

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

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| 1. | <u>ROLL CALL</u> | <u>ALSO PRESENT</u> | <u>ABSENT</u> |
| | Jack Fraley | John Horne, Development Manager | Wilford Kale |
| | Ingrid Blanton | Michael Drewry, Assistant County Attorney | |
| | Donald Hunt | Kathryn Aston, Deputy County Attorney | |
| | George Billups | Marvin Sowers, Planning Director | |
| | Jim Kennedy | Allen Murphy, Zoning Administrator | |
| | Mary Jones | Christopher Johnson, Senior Planner | |
| | | Matthew Arcieri, Senior Planner | |
| | | Trey Davis, Planner | |
| | | Matthew Smolnik, Planner | |
| | | Kimberly Finnigan, Law Intern | |
| | | Toya Ricks, Administrative Services Coordinator | |

2. MINUTES

Ms. Blanton corrected page 3, committee and commission reports and page 6, top paragraph as well as page 13.

Mr. Kennedy motioned to approve the minutes as amended.

Ms. Blanton seconded the motion.

The Planning Commission approved the minutes as amended with a unanimous voice vote. (6-0, Kale absent)

3. COMMITTEE AND COMMISSION REPORT

A. DEVELOPMENT REVIEW COMMITTEE (DRC)

Mr. Fraley informed members that the March 30 DRC meeting was deferred to April 6, 2005 at 4 pm. The Planning Commission will reconvene at 7 pm April 6 to consider the Committee's recommendations.

B. OTHER COMMITTEE REPORTS

4. PLANNING COMMISSION CONSIDERATION

A. Initiating Resolution - Zoning Ordinance Amendment – Administrative Fees

Mr. Sowers made the request for approval of an initiating resolution to consider an amendment to the Zoning Ordinance for site plan fees.

Ms. Blanton confirmed that approval of the resolution allowed the Commissioners to review to the amendment at a later time.

Mr. Drewry answered yes.

The resolution was approved with a unanimous voice vote. (6-0, Kale absent)

5. PUBLIC HEARINGS

- A. Z-15-04/MP-11-04/SUP-34-04 The Villas at Jamestown
- B. SUP-36-04 Farm Fresh Gas Pumps
- C. Z-4-05/SUP-7-05 New Town, Langley Federal Credit Union
- D. SUP-4-05 Christian Life Center Tower

Mr. Hunt stated that the applicants requested deferral until the May 2 meeting.

Mr. Hunt opened the public hearing.

Hearing no requests, the public hearing was continued.

E. ZO-2-05 Zoning Ordinance Amendment – Proffer Appeal Process

Ms. Kimberly Finnigan, Law Intern presented the staff report. An ordinance to amend and reordain Chapter 24, Zoning, of the Code of the County of James City, Virginia, by amending Article 1, In General, Section 24-19, Petition for review of decision, to clarify the process for the Board of Supervisors to consider appeals of actions or decisions of the Zoning Administrator in regards to administering and enforcing conditions attached to a rezoning or amendment to a zoning map.

Staff recommended approval.

Mr. Hunt opened the public hearing.

Hearing no requests, the public hearing was closed.

Mr. Kennedy motioned to approve the amendment.

Ms. Blanton seconded the motioned.

Mr. Billups asked for more information regarding the types of cases that may be affected.

Mr. Murphy stated that the Zoning Administrator's decisions regarding enforcement and administration of proffers are binding unless appealed. This amendment establishes procedures for such appeals to take place along with some other provisions.

Mr. Billups wanted to know if this was considered a due process procedure.

Mr. Murphy responded yes.

The amendment was approved by a unanimous voice vote.

F. Z-5-05 James River Commerce Center Proffer Amendment

Mr. Matthew Smolnik presented the staff report. Mr. Keith Taylor, Economic Development Authority, applied to amend the proffers for approximately 219 acres at 8907 Pocahontas Trail currently zoned M-1, Limited Business/Industrial, with proffers. This property was zoned M-1 in 1995 following approval by the Board of Supervisors for James City County. Rather than adopt by reference all M-I uses, the proffers accompanying the rezoning request included a selected list of uses to be permitted by right. The applicant has proposed to update the proffered uses in the park, which are all currently permitted uses in property zoned M-1. Staff recommended approval.

