

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

1. ROLL CALL

A. Joe Poole, III
Peggy Wildman
John Hagee
Donald Hunt
Joseph McCleary
Wilford Kale
George Billlups

ALSO PRESENT

Leo Rogers, Deputy County Attorney
O. Marvin Sowers, Jr., Planning Director
Patrick Foltz, Development Management Assistant
Tammy Rosario, Senior Planner
Christopher Johnson, Senior Planner
David Anderson, Senior Planner
Lee Schnappinger, Senior Landscape Planner
Matthew Arcieri, Planner

2. MINUTES

The Commission approved the minutes for the closed session on February 2, 2004 with a unanimous voice vote.

Mr. Joe McCleary suggested an addition to page eight of the minutes of the regular meeting of February 2, 2004. He suggested adding the phrase "which reduced the number of permitted lots to two additional lots."

Mr. Joe Poole suggested a further addition "new appointments will be made at the March meeting following the requested input of Planning Commission members."

Mrs. Peggy Wildman moved to page 11 and requested that her name be added to the roll call vote to reflect her action at the February meeting.

Mr. McCleary moved to approve the minutes of the February 2004 Planning Commission as amended.

Mr. Wilford Kale seconded the motion. The amended minutes were approved by a unanimous voice vote.

3. COMMITTEE AND COMMISSION REPORT

A. Development Review Committee (DRC) & Policy Committee Appointments

Mr. Poole addressed committee assignments and delivered a short description of the duties of each committee. He then made the new appointments. Mr. George Billlups, Mr. McCleary, and Mr. Poole were appointed to the Policy Committee with Mr. Kale as the chairman. Mr. Jack Fraley, Mrs. Wildman, and Mr. Donald Hunt were appointed to the DRC with Mr. McCleary as the chairman.

B. DRC Report

Mr. McCleary, chairman of the DRC, presented the DRC report. The DRC heard ten cases at its February 25th meeting. Two were consent items. The first, a conceptual plan for three new emergency communications towers, the DRC found consistent with the comprehensive plan. For the second, case S-006-04/SP-009-04 for Colonial Heritage Sections 3 and 3A, the DRC recommended that the Planning Commission grant preliminary approval subject to agency comments.

On the regular agenda the DRC recommended the Planning Commission grant approval to the following cases: SP-129-03, Busch Gardens Oktoberfest Expansion; SP-003-04, WindsorMeade Villas; SP-004-04, WindsorMeade - Windsor Hall; SP-139-03, New Town Block 8, Phase 1A; and SP-140-03, Pocahontas Square. For S-002-04, The Settlement at Monticello Phase 1, the DRC ruled it consistent with the master plan for that area and recommended preliminary approval subject to agency comments. The DRC also approved an extension for a temporary sales sign at the entrance of Brandon Woods and off-site, shared parking, and reduced parking requirement for New Town in accordance with the New Town Design Guidelines.

In a unanimous voice vote the Planning Commission approved the DRC report.

C. Policy Committee Report - Streetscape Guidelines Policy Revision

Mr. Poole recognized Mr. Kale, chairman of the policy committee. Mr. Kale asked Ms. Lee Schnappinger to summarize the findings of the committee.

Ms. Schnappinger outlined the revisions proposed by the policy committee. The recommendations include clarifying the distinction between landscape easements and utility easements, providing a recommended plant list and dates for planting, and requiring that planting be bonded.

Mr. Poole solicited any further questions, and Ms. Schnappinger recognized Mr. Basic and Mr. Peters of AES, who consulted on this issue.

Mr. Kale informed the commission that VDOT was changing its policies to allow more urban areas to place underground utilities and more rural areas to place utilities above ground. Mr. Kale cited this policy shift as a threat to the appearance of James City County's roadways and suggested that the Commission and staff enter into more serious discussions on these issues. He asked Ms. Schnappinger to explain the unique landscaping problem posed by easements.

