

MINUTES
JAMES CITY COUNTY PLANNING COMMISSION
REGULAR MEETING
County Government Center Board Room
101 Mounts Bay Road, Williamsburg VA 23185
May 2, 2018
6:00 PM

A. CALL TO ORDER

Mr. Heath Richardson called the meeting to order at 6:00 p.m.

B. ROLL CALL

Planning Commissioners Present:

Heath Richardson
Rich Krapf
Danny Schmidt
Jack Haldeman
Frank Polster
Julia Leverenz

Planning Commissioners Absent:

Tim O'Connor

Staff Present:

Paul Holt, Director of Community Development and Planning
Ellen Cook, Principal Planner
Max Hlavin, Assistant County Attorney

C. PUBLIC COMMENT

Mr. Richardson opened Public Comment.

Mr. David Reubush, 3237 Oak Branch Lane, addressed the Commission in opposition to C-0018-2018, Stonehouse Density Transfer 2018.

Mr. Marvin Rhodes, 9809 Hidden Nest, addressed the Commission in opposition to C-0018-2018, Stonehouse Density Transfer 2018.

Mr. Tim Trant, Kaufman & Canoles, PC, 4801 Courthouse Street, stated that he represents the applicant for C-0018-2018, Stonehouse Density Transfer 2018. Mr. Trant addressed the Commission regarding the application.

Mr. Dom Mullori, 3324 Sawyer Way, President of the Association at Stonehouse, addressed the Commission regarding the application and the agreements and assurances in place with the developer. Mr. Mullori stated that the Board of Directors for the Association at Stonehouse supports the density transfer.

Ms. Willow Twyford, 9962 Mill Pond Run, addressed the Commission in opposition to C-0018-2018, Stonehouse Density Transfer 2018.

Ms. Caroline Lott, 9804 Loblolly Court, addressed the Commission in opposition to C-0018-2018, Stonehouse Density Transfer 2018.

Mr. Robert Spencer, 9123 Three Bushel Run, addressed the Commission in opposition to C-0018-2018, Stonehouse Density Transfer 2018.

Mr. Joe Tenhet, 3515 Splitwood Road, addressed the Commission in opposition to C-0018-2018, Stonehouse Density Transfer 2018.

As no one else wished to speak, Mr. Richardson closed Public Comment.

D. REPORTS OF THE COMMISSION

Mr. Rich Krapf stated that the Development Review Committee (DRC) met on April 18, 2018, to review two cases.

Mr. Krapf stated that the first case was C-0018-2018, Stonehouse Density Transfer, 2018.

Mr. Krapf stated that the applicant was appealing a decision by the Planning Director that this proposal was not fully consistent with the adopted Master Plan. Mr. Krapf stated that the applicant proposed to build fewer homes in Land Bays 1, 3, 8 & 14 and Tract 12 and build more units in Land Bay 5. Mr. Krapf stated that the density transfer would result in an overall decrease of 59 units in the development as well as additional open space.

Mr. Krapf further stated that because this proposal affects a large number of housing units as shown on the Stonehouse Master Plan and does not meet all four criteria of Section 24-23 of the Zoning Ordinance, staff was not able to approve this request administratively; however, staff did recommend that the DRC approve the proposal.

Mr. Krapf stated that staff found that the proposed plan meets three out of four criteria in Section 24-23 of the Zoning Ordinance. Mr. Krapf stated that while the changes are significant within individual Land Bays, they are not a major alteration when considering the overall Stonehouse development. Mr. Krapf stated that the proposal minimizes environmental impacts and increases open space while providing for a more logical neighborhood arrangement.

Mr. Krapf stated that one resident of Stonehouse was given an opportunity to speak and stated that this proposal had not been widely communicated to Stonehouse residents.

Mr. Krapf stated that the applicant had obtained approval from the Stonehouse Board of Directors and had also provided a letter of endorsement from the Stonehouse Homeowners Association (HOA).

Mr. Krapf stated that the DRC voted 3-0 in favor of approving the density transfer.