Ms. Blanton recused herself as an employee of Colonial Williamsburg, co-owner of the Commerce Center.

Mr. Billups wanted to know what new uses were being proposed.

Mr. Smolnik said the amendment proposes to update the proffered uses to make them consistent with uses already permitted in the M-1 Zoning District.

Mr. Sowers explained that when the proffers were originally adopted they spelled out the uses that were allowed at that time. Since then new uses have been added to the M-1 Zoning District.

Mr. Billups wanted to know how the new uses would impact surrounding uses.

Mr. Smolnik said the new uses are consistent with other uses in the Commerce Center.

Mr. Hunt opened the public hearing

Hearing no requests, he closed the public hearing

Mr. Kennedy motioned to approve the application.

Mr. Fraley seconded the motion.

Mr. Billups asked what prompted this amendment to come forward at this time.

Ms. Aston answered that the changes are administrative in nature. This proposal amends the proffers to match current M-1 uses that have been added this rezoning was approved in 1995. This gives potential owners clear understanding of uses that would be allowed.

In a roll call vote the motioned passed 5:0. AYE: Billups, Kennedy, Fraley, Jones, Hunt (5). Blanton abstained, Kale Absent.

G. Z-2-05/MP-3-05 Ironbound Square Redevelopment

Mr. Trey Davis presented the staff report. Mr. Rick Hanson of the James City County Office of Housing and Community Development, applied to rezone approximately 6.03 acres of land along Ironbound Road from R-2, General Residential, to MU, Mixed Use for the development of a 67-unit, age- and income-restricted apartment facility and five single-family residential lots.

Ms. Blanton asked for elaboration on storm water management issues referenced in the staff report.

Mr. Davis said that the Virginia Department of Transportation, and County Environmental and Housing agencies have had discussions regarding creating a regional storm water management facility in this area for the entire Ironbound neighborhood redevelopment. Those discussions have not been completed so on-site management is included with this proposal.

Ms. Blanton asked about the need for an age restriction.

Mr. Davis said the Comprehensive Plan update in 2003 identified this need. He also indicted that the restrictions are a part of Housing and Urban Development (HUD) requirements.

Mr. Hunt opened the public hearing.

Mr. Rick Hanson, Housing and Community Development, gave a presentation on the proposal giving the history of the project.

Mr. Joshua Gemerek, BayAging, represented the developer. He gave the company's credentials and talked about similar projects in Virginia.

Ms. Jones asked about the approximate square footage of the units.

Mr. Gemerek said the units would be approximatly 550 square feet.

Mr. Billups wanted to know if elevators would be installed.

Mr. Gemerek answered yes.

Mr. Billups wanted to know how a denial of the various variance requests would affect the project.

Mr. Hanson explained that the requests are due to the nature of the concept for the proposal itself.

Mr. Fraley asked about the request for a variance for landscaping.

Mr. Davis said the landscape modification request would be reviewed at the time of site plan approval.

Mr. Hanson told the members that a portion of the property would be leased to the County for use as a park.

Mr. Kennedy wanted to know how much of the land had been acquired through condemnation.

Mr. Hanson said none of the property in this was proposal was obtained by that method.

Mr. Kennedy thought the original proposal for the property was for single family affordable housing.

Mr. Hanson confirmed that it had been designated as such during the revitalization plan but that after meeting with neighbors the actual re-development plan designated the property for senior housing with no stipulation for attached or detached.

Mr. Kennedy inquired about the status of two of the five single family homes that were not designated as affordable like the other three.

Mr. Hanson said that was to allow for the possibility that one or two of the buyers might be slightly above the 80% median income.

Mr. Kennedy asked about the price points for those over the 80% threshold.

Mr. Hanson said prices might be from \$100,000 to \$150,000 and might not differ between the two income levels.

Mr. Kennedy and Mr. Hanson discussed the possibility of the applicant amending the proposal later.

Ms. Jones asked what the rents would be for the senior housing.

Mr. Hanson said it would be based on their incomes.

Mr. Hanson and Ms. Jones discussed approximate rental amounts.

Mr. Hanson and Mr. Fraley talked about HUD's requirement that the units be no more than 550 square feet and the amount of common area in the proposal.

Ms. Blanton questioned if the development would be a good fit for seniors raising grandchildren.