Ms. Schnappinger responded that VDOT recently revised its policy concerning utility placement and no longer permits underground utilities to be placed underneath road rights-of-way; instead, separate utility easements must be placed in the streetscape area adjacent to the highway, a change that conflicts with current streetscape guidelines.

Mr. Poole requested more information into the specifics of the issue.

Mr. Kale clarified the policy changes and their potential implications, and further offered to re-introduce this issue at the Planning Commission's April meeting.

Mr. McCleary suggested that the Builders by the Bay roundtable, as it deals with similar issues, would be good forum to discuss this concern.

Mr. Kale reiterated the importance of pursuing the initiative directly.

Mr. Fraley solicited the opinion of staff members and of different agencies.

Mr. Sowers responded that the initiative to include utilities in the road right-of-way originated in the 1997 Comp Plan and that staff would like to see this initiative continued.

Mr. Poole agreed with Mr. Sowers and asked if Mr. Kale would consider moving on the issue through Builders for the Bay roundtable.

Mr. Kale moved for the approval of the revised streetscape guidelines. The motion was seconded by Mr. McCleary.

In a unanimous voice vote the motion was adopted.

Mr. Kale moved that the Commission go on record with its concern about the change to VDOT regulations on placement of utilities in new roads and rights-of-way.

Mr. Fraley seconded. The motion was adopted unanimously by voice vote.

D. Other Committee Reports

Mr. Poole solicited any other committee reports. Hearing none, Mr. Poole opened the public hearings.

IV. PUBLIC HEARINGS

A. Z-11-03 & MP-11-03 - Stonehouse Modifications

Mr. Poole briefly explained the new speaker time limit system for applicant and citizen comment.

Mr. Matt Arcieri stated that Mr. Alvin Anderson, on behalf of Stonehouse LLC, had requested deferral of the case to the April meeting of the Planning Commission in order to resolve issues between the proposal and the Stonehouse master plan and proffers. Staff recommended deferral.

Mr. Greg Davis, representing Stonehouse LLC, summarized the proposal as housekeeping changes limited to the appearance and overall aesthetic of the Stonehouse Development. Mr. Davis stressed the size of the proposed areas to be modified, noting their small size in relation to the overall Stonehouse Development Plan. The plan proposes a rezoning in Land Bay Three from commercial to residential, a combined fifty-acre school site, a ten-acre desalinization plant site, an expanded homeowner's association, and proffers requiring shared maintenance agreements. Additional changes include a realignment of Fieldstone Parkway, a phasing plan, a water conservation plan, enhanced access and bikeways, and a density tracking mechanism.

Mr. Kale asked Mr. Davis where the Stonehouse Presbyterian Church property was relative to Land Bay Three.

Mr. Ken McDermott, of Stonehouse LLC, responded that it was further up the road.

Mr. Kale asked if the precise area of the proposed changes, totaling 209 affected acres, had been conveyed in the applicant's presentation.

Mr. Davis responded that the land bay diagrams showed the approximate areas rather than precise surveys.

Mr. Kale asked how rezoning seventy commercial acres to residential would affect overall housing unit and density numbers.

Mr. Davis answered that only a forty-acre portion would be designated for residential use but, since residential unit count and density figures are capped in the Stonehouse Master Plan, that this change would neither add new units nor increase overall density.

Mr. Poole opened the public hearing.

Hearing no other requests to speak, Mr. Poole deferred the case until the April 5th meeting.

Mr. Sowers thanked Mr. Davis for his presentation and continued cooperation with staff to resolve outstanding issues.

Mr. Poole commended the County and the applicant on the cooperative spirit demonstrated with the application.

CASE NO. SUP-24-03 - Communications Tower - 3135 Forge Road

Mr. Arcieri stated that Mr. Richard Miller, on behalf of James City County Fire Department, requested deferral of this special use permit until the April 5 meeting of the Planning Commission in order to allow more time to work with adjacent property owners. Staff concurred with the request.