Mr. Krapf stated that Case No. C-0024-2018, Lightfoot McDonald's Remodel was also an appeal of a Planning Director determination that proposed revised architectural elevations were not consistent with the approved 2014 Master Plan.

Mr. Krapf stated that the approved 2014 Special Use Permit (SUP) and Conditions would bring the existing legally non-conforming fast food restaurant into compliance with the M-1, Limited Business/Industrial District regulations.

Mr. Krapf stated that the applicant previously agreed to rebuild the McDonald's further back on the site and reduce seating and parking; use building materials and colors similar to those used for the Lightfoot Marketplace; install a 50-foot Community Character Corridor (CCC) buffer and meet other conditions.

Mr. Krapf stated that instead, the applicant proposed to retain the existing non-conforming restaurant and remodel the interior and exterior. Such a renovation would not require a site plan and thus there would be no triggers to implement the previously approved SUP conditions.

Mr. Krapf stated that by a vote of 3-0 the DRC found the proposal to be inconsistent with the previously approved Master Plan; thereby upholding the decision of the Director of Planning that the revised elevations contained architectural details that were different and the revised proposal violated Section 24-23 of the Zoning Ordinance – in particular Item No. 4 which states that changes to the Master Plan may not “significantly alter the character of land use or other features or conflict with any conditions placed on the corresponding legislatively approved case associated with the Master Plan.”

Mr. Jack Haldeman stated that the Policy Committee met on April 1, 2018, to continue review of strategies for addressing impacts associated with legislative cases which were formerly addressed through proffers.

Mr. Haldeman stated that in preparation for this Stage III discussion, staff prepared a draft revision of Section 24-35 of the Zoning Ordinance to extend the current requirements for pedestrian accommodations to bicycle facilities per the adopted Regional Bikeways Plan. Mr. Haldeman stated that the draft language also allows the current exemption and exception criteria for pedestrian accommodations to apply to bicycle facilities as well.

Mr. Haldeman stated that in regard to traffic impact analysis, James City County relies on the Virginia Department of Transportation (VDOT) as a reviewing agency to identify if improvements are required. Mr. Haldeman stated that the Committee accepted staff's recommendation that they add language to Section 19-30 of the Subdivision Ordinance and 24-151(2) of the Zoning Ordinance to more explicitly address the role of VDOT and other reviewing agencies in the subdivision and site plan approval process. Mr. Haldeman further stated that the Committee reviewed draft ordinance language for submittals requiring a developer to make satisfactory arrangements for performance assurances, including improvements required by agencies, including the VDOT and the James City Service Authority. Mr. Haldeman stated that the draft language also added the improvements required by those agencies to the list of items considered by the Planning Director, Zoning Administrator, and Planning Commission when reviewing plans. Mr. Haldeman further stated that staff also drafted an Adequate Transportation Facilities Test similar to the existing Adequate Public Facilities Test. Mr. Haldeman stated that a Rezoning or SUP application will pass the test if no off-site improvements are required by the Traffic Impact Analysis or if those that are required are guaranteed in a satisfactory form.

Mr. Haldeman stated that the Committee also reviewed draft ordinance amendments which added the requirement to complete and submit a Phase I Archaeological Study or Natural Heritage initial species inventory as a submittal requirement for site plan and major subdivisions and set forth the standards and specifications for these items. Mr. Haldeman stated that the amendments also included certain exemption criteria as requested by the Board of Supervisors. Mr. Haldeman stated that the Committee decided that these amendments sufficiently addressed the impacts and that a Stage III review was not necessary.

Mr. Haldeman stated that staff will consider several minor changes suggested by the Committee and forward the completed drafts to the Policy Committee prior to the next Planning Commission meeting.

Mr. Haldeman stated that the Committee discussed the need for performance standards for the placement of outside sales facilities such as ice lockers and propane refill stations at stores along CCCs. Mr. Haldeman stated that staff will explore administrative solutions pending further discussions at the next Committee meeting.

E. CONSENT AGENDA

1. Development Review Committee Action Item: C-0024-2018. Lightfoot McDonald's Remodel
2. Development Review Committee Action Item: C-0018-2018. Stonehouse Density Transfer 2018
3. Minutes of the April 4, 2018 Regular Meeting

Mr. Haldeman inquired if the Commission could pull an item and defer it.

