

A REGULAR MEETING OF THE PLANNING COMMISSION OF THE COUNTY OF JAMES CITY, VIRGINIA, WAS HELD ON THE FIRST DAY OF NOVEMBER, 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
Joe McCleary
Donald Hunt
Jack Fraley
Wilford Kale

ALSO PRESENT
John Horne, Development Manager
Mike Drewry, Assistant County Attorney
Marvin Sowers, Planning Director
Christopher Johnson, Senior Planner
Karen Drake, Senior Planner
Matt Arcieri, Planner
Pat Foltz, Development Management Assistant

ABSENT
George Billups
Peggy Wildman

2. MINUTES

Mr. Poole informed the community that Mrs. Peggy Wildman has resigned her position on the Planning Commission.

Mr. McCleary spoke to Mrs. Wildman's accomplishments during her tenure as a Planning Commissioner and that she would be missed on the Commission.

Mr. Kale moved approval of the minutes.

Mr. Fraley seconded the motion.

The commission approved the minutes for the October meeting with a unanimous voice vote.

3. COMMITTEE AND COMMISSION REPORT

- A. DEVELOPMENT REVIEW COMMITTEE (DRC)

Mr. McCleary pointed out an error in the actions before presenting the DRC reports. The DRC heard three cases at its October 27th meeting. For SP-110-04, Christian Life Center Phase I, the DRC deferred the case. For case C-127-04, Prime Retail Outlets Expansion, the DRC found the case consistent with the master plan. For case S-080-04, Williamsburg, Winery Subdivision, the DRC deferred the case.

Mr. Kale moved approval of the DRC report.

Mr. Hunt seconded the motion.

The commission approved the DRC report for the October meeting with a unanimous voice vote.

4. PUBLIC HEARINGS

A. CASE NO. Z-11-03/MP-11-03 Stonehouse Modifications.

Ms. Karen Drake presented the indefinite deferral request. The applicant, Mr. Alvin Anderson of Kaufman and Canoles, requested an indefinite deferral of the case. Staff concurred with the applicant's request.

Mr. Kale reviewed the history of the case over the last year, noting the difficulty inherent in the presentation of this case and crediting County staff for their work on this case.

Mr. Poole addressed Mr. Kale's comments, noting that the case was in a complete form but that the sheer size of the case prohibited easy handling.

Mr. Poole opened the public hearing.

Seeing no speakers, Mr. Poole indefinitely deferred the case.

B. CASE NO. Z-06-04/MP-06-04 Lightfoot Mixed Use.

Mr. Matt Arcieri presented the deferral request. The applicant, Mr. Rich Costello of AES Consulting Engineers, requested deferral of the case in order to address several outstanding issues. Staff concurred with the applicant's request.

Mr. Poole opened the public hearing.

Seeing no speakers, Mr. Poole deferred the case to the December meeting.

C. CASE NO. Z-10-04 112 Ingram Road

Mr. Arcieri presented the deferral request. The applicant, Mr. Scott Evans of Scott Evans Contracting, Inc., requested deferral of the case in order to address several outstanding issues. Staff concurred with the applicant's request.

Mr. Poole opened the public hearing.

Seeing no speakers, Mr. Poole deferred the case to the December meeting.

D. CASE NO. SUP-23-04 Action Park of Williamsburg

Mr. Arcieri presented the deferral request. The applicant, Mr. Bob Miller of Action Park, requested a deferral of the case in order to address several outstanding issues. Staff concurred with the applicant's request.

Mr. Poole opened the public hearing.

Seeing no speakers, Mr. Poole deferred the case to the December meeting.

E. CASE NO. SUP-25-04 Baylands Federal Credit Union

Ms. Drake presented the staff report. Mr. Tom Derrickson of AES Consulting Engineers has applied for a Special Use Permit on behalf of Bay Lands Federal Credit Union and property

owner Violet J. Beck Estate, to allow the construction of a bank and office building on approximately 4.3 acres at **7031 Richmond Road**. The property can be further identified as Parcel (1-12) on James City County Real Estate Tax Map No. (24-1). The property is zoned B-1 and is designated Low Density Residential on the Comprehensive Plan Land Use Map. Staff recommended approval of the case.

Mr. McCleary spoke to citizen comments he received concerning the architectural appearance of the new building. He asked if the development plan would be reviewed by the DRC.

Ms. Drake stated that the eventual site plan would go to the DRC.

Mr. Fraley asked if staff perceived any future problems with compliance to the Norge Community Character Area (CCA).

Mr. Kale asked if the portion of the property fronting on the road was the first phase of development.