Mr. McCleary commented on the usefulness of the recent public meetings concerning this case and credited Mr. Miller and his staff for their hard work.

Mr. Poole opened the public hearing.

Hearing no other requests to speak, Mr. Poole deferred the case until the April 5th meeting.

CASE NO. Z-1-04 & MP-2-04 - New Town Section 5

Mr. Chris Johnson stated that the applicant, Mr. Alvin Anderson, of Kaufman and Canoles, requested deferral to April meeting of the Planning Commission in order to resolve outstanding issues concerning the New Town master plan and proffers. Staff concurred with the request.

Mr. Poole opened the public hearing.

Hearing no other requests to speak, Mr. Poole deferred the case until the April 5th meeting.

Capital Improvements Program (CIP)

Mr. Kale briefly recounted the meetings of the Policy Committee and thanked Mr. McCleary and Mr. Poole for their efforts during the process.

Mrs. Tammy Rosario presented the recommendations of the Policy Committee for the fiscal years 2005-2009.

The Policy Committee ranked five of the eighteen projects that requested funding as “high” priorities: the Purchase of Development Rights program, the Lightfoot/Warhill BMP, the Toano Convenience Center relocation project, ambulance replacement, and the replacement of the Lafayette High School hot water boiler.

The Committee ranked eight projects as “medium” priorities: the grounds equipment storage building, greenways and trails, the James City/Williamsburg Community Center parking and expansion project, the Warhill Sports Complex Sports Facility, the Berkeley Middle School restrooms, the Lafayette High School athletic field drainage system, the Matthew Whaley Elementary School entrance, and the Norge Elementary School refurbishment project.

The Committee ranked four projects as “low” priorities: the Shared Animal Shelter, the Jamestown High School catwalks and communications replacement, the WJC Multi-Purpose Building, and the Stonehouse Elementary School bus canopy.

The Committee did not rank one project, the third high school, citing unresolved issues of mission, design, requirements, and public approval. Mrs. Rosario summarized the Policy Committee’s other major recommendations regarding the WJC Schools communications systems replacements and the Riverview Plantation Transmission water lines.

The Policy Committee and staff recommended that the Planning Commission recommend approval of the CIP.

Mr. Poole asked if staff had contacted the school system with regard to future communications upgrades.

Ms. Rosario related her conversation with Mr. Michael Thornton, Assistant Superintendent of Schools, who affirmed that a plan for a new communications system was under development.

Mr. Kale stated that the School Board should design its communications plan much in the same way that the County coordinated its emergency radio system plan.

With regard to the two CIP projects requested for Lafayette High School, Mr. Kale explained that the Committee had created separate line items in order to potentially expedite the replacement of the current hot water boiler, which constitutes the more pressing concern of the two projects. Mr. Kale stressed that the repair should be completed and should not come back as a continuing high priority.

Mr. Poole opened the public hearing.

Hearing no requests to speak, Mr. Poole closed the public hearing.

Mr. McCleary asked staff if the priority status assigned to the Animal Shelter in the CIP rankings had recently changed.

Mr. Sowers responded that, to his knowledge, it had not.

Mr. Poole brought up the conditions of the water lines in the Riverview community and emphasized that a future upgrade of these lines would not constitute a precedent for extending public utilities outside of the Public Service Area.

Mr. Sowers stated that upgrading the water lines would require a Special Use Permit and that the Planning Commission would have the opportunity to re-examine this issue and place conditions on the project.

Mrs. Wildman commended the Committee and staff for their hard work on this project.

Mrs. Wildman recommended approval of the rankings, seconded by Mr. McCleary.

In a unanimous roll call vote the motioned passed 7:0. AYE: Poole, McCleary, Wildman, Fraley, Hunt, Kale, Billups (7). NAY: (0).