Mr. Paul Holt stated that the Commission could defer an item if there were specific information that the Commission needed to make a decision.

Mr. Holt further stated that the Commissions options would be to affirm the DRC decision, not affirm the DRC decision, which would effectively deny the request, or remand the matter to the DRC for further consideration.

Ms. Julia Leverenz requested to pull Item No. 2, Development Review Committee Action Item: C-0018-2018. Stonehouse Density Transfer 2018, for discussion.

Mr. Richardson called for a motion on the remaining Consent Agenda items.

Mr. Haldeman made a motion to approve the remaining Consent Agenda items.

On a voice vote the Commission voted to approve Development Review Committee Action Item: C-0024-2018. Lightfoot McDonald's Remodel and the Minutes of the April 4, 2018 Regular Meeting. (6-0)

Mr. Holt stated that staff was available to answer questions.

Mr. Krapf stated that the consideration should have been a simple determination whether the density transfer was consistent with the Master Plan. Mr. Krapf stated that the DRC did discuss the Master Plan consistency. Mr. Krapf stated that the concerns came forward because there was a disconnect in communication between the leadership of the Association at Stonehouse and the community members. Mr. Krapf stated that the DRC did suggest that the applicant defer the matter to conduct some outreach to the residents. Mr. Krapf further stated that he does not believe that there is any additional substantive information to come forth that would warrant remanding the matter to the DRC.

Mr. Haldeman stated that based on the report, it appears that the application is basically consistent with the Master Plan. Mr. Haldeman further stated that it appears that the proposed density transfer would result in more open space within the development. Mr. Haldeman

further stated that he is troubled that the application has advanced to this stage without involving the residents.

Mr. Frank Polster inquired if it would be appropriate to request that the applicant request deferral of the matter.

Mr. Holt stated that the matter is before the Commission for action.

Mr. Richardson stated that the item is a DRC decision that the Commission is considering. Mr. Richardson reminded the Commission that the options were to accept the DRC decision, deny the decision or remand the matter to the DRC for further action.

Mr. Holt noted that this item does not follow the same process that is normally seen with a legislative case. Mr. Holt stated that the Zoning Ordinance allows for these density transfers without a public hearing process, which is why the public hearing notification has not been built in to this process. Mr. Holt further stated that the appropriate zoning is in place and the number of units are permitted. Mr. Holt stated that the decision point is whether the proposed plan is substantially consistent with the Master Plan.

Mr. Polster noted that preservation of the buffers and the most heavily wooded areas appealed greatly to the DRC when considering the proposal.

Mr. Polster further noted that the DRC did review the updated annual Traffic Impact Study and that none of the entrances came anywhere close to meeting the VDOT triggers for traffic control devices.

Ms. Leverenz inquired if the Commission's decision on this matter would go to the Board of Supervisors.

Mr. Holt stated that it did not.

Ms. Leverenz inquired if Land Bay 1 had been sold and if that would constitute new information.

Ms. Ellen Cook, Principal Planner, stated that staff understood that Land Bay 1 is owned by a different entity; however, agreements were put in place at the time of sale that restricts the number of units in that area.

Ms. Leverenz inquired if Land Bay 1 remained part of the Stonehouse Master Plan.

Ms. Cook confirmed.

Mr. Krapf inquired if requests for density transfers were common. Mr. Krapf further inquired if there is a mechanism for the Association at Stonehouse to request that the transfer be rescinded.

Mr. Holt stated that density transfers are not frequently requested; however, they are also not atypical in the instances of the large master planned communities such as Kingsmill, Governors Land, Ford's Colony and Stonehouse. Mr. Holt further stated that with the initial land use approvals, it is difficult to determine exactly how many units can go in each Land Bay. Mr. Holt stated that the actual number of units often changes as the Land Bay is prepared for development. Mr. Holt noted that sometimes the vision for the development changes and builders look to adapt to the requirements of the market. Mr. Holt stated that this is part of the reason that the Zoning Ordinance allows these types of changes to be considered outside of a legislative process. Mr. Holt noted that many of the density transfers are done administratively

without DRC review.