Ms. Drake outlined the two phases of development proposed for the property.

Mr. Kale confirmed that the special use permit applied to both phases of construction.

Mr. Poole opened the public hearing.

Mr. Rich Costello of AES Consulting Engineers made himself available to answer questions.

Mr. Poole asked what effect the CCA guidelines for the Norge area would have on the applicant's development plan.

Mr. Costello stated that he did not perceive any future conflicts with CCA guidelines and pointed to other Baylands branches which were built in compliance with local architectural guidelines.

Mr. Poole stressed that the eventual design of the bank would incorporate these guidelines.

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

Mr. Fraley asked Mr. Hunt for his impressions of the neighborhood reaction to the application.

Mr. Hunt responded that he felt it would be a positive addition to the community.

Mr. McCleary moved approval of the application.

Mr. Hunt seconded the motion.

The Planning Commission approved the application by a vote of 5-0. AYE: (5) Poole, Fraley, Hunt, Kale, McCleary. NAY: (0). NOT PRESENT: Wildman, Billups.

F. CASE NO. Z-07-03/MP-08-03 Governor's Grove

Mr. Arcieri presented the staff report. Mr. Eric Nielson has applied on behalf of National Housing Corporation to rezone approximately 23.26 acres from R-8, Rural Residential and B-1, General Business, to MU, Mixed Use, with proffers. The request seeks to develop 216 multi-family units on the 14.93 acres of property north of John Tyler Highway and 30,000 square feet of commercial/office space on the 2 acres of property accessed off of Ironbound Road. Approximately 6.33 acres of property to the south of John Tyler Highway would be preserved as open space. Staff recommended approval.

Mr. Kale asked Mr. Arcieri to explain the ingress/egress statistics connected to the commercial site.

Mr. Arcieri explained that the proposed traffic movements for vehicles entering Ironbound Road could cause safety issues. He noted that VDOT has limited the entrance to a "right-in right-out" only.

Mr. Poole opened the public hearing.

Mr. Geddy, the applicant, presented the history of the application. He explained several of the key elements of the plan. The proffered open space on the south portion of the property constitutes a significant dedication of land for aesthetic and natural purposes. He also spoke to the proffered master plan, a cap of 213 units, and the 15 acres of open space to be preserved on the property.

Mr. Fraley asked Mr. Geddy asked if the cash proffer payments were based on a mix of affordable and non-affordable units.

Mr. Geddy responded that it was impossible to reconcile those two sets of numbers.

Mr. Kale stated that many people believed that affordable housing means "low-cost" housing.

Mr. Geddy responded that, for the "for sale" units, the units were based on a \$120,000 price and that for the affordable units, based on the rental payment for a person with a \$32,000 annual income.

Mr. Kale asked if residents in the affordable rent units paid the same monthly rent as the residents of standard units.

Mr. Geddy responded that rent payments were different for the two groups, and that the difference was made up for the proprietor through federal housing funds.

Mr. Kale stated that the affordable housing, then, does not create a financial shortfall for the developer.

Mr. Geddy stated that it does not.

Mr. Kale asked about the commercial property nearest to the Five Forks intersection.

Mr. Geddy provided some of the background information into the surrounding property.

Mr. Fraley asked if the “for sale” and “for rent” properties would be of the same design.

Mr. Geddy responded that they would.

Ms. Fran Geisler, 120 Jordan’s Journey, spoke to the environmental aspect of the plan with regard to the Powhatan Creek. Ms. Geisler recommended the use of conservation easements to protect the watershed and surrounding wetlands.

Mr. Sasha Digges, of Ironbound Road, commented on the lack of affordable housing in the County and called for a plan to relocate the current residents.

Mr. Gerry Johnson, of the Historic Route Five Association, thanked the applicants for recently meeting with his organization. He questioned the environmental, social, and aesthetic compatibility of the proposed development with the surrounding area. He asked the Planning Commission to defer the case on the grounds that the citizens have not had the opportunity to sufficiently evaluate the plan.

Ms. Kay Thorington, of 3195 Lot 2 Williamsburg, urged the Planning Commissioner to protect the rights of those people who would be displaced by the construction of the complex.

Mr. Ken Spencer, of First Colony, spoke as an adjacent property owner. He referred the Commission to his distributed letter and informed the committee that no agent of the developer had contacted him.

Mr. Fraley asked Mr. Spencer to elaborate on the letter’s second criticism of the proposed development.

Mr. Spencer responded that he was concerned about the children of Governor’s Grove playing on and vandalizing his property.

Mr. Hampton Jesse, of Powhatan Crossing, also recommended a deferral of the case in order to better evaluate the traffic impacts and proffers.