E. CASE NO. SUP-01-03 STAT Services, Inc.

Mr. Johnson delivered the staff report. Mr. Robert Oliver applied on behalf of property owner Powhatan Springs, LLC for a special use permit to allow the construction of a 12,000 square foot Contractor's office at **133 Powhatan Springs Road**. The application is to renew a previous special use permit, SUP-29-01, heard by the Planning Commission in January of 2002. A previous non-conforming use, a storage facility, will remain in effect if the application is approved but only in the area identified for storage on the master plan. Staff found the proposed office building and equipment storage area generally inconsistent with the residential character of the surrounding area. With the attached conditions staff believes the proposal will be a significant improvement over previous uses of this site and an improvement to the surrounding area. Staff recommended approval of this application with the attached conditions.

Mr. Poole opened the public hearing.

Mr. Bob Oliver of Jamestown Management Company, the applicant representing Powhatan Springs, LLC, stated that the current application was identical to the previous special use permit.

Mr. Poole asked if any adjacent property owners had contacted the applicant.

Mr. Oliver indicated that no one had related any objections to him.

Mr. Poole asked if the applicant was comfortable with conditions set down in the staff report.

Mr. Oliver responded that he was.

Mr. Hunt asked if the new timeframe was satisfactory.

Mr. Oliver responded that it was.

Seeing no other speakers, Mr. Poole closed the public hearing.

Mrs. Wildman moved to recommend approval the application and identified it as a first step towards improving the area. Mr. McCleary seconded the motion.

In a unanimous roll call vote the motioned passed 7:0. AYE: Poole, McCleary, Wildman, Fraley, Hunt, Kale, Billups (7). NAY: (0).

F. AFD-7-86 Mill Creek Gulden Addition

Mr. Arcieri delivered the staff report. Mr. Randolph Gulden has applied to add 87.201 acres located at **126 Camp Road** to the existing Mill Creek Agricultural and Forestal District (AFD-7-86). The proposed addition meets the minimum area and proximity requirements for inclusion into an AFD. Further, it is consistent with surrounding zoning, development, and the 2003 Comprehensive Plan. On February 18, 2003, the AFD Advisory Committee recommended approval of this application by a vote of 6-0. Staff recommended that the Planning Commission recommend approval of the Gulden addition to the Mill Creek AFD subject to the conditions of the existing district.

Mr. Kale requested clarification in identifying the parcel to be added.

Mr. Poole opened the public hearing.

Seeing no speakers, Mr. Poole closed the public hearing.

Mr. Kale motioned to recommend approval the addition.

Mr. McCleary seconded the motion. In a unanimous roll call vote the motion passed 7:0. AYE: Poole, McCleary, Fraley, Wildman, Hunt, Kale, Billups (7). NAY: (0).

G. SO-01-04 - Zoning Ordinance Amendment - Individual Sewers

Mr. Dave Anderson delivered the staff report. At the request of the Planning Commission, staff forwarded an amendment to permit the use of alternate septic drainfield systems without Planning Commission review and approval. The Subdivision Ordinance currently requires the Planning Commission to grant waivers for alternate septic systems. The amendment would permit by-right use of these septic systems provided that they are approved by the Health Department. Staff, recognizing the technological advancements and environmental advancements of these new systems, recommended approval.

Mr. McCleary added that the proposal originated from the DRC, which was regularly reviewing and approving septic permit waivers.

Mr. Poole confirmed Mr. McCleary's assessment, stating that shifting this responsibility from the DRC would save time both for the committee and the applicant.

Mr. Dave Jordan of the Health Department concurred with the content of the staff report and reiterated the positive environmental benefits of newer septic treatment systems.

Mr. Billups requested more information as to the size of houses and lots that would be serviced.

Mr. Jordan responded that advanced systems require only half the footprint of a conventional system.

Mr. Kale inquired about the separation distances between these advanced systems and wells.

Mr. Jordan responded that this distance has been taken into account as part of Health Department reviews of these systems.

Mr. Billups inquired as to the price of these systems.

Mr. Jordan responded that conventional septic systems cost between \$3,500-4,000, and that more advanced systems retail for \$10,000-15,000.

