reviewed the permitted uses and those uses that needed a special use permit. He commented there were several uses that the adjacent neighborhood stated they would not want and uses such as, libraries, houses of worship that would not fit due to size and felt the Commission should also have the opportunity to indicate which uses they would want the applicant to consider removing. He said if the applicant had offered architectural restrictions which would require the other buildings to have the design features of the bank and with a variety of footprints and one story versus two story, this site could create a village type setting. He stated he saw some things he liked and the plan was visually attractive and could be made more attractive and create a village by adding variety to the buildings' footprints, but he did not want to leave the door open for something else to come along. He supported this application but felt it needed more work.

Wilford Kale stated he understood and liked what John Hagee had said but he didn't see it on the plan. He didn't see a village type of feeling but felt the attempt was there. He asked the Commission if they felt there would be a usefulness in postponing the vote for another month to allow the applicant to consider what was being said tonight.

John Hagee had no problem and hoped that in the interim the Commission could look to see what they didn't like in the way of other uses and to at least voice its concerns as the adjacent neighborhood had done.

Vernon Geddy stated the applicant would request a deferral to give them an opportunity to reflect on what they heard tonight from the Commission.

Martin Garrett commented that there were other pieces of property that the Commission could approve this type of application and there would not be negative spillovers onto the adjacent property. He felt that in this case, there could be a negative spillover depending on the type of development and, therefore, the Commission was concerned about what would go there and before they could vote in favor of this application there needed to be some type of agreement on uses.

Don Hunt asked how specific did the Commission intend to define what they wanted.

Wilford Kale stated it would be the applicant's job to define what types of businesses would be on the site.

Martin Garrett also stated another concern that needed to be addressed were the two entrances and the location of those entrances. He said if there was an entrance on Old Stage Road, only a small portion of that road would be used and it would not have any impact on the neighborhood.

Joe McCleary stated that if there was an entrance on Old Stage Road, it would be a positive impact to the neighborhood since they could use that entrance without having to get out onto the main road and making two left-hand turns to get to the site.

Vernon Geddy stated the applicant had proffered out specific uses that were objectionable to the adjacent neighbors and if there were any additional uses that were objectionable and could be communicated to staff, the applicant would work with them.

Martin Garrett again commented on the entrance off of Old Stage road.

Vernon Geddy stated the applicant agreed with the Commission regarding that entrance and it was included on the original plan but after two meetings with the community, it was very clear that they did not want it and it was deleted from the plan.

Wilford Kale suggested that a representative from that neighborhood attend the next meeting and give the Commission their viewpoint.

John Hagee recommended this case be deferred per the request of the applicant. Motion was seconded by Wilford Kale. In a unanimous voice vote, motion passed.

11. PLANNING DIRECTOR'S REPORT

Marvin Sowers stated the Board was having a work session on April 25 at 4 p.m. to discuss a citizen survey, which would be a prelude to the Comprehensive Plan update.

Marvin Sowers stated the James River Association, in cooperation with Charles City County, James City County, and New Kent County, will have Randall Arendt as speaker for the Growing Greener workshop to be held on May 3, 2001, at the Croaker Road Library.


Marvin Sowers informed the Commission of two cases coming before them on May 7, and suggested they make a site visit. He said the first case was for the Jolin Kennels off of Ware Creek Road and the other was the Williamsburg Christian Retreat on Barnes Road.

Marvin Sowers asked that when the Commission Chair adjourns the meeting tonight he instead recess the meeting to April 4, 2001, for the purpose of visiting Heritage Hunt in Gainesville, VA.

12. ADJOURNMENT

There being no further business, the April 2, 2001, Planning Commission meeting adjourned at approximately 8:50 p.m.


Martin A Garrett, Chair


O. Marvin Sowers, Jr., Secretary