Mr. David Fuss, of 3008 Chelsford Way, spoke on behalf of the Friends of the Powhatan Creek Watershed related the concerns of citizen members and recommended that the Commission defer the case.

Mr. Fraley asked for the official position of the Friends of the Powhatan Creek on this application.

Ms. Geisler clarified that she spoke as a resident of the County and not as the representative of the Friends of the Powhatan Creek Watershed.

Mr. Geddy addressed the issues of the trailer park and the environmental impacts of the case and stressed the intention of the applicant to work with the County to resolve these issues.

Mr. Eric Nielsen of the National Housing Corporation reviewed the history of the case and stressed their commitment to providing the best possible plan for the parcel.

Mr. Ken Spencer agreed with Mr. Nielsen's commitment to promoting a quality community but re-iterated that he had not been contacted about the development.

Ms. Thorington urged the Commission to protect the trailer park.

Mr. Nielsen stated that he had met with Mr. Spencer's brother last year regarding the project.

Mr. Fraley asked Mr. McCleary to comment on the possible impacts to Route 5.

Mr. McCleary, stressing that he was not an active member of the Historic Route 5 Association, stated the organization would most like to see a plan that preserves the buffer and improves the environmental situation of the area.

Mr. Fraley asked Mr. McCleary to comment on the relation of the project to recently completed Five Forks Area Study.

Mr. McCleary responded that, in his opinion, the application satisfies the Five Forks Primary Principles.

Mr. Fraley asked for more detail into the environmental aspects of the application.

Mr. Arcieri responded that staff brought the adopted Five Forks Primary Principles to the applicant with the main tenets that reinforce the Powhatan Watershed Plan.

Mr. Fraley asked for more detail into the process where the environmental issues had been addressed.

Mr. Sowers stated that some of the recommendations distributed to the Commission were better applied during the development plan stage and that the DRC meeting would be a better forum to discuss those issues. He continued to explain that, in past cases in dealing with affordable housing, that cash proffers had not been required for affordable units.

Mr. Fraley asked about the situation of the trailer park residents who would be displaced by this development. He asked Mr. Sowers if James City County had any position with respect to these residents.

Mr. Sowers responded that the County's Department of Housing and Community Development and Housing was concerned about this problem but limited by funding. Staff explored ways to ease the transition of current residents but did not have the ability to require any action of the developer.

Mr. Fraley stated that it was his understanding that Housing and Community Development had requested several measures to help these residents. He suggested that the County lead an effort to explore the plight of the affected residents.

Mr. Sowers responded that the County had initiated similar discussion and that staff would be willing to make another effort.

Mr. Fraley suggested that the County should lead an effort to resolve these problems through a collective meeting of residents, the developer, and staff to reach an accommodation.

Mr. Kale urged the Commission to defer the case on the grounds of school overcrowding, the high density of the development, traffic, and the displacement of residents.

Mr. McCleary stated that the developer had significantly amended the rezoning plan to eliminate the development of the south property.

Mr. Fraley questioned the accuracy of the number of schoolchildren projected for the development.

Mr. Arcieri stated that these numbers were generated by the County's Financial and Management Services department.

Mr. Fraley said that he believed that the numbers provided by the County were understated but credited the applicant with using the County numbers.

Mr. Kale asked Mr. Arcieri if the County had considered the presence of college students in the apartment population of James City County.

Mr. Arcieri stated that the County had not projected these numbers.

Mr. Kale spoke to the previously approved developments that add schoolchildren to the system and suggested that the County compound the numbers generated by approved rezonings.

Mr. Fraley asked Mr. Kale if the bond referendum were to pass if it would improve his opinion of the school situation.

Mr. Kale said that he would.

Mr. Poole brought up the issue of displaced residents and expressed his desire that the traffic and displacement issues be resolved. He recommended the Commission explore and resolve these issues.

Mr. Kale asked who was responsible for generating the schoolchildren numbers and recommended a deferral to address these issues.

Mr. McCleary spoke to the need for affordable housing and the fact that this application addresses that need. He also spoke to the traffic study, which was last completed in 2003 and projected to 2008. Mr. McCleary expressed his support for a deferral.

Mr. Nielsen spoke to the necessity of obtaining a result at the November meeting. In order to satisfy the deadline to apply for federal tax credits, Mr. Nielsen spoke to the impossibility of proceeding with this application should it not receive action by the Planning Commission. He outlined his history of working with staff and re-iterated the importance of coming to a decision tonight.

Mr. Fraley asked when the deadline for the tax credit was due.