Mr. Poole opened the public hearing.

Seeing no speakers, Mr. Poole closed the public hearing.

Mr. Hunt made a motion for approval. The motion was seconded by Mr. McCleary.

Mr. McCleary added that, if this ordinance change passed, the DRC would continue to review certain septic waiver requests, citing the example of septic systems that require remote drainfields.

In a unanimous roll call vote the motion passed 7:0. AYE: Poole, McCleary, Fraley, Wildman, Hunt, Kale, Billups (7). NAY: (0).

H. Z-15-03 & MP-13-03 - Stonehouse Station at Norge

Mr. Arcieri delivered the staff report. Ms. Lou Rowland applied on behalf of Stonehouse Station L.P. to rezone approximately 10.167 acres from B-1 General Business to R-5, Multifamily Residential, with proffers. The site is generally located at 7721 Croaker Road. This case was deferred at the Planning Commission's February 2004 meeting in order to provide additional info on pedestrian safety and the impact on the school system. Up to 104 apartments are proposed for construction, yielding an overall density of approximately 10.23 units an acre. The site is designated for Moderate Density Residential development on the James City County Comprehensive Plan Land Use Map. The application also requests a Height Limitation Waiver from the Board of Supervisors to allow for the construction of structures which exceed 35 feet in height. Mr. Arcieri summarized the additional info and stated that staff continued to recommend approval contingent upon the agreement between adjacent property owners and the developer as to the proposed shared driveway.

Mr. Poole opened the public hearing.

Mr. Vernon Geddy, representing the applicant, concurred with the staff report, citing that the primary issues raised previously, specifically safety, crime, and the potential impact to the school system, had been addressed and did not outweigh the benefits of the application, especially in light of the need for affordable housing identified in the Comprehensive Plan. Further, given the slow commercial growth in the Croaker Road area, Mr. Geddy stated that the proposed apartments constituted the most appropriate use of this property.

Mr. Poole opened the public hearing.

Mr. Jack Fitzpatrick, of PO Box 295 Norge, speaking for Stonehouse Homeowner's Association, spoke to the nuisance crimes and trespassing that would be brought by the proposal. He continued to address the problem of Mirror Lakes youth on CSX right of way, focusing on safety concerns, pedestrian safety, and the increased burden on the school system.

Mr. Jeff Nelson, of 94 Meadowcrest, spoke about the danger presented by the railroad tracks to playing children and to questions of upkeep to the apartments.

Mr. George Lee, 3146 Saturn House Road, spoke of the additional burden placed on the schools by this proposal and urged the Planning Commission to recommend to the Board of Supervisors that the Adequate Schools test be adhered to..

Mr. Michael Edwards, 4204 Rose Lane, expressed his concerns as to the effects on property values, safety, and on the burden placed on the school system.

Mr. Tony Dion, 102 Fairmount Drive, expressed his concerns as to public safety, the impact on schools, and the possible burden to taxpayers.

Mr. Jim Brown, 4 Long Leaf Circle, concurred with the previous citizen speakers, stating that this proposal might negatively affect the economy.

Mr. Jim Stam, 104 Woodmont Place, spoke to the economic viability of the proposed location and urged denial of the request.

Mr. Dick Jones, 110 Wilderness Lane, questioned whether the James City County Comprehensive Plan supports the application. He further re-iterated the previous concerns regarding public safety and urged the Planning Commission to recommend denial.

Mr. McCleary clarified the distinction between the Land Use Designation of the site, Moderate Density Residential, and the zoning, General Business.

Mr. Fraley pointed out that the Land Use change on the parcel was from the 1991 update and that subsequent updates have not addressed those changes.

Mr. Kale referred to another recent case where the zoning of a property did not match the current land use designation.

Mr. McCleary pointed out that the zoning designation is the current law while the Comprehensive Plan addresses future uses.

Mr. Sowers provided background information on the 1991 land use plan change and subsequent plan updates, and stated the change for this area was one of several deliberate policy decisions which made the plan inconsistent with the zoning.