Mr. Gemereck acknowledged that none of their other communities had occupants under age 62 living in them primarily because there is only one bedroom.

Ms. Blanton expressed concern about accessibility for pedestrians crossing over Ironbound Road to New Town.

Mr. Hanson said they are working with the state to address that issue. There is currently a proposal for a signal at Watford Lane.

Ms. Blanton asked about accessibility to public transportation.

Mr. Hanson answered that the area is on a public transportation route that will eventually be re-routed to eliminate the need to cross over to access transportation traveling in the opposite direction.

Mr. Billups asked if the proposal had support from the community.

Mr. Hanson said several public meetings were held including participating in a tour of similar projects in Richmond and West Point.

Hearing no other requests, Mr. Hunt closed the public hearing.

Mr. Kennedy felt the proposal had good merit and although he had some concerns he will support it.

Ms. Blanton stated she will support the proposal but requested the applicant to continue to work on transportation aspects.

Mr. Billups also voiced concerns but stated he will support the application.

Mr. Fraley supported the application stating that it was consistent with the Comprehensive Plan.

Ms. Jones supported the project echoing Ms. Blanton's concerns regarding accessibility to New Town.

Mr. Hunt shared Mr. Kennedy's concerns but stated he will also support the project.

Mr. Kennedy motioned to approve the application.

Ms. Blanton seconded motion.

Mr. Drewry confirmed that the motion included a waiver of parking requirements.

In a unanimous roll vote the application was approved 6-0. AYE: Billups, Fraley, Kennedy, Blanton, Jones, Hunt (6); NAY (0); Absent Kale.

H. Z-16-04/MP-12-04/SUP-35-04 Burlington Woods

Mr. Chris Johnson presented the staff report. Mr. Michael Baust of Rickmond Bury applied on behalf of property owner Tidewater Partners Property & Development, LLC to rezone approximately 17.32 acres from R-8, Rural Residential, to R-2, General Residential, with proffers for the construction of a 26 lot single family subdivision. The property is located at 3931 Longhill Road.

Mr. Kennedy asked about concerns expressed by adjacent property owner, Mr. William Lee, in a letter included in the staff report.

Mr. Johnson said the drainage issue referenced in the letter will be resolved during development stage. Staff did not support the request for installation of an 8 ft privacy fence.

Ms. Blanton asked what amount of cash proffers would cover costs associated with this development.

Mr. Johnson shared the many variables used for those calculations stating that the overall fiscal impact was expected to be positive given the expected sales prices of the homes.

Mr. Hunt opened the public hearing.

Mr. Vernon Geddy, representing the applicant, stated he agreed with the staff recommendations including mending the proffers prior to the Board of Supervisor's meeting and made himself available for questions.

Ms. Elizabeth Marotta, 3973 Longhill Road, stated she does not believe all impacts have been adequately addressed. She felt the proposal would have negative impacts on the surrounding community.

Mr. Thomas Wallace, 3897 Longhill Road, spoke to the character of the current property owner. Mr. Wallace, prior owner, stated he is satisfied with the project and the quality of homes to be built. He considered the surrounding community before agreeing to sell the property.

Mr. William Lee, 3975 Longhill Road, said the proposal conflicts with the County's desire for more green space. He stated his concerns regarding drainage and his desire for a fence to keep trespassers off his property.

Hearing no other requests, Mr. Hunt closed the public hearing.

Ms. Blanton thought the proposal was suitable for the property but wasn't convinced that it represented the best way to develop the site. She was also concerned about the cost of the homes.

Mr. Geddy answered questions regarding the low density residential designation in the Comprehensive Plan allows for a range between 1 and 4 units per acre. This project requests 1.5 units per acre. He pointed out that the surrounding single family communities have a greater density. He reminded Commissioners that the applicant has meet every County policy. The proposed sales prices reflect the high demand for this level of housing in James City County. The small scale of this project will not drive out affordable housing.

Mr. Kennedy believed the Board of Supervisors had requested Planning staff to review amending the Ordinance for R-8 and A-1 Zoning Districts as well as developing a Cash Proffer Policy.

Mr. Johnson confirmed that Planning staff had been asked to review rural lands for R-8 and A-1 but that committee had not been formed. A committee had been formed to consider a Cash Proffer Policy.