Mr. Nielsen responded that he needed to have the property under control by January.

Mr. Hunt motioned to approve the application.

McCleary seconded the motion.

Mr. Poole stated that he was not prepared to support the application.

Mr. Fraley stated that he would like to see the application go forward, but that he still had significant reservations about the application.

Mr. McCleary stated that, given the willingness of the applicant to work with County, he was prepared to support the application.

Mr. Kale stated that he saw a lot of benefits and spoke to value of the Adequate Public Facilities Test. He stated his opposition to the application.

Mr. Fraley stated that he was prepared to support the application, but that the issues identified by the Commission should be addressed.

The Planning Commission approved the application by a vote of 3-2. AYE: (3) Fraley, Hunt, McCleary. NAY: (2) Poole, Kale. NOT PRESENT: Wildman, Billups.

The Planning Commission recessed until 9:45 p.m.

G. CASE No. Z-03-04, Z-04-02, MP-01-02, SUP-21-04 Colonial Virginia Council, Boy Scouts of America Proffer Amendment and Master Plan Amendment

Mr. Chris Johnson presented the staff report. The applications had been deferred by the Planning Commission at its October meeting. Staff recommended approval of the applications.

Mr. McCleary asked if the reduction in acreage for the Colonial Heritage Development was attributable to the development that has been approved since this project was approved by the Board of Supervisors in 2001.

Mr. Johnson outlined the history of the development and stated that all lots that have been platted were not included in determining the total acreage for the master plan amendment.

Mr. McCleary asked if the development would be gated.

Mr. Johnson stated that the development could not be gated.

Mr. McCleary asked if the 50-lot rural cluster development would be age-restricted.

Mr. Johnson stated that the rural cluster would not be age-restricted.

Mr. McCleary asked which of the alternative development plans was currently favored by staff.

Mr. Johnson stated that the disposition of Public Use Site B would dictate which alternative would be followed.

Mr. Poole opened the public hearing.

Mr. Greg Davis of Kaufman and Canoles, the applicant, presented a report highlighting the key elements of the application. He highlighted the conservation easement, buffers, master stormwater management plan, and the limit of total residential units to 2000. He also noted that the proffers had been amended to add cash proffers for intersection improvement costs and tree preservation.

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

Mr. McCleary noted that this application would be the first rural cluster in James City County. He expressed his support for the application.

Mr. Poole stated that the conservation area was a significant component and stated his support for the application.

Mr. Kale stated that he supported the application and that he appreciated the application's intent but that he could not support the application because it potentially adds schoolchildren to the school system. He made it clear that, if a funding mechanism were in place for the next high school, that he would support the application.

Mr. Poole qualified his support for the application and stated that the addition of schoolchildren to the system did not outweigh the benefits in his mind.

Mr. McCleary moved for approval.

Mr. Hunt seconded the motion.

The Planning Commission approved the application by a vote of 4-1. AYE: (4) Poole, Fraley, Hunt, McCleary. NAY: (1) Kale. NOT PRESENT: Wildman, Billups.

5. INITIATION OF ZONING ORDINANCE AMENDMENTS

Mr. Arcieri presented to ordinance amendments to be initiated. The amendments addressed the addition of "fast-food restaurants" and "accessory apartments" uses to the Mixed Use Ordinance.

A discussion ensued as to the definition of an accessory apartment.

Mr. Kale moved to support the amendments.

Mr. Hunt seconded the motion.

The Planning Commission voted to support the ordinance resolutions with a unanimous voice vote.

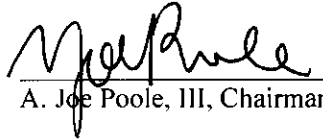
6. PLANNING DIRECTOR'S REPORT

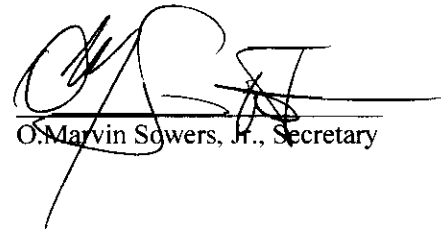
Mr. Sowers delivered the report. He highlighted the departure of Senior Planner Dave Anderson and planner Sarah Weisiger from the division. He recognized them for their service to the division.

Mr. Poole expressed his thanks to those planners and requested a formal recognition of Ms. Wildman's service at the beginning of the next planning commission meeting.

7. ADJOURNMENT

There being no further business, the November 1, 2004, meeting of the Planning Commission was recessed at approximately 10:30 p.m.


A. Joe Poole, III, Chairman


O. Marvin Sowers, Jr., Secretary