Mr. Ray Bruit, 9800 Hit Nest Road, expressed his concern over the increase in proposed housing units in Stonehouse and urged the Planning Commission to further consider the burden on schools and the tax base.

Mr. Poole, seeing no additional speakers, closed the public hearing.

Mr. Kale opened the floor for any response from the applicant.

Mr. Geddy spoke to the expectation that the project pay for itself and pointed out that this housing fits a need outside of that expectation.

Mr. Poole expressed his support of such projects which are also redevelopment plans but stressed his concern that no revenue stream exists to support this application. He voiced his opposition to the case on the basis of fiscal concerns, the additional burden to the schools, the underlying B-1 zoning, and the location.

Mr. Kale expressed his concerns over public safety, specifically regarding the situation of Croaker Road and the proximity of the CSX rail line. He stated he felt the location was wrong for this project at this time; that low-income persons need to be able to walk to other areas, and Croaker Road and the rail line posed hazards. Mr. Kale stated that road and pedestrian facilities need to be provided before this area is developed for residential use. He also seconded Mr. Poole's concerns regarding the additional students that would be added to the school system. After briefly touching on pedestrian safety concerns, Mr. Kale stated that he could not support the application.

Mr. Fraley complimented the applicant and citizens for their dialogue but spoke to the danger posed by Croaker Road to pedestrians and concern for the pace of development. Mr. Fraley cited that the County must respect the Adequate Facilities test and voiced his opposition to the proposal.

Mrs. Wildman agreed with Mr. Fraley's concerns regarding the schools and, though complimenting the applicant on the proposal, could not support the location of moderate density along such high-traffic corridors at this time. Mrs. Wildman credited the quality of the application but cited the problem as being the location of the proposal.

Mr. McCleary pointed out the distinction between affordable and low-cost housing and stressed that the intent of the Comprehensive Plan and the citizen survey data collected strongly supported diversifying and increasing affordable housing opportunities. And while this proposal does not provide an ownership option, it does offer another needed housing option. Mr. McCleary further stated his doubt that the property would be developed as a B-1 use and cautioned against using the Adequate Public Facilities test as a litmus test for development. Citing a need for clarification of the policy, however, Mr. McCleary stated his intent to vote to recommend denial.

Mr. Hunt stated that James City County needs affordable housing but, since the project fails the Adequate Facilities Test, the policy requires further thought.

Mr. Billups reiterated the distinction between low-income housing and affordable housing and stressed that these efforts were targeting entry-level workers and young professionals. He questioned the location of the proposal, though, as potentially unsafe and undesirable to the population that would be served. Mr. Billups questioned how the project would address the problem in the larger context of the County and stressed that this need would be better served by a home-buyer instead of a renter proposal.

Mr. Fraley motioned to recommend denial of the application. Mrs. Wildman seconded the motion.

Mr. Sowers took roll. In a roll call vote the motioned passed 6:1. AYE: Poole, McCleary, Wildman, Fraley, Kale, Billups (6). NAY: Hunt, (1).

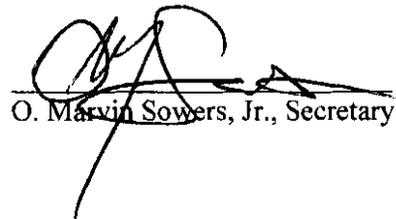
6. PLANNING DIRECTOR'S REPORT

Mr. Marvin Sowers presented the report. Mr. Sowers announced the next meeting of the Better Site Design Roundtable sponsored by the Builders for the Bay on March 12, 2004. He also updated the Planning Commission on VDOT's progress on installing a series of pedestrian improvements.

7. ADJOURNMENT

There being no further business, the March 1, 2004, meeting of the Planning Commission was recessed at approximately 10:12 p.m.


A. Joe Poole, III, Chairman


O. Marvin Sowers, Jr., Secretary