Mr. Sowers confirmed that Staff had been asked to review areas located outside of the Primary Service Area (PSA). A recommendation on a Cash Proffer Policy would not be submitted until late spring or early summer.

Mr. Kennedy highlighted his concerns related to schools and over crowding and water. He liked the proposal but would not support it.

Mr. Hunt was confident that Mr. Lee's concerns would be met. He stated he has had similar concerns but also believed in the rights of property owners.

Mr. Fraley shared Mr. Kennedy's concerns regarding proffers and schools. However; he thought more moderate priced housing would mean increased density. He also was confident that Mr. Lee's concerns would be addressed at the site plan level. He supported the proposal.

Mr. Billups said many proposals had been approved with much higher density particularly inside the PSA. He had no objections to this project.

Ms. Jones supported Mr. Smith's right to sale and develop this property. She was comfortable with the density. Ms. Jones was sympathetic with Mr. Lee's concerns and said drainage issue should be monitored.

Mr. Fraley motioned to approve the application and conditions.

Mr. Billups seconded the motion.

In a roll call vote the application was approved 5-1. AYE: Billups, Blanton, Fraley, Jones, Hunt (5); NAY: Kennedy (1). Absent Kale

I. Z-3-05/SUP-6-05 Centerville Road Subdivision

Mr. Matthew Arcieri presented the staff report. Mr. Henry Stephens has applied on behalf of Armin Ali and Powhatan Old Towne Square LLC to rezone 43.429 acres of land from A-1, General Agricultural, to R-2, General Residential District, with proffers. The applicant proposes to develop 78 single family lots at a gross density of 1.8 units per acre. The property is located at 6001 and 6061 Centerville Road,

Mr. Billups wanted to know if an R-8 designation would support the proposal.

Mr. Arcieri answered no.

Ms. Blanton asked for clarification of the fiscal impact.

Mr. Arcieri said that experience has shown that there tends to be a slightly positive fiscal impact with homes in this price range.

Ms. Blanton wanted an explanation of the request for a buffer reduction.

Mr. Arcieri said the applicant has offered increased landscaping as required by the ordinance when a reduction is granted.

Mr. Fraley asked for the motivation for the reduction in buffer.

Mr. Arcieri deferred the question to the applicant.

Mr. Hunt opened the public hearing.

Mr. Vernon Geddy represented the applicant. He agreed with the staff recommendation. Mr. Geddy gave reasons for the buffer reduction request.

Ms. Blanton asked about the character of surrounding property.

Mr. Geddy said the property is designated for this type of development and that surrounding properties are of slightly higher or comparable densities.

Mr. Donald Blair, Foxridge resident, expressed concern about the location of the entrance into the development and water run-off.

Ms. Parker, adjacent property owner, was concerned about the buffer to her property and drainage and asked to be kept of abreast of the status of the project.

Mr. Stephens offered to contact Ms. Parker to keep her informed about the status of the project.

Mr. Geddy pointed out that Mr. Stephens had made an effort to meet with adjacent owners and he also showed the correct location of the entrance on the location map.

Mr. Billups and Mr. Geddy discussed traffic impacts.

Mr. Matt Hipple, 120 Jolly Pond Road, did not want to stand in the way of the owners developing their property. He meet with Mr. Stephens previously where he requested a berm be installed adjacent to his property.

Hearing no requests, Mr. Hunt closed public hearing

Ms. Jones supported the project. She believed it was a good location.

Mr. Fraley asked for and received confirmation that the development plan would be considered by the Development Review Committee (DRC) where the drainage concerns will be addressed. He supported the project.

Ms. Blanton was reluctant to approve a proposal for high end homes.

Mr. Kennedy was inclined to oppose the proposal.

Mr. Billups said his only concern was storm water management issues. If those matters are taken into consideration he will support the proposal.

Mr. Hunt stated he will support the proposal. He echoed concerns regarding drainage.

Mr. Fraley motioned to approve.

Ms. Jones seconded the motion.

In a roll call vote the application was approved 4-2. AYE: Billups, Fraley, Jones, Hunt (4); NAY: Blanton, Kennedy (2); Absent Kale.

J. ZO-3-05 Zoning Ordinance Amendment – Administrative Fees

Mr. Arcieri presented the request. As a part of the 2006 Budget the County Administrator has recommended the creation of a half time Development Management position to focus on high priority projects such as open space protection and special projects. To fund this position a fee increase for site plan non-residential square footage from \$.024 to \$.05 is proposed. This increase would generate the approximately \$30,000 necessary to fund the new position. Staff recommended approval.

Ms. Blanton asked what other avenues had been explored for funding this position.

Mr. Arcieri informed the Commission that during the 2004 budget process the Board of Supervisors increased all other fees including the base fee for site plans. Staff felt the other fees had been raised and this was one of the few remaining fees that could be raised. The amount needed was relatively small and increasing other fees would impact a lot of smaller projects. This fee would affect only about 40 of the site plans reviewed each year.

Ms. Blanton wanted to know how the proposed increase compared with imposing an increase on residential plans. She felt those fees more aligned with the duties of the new position.

Mr. Arcieri stated that it would take a much larger increase to residential site plan fees to generate an equal amount of revenue. This would also cause a disparity when compared to subdivision plans.

Mr. Sowers said staff felt that subdivision fees were as high as they should be and agreed with Mr. Arcieri concerning the disparity in fees.

Mr. Kennedy asked what types of projects would be affected.

Mr. Arcieri explained that cases generating a significant amount of square footage and new developments that go before the Development Review Committee or Zoning Administrator would be affected.

Mr. Kennedy asked about using funds from the Purchase of Development Rights or Green Space Acquisitions portion of the County's budget.

Mr. Horne stated that it is unusual to divert capital projects funds for operational funding. He also said that the focus of the new position may change over time. Mr. Horne discussed the County's directive for departments to provide funding for any new positions.

Mr. Billups did not believe fees should be increased to fund personnel. He thought the Board of Supervisor's should provide other funding for any legitimate need.

Mr. Kennedy supported the need but opposed the fee increase.

Mr. Horne asked the Commission to forward a recommendation to the Board to allow them to make a decision.

Mr. Hunt opened public hearing.

Mr. Mark Rinaldi, Economic Development Authority (EDA) Planning Commission Liaison, stated that given the current economic climate and the highly competitive market for commercial/industrial development the EDA is concerned about the proposed increase. He thought this proposal would adversely affect business prospects who would not gain any benefit from the creation of this position.

Hearing no other requests, Mr. Hunt closed the public hearing

Mr. Fraley stated his support for the position. He also thought the funds could be found elsewhere in the County budget. He suggested drafting a recommendation to the Board of Supervisor's supporting the position and urging them to find another source of funding.

Ms. Jones stated that she had not received enough information to be able to support the need for this position.

Mr. Billups clarified that if funding is not found then the projects mentioned would not receive attention.

Mr. Horne confirmed that the position had already been proposed in the budget and stated that the matter that is before the Commission is the fee increase only.

Mr. Kennedy agreed and suggested the Planning Commission liaison to the Board address the issue at the Board's pre-budget meeting.

Mr. Fraley made a motion to deny the request.

Mr. Kennedy seconded the motion.

The motion was approved 6-0 by a unanimous voice vote (Kale absent).

The Commission also unanimously agreed to draft a statement on this issue to present to the Board of Supervisor's. Given that this meeting would be recessed until April 6, the Commission agreed to act on the statement at that meeting.


6. PLANNING DIRECTOR'S REPORT

Mr. Marvin Sowers presented the Planning Director's Report. He reminded Commissioners that tonight's meeting would adjourn until April 6 at 7 p.m. to consider recommendations from the DRC meeting that will be held at 4 p.m. that same day.

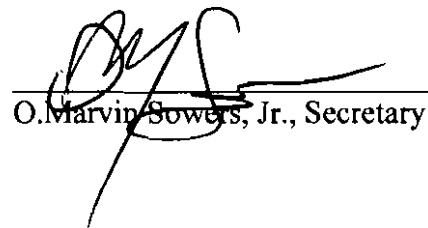
Mr. Fraley gave the reason for the change in format.

7. ADJOURNMENT

There being no further business, at 10:00 p.m. the April 4, 2005 Planning Commission adjourned until April 6, 2005 at 7:00 p.m.



Donald Hunt, Chairman



O. Marvin Sowers, Jr., Secretary