Mr. Holt further stated that, to answer the second question, the developer is not obligated to go forward with the density change and can continue with the development as originally planned.

Mr. Richardson stated that he is concerned by the lack of communication with the residents; however, he concurs with the DRC that the proposal is substantially consistent with the Master Plan. Mr. Richardson stated that he believes the DRC has done its job appropriately in reviewing the proposal. Mr. Richardson stated that he hoped the developer and the residents could further discuss the matter and come to an agreeable solution. Mr. Richardson stated that he felt comfortable in approving the DRC decision.

Ms. Leverenz stated that since there were internal review mechanisms within the community, there could be further considerations and changes.

Mr. Haldeman made a motion to approve the DRC action.

On a roll call vote the Commission voted to approve Development Review Committee Action Item: C-0018-2018. Stonehouse Density Transfer 2018. (6-0)

F. PUBLIC HEARINGS

There were no Public Hearing cases.

G. PLANNING COMMISSION CONSIDERATIONS

1. Rezoning-0003-2017/Height Limitation Waiver-0004-2017. Oakland Pointe

Mr. Holt stated that this matter is a Consideration item rather than a Public Hearing item because the Commission agreed to defer the matter at its April meeting and staff noted that the matter would be re-advertised when it came forward again. Mr. Holt stated that since that time the applicant requested that the matter not be advertised for the May meeting and further requested that the case be deferred to the Commission's August 1, 2018 meeting.

Mr. Haldeman made a motion to postpone the case to the August meeting.

On a voice vote, the Commission voted to postpone Rezoning-0003-2017/Height Limitation Waiver-0004-2017. Oakland Pointe to the August 1, 2018 Planning Commission meeting.

2. Initiation of Consideration of Amendments to the Subdivision and Zoning Ordinances to Delete References to Fees Which Are Proposed to be Set Forth in the County Code Appendix A - Fee Schedule for Development Related Permits

Mr. Holt stated that on April 10, 2018, the Board of Supervisors conducted a Public Hearing on a proposal to create a new Appendix A to the County Code which would comprehensively list out all the fees that are associated with development related permits. Mr. Holt noted that currently these fees are spread out throughout the County Code in several different chapters. Mr. Holt further stated that staff believes that this change will improve transparency and make it easier to find the permit and application fees. Mr. Holt stated that the Public Hearing also covered a proposal to increase those fees by 5% to defray the costs incurred by the County for additional resources and technology necessary to administrate each of the programs in Planning, Zoning, Stormwater and Building Safety & Permits. Mr. Holt noted that as with all initiating resolutions, this is a required procedural step to begin the process of amending the

Ordinances. Mr. Holt stated that staff recommends that the Commission adopt the initiating resolutions and refer the matter to the Policy Committee.

Ms. Leverenz stated that the changes would be helpful.

Mr. Polster inquired if the additional revenue would fund technology support for the new permitting software.

Mr. Holt stated that there is a cost to administrating the programs. Mr. Holt further noted that the County will be instituting a suite of new software to help administer the programs which will have additional costs. Mr. Holt stated that under the umbrella of costs to administer the programs, the fee increase would go to support the new software.

Mr. Polster noted that the number of permit submittals have increased drastically in the last year and have approached the pre-2008 levels. Mr. Polster stated that he believes the additional resources are necessary to increase efficiency.

Mr. Holt stated that 100% of the revenue generated from the fees would be dedicated toward the permitting process. Mr. Holt stated that the County is seeing increased demands on the permitting processes. Mr. Holt stated that that once the suite of software is up and running and the community becomes familiar with it, it will streamline the process and move the County into the 21st Century with web enabled applications that will allow citizen to access information, submit applications, upload documents and pay fees without having to come to the County offices.

Mr. Polster made a motion to adopt the Initiating Resolutions.

On a roll call vote the Commission voted to adopt the Initiating Resolutions for Consideration of Amendments to the Subdivision and Zoning Ordinances to Delete References to Fees Which Are Proposed to be Set Forth in the County Code Appendix A - Fee Schedule for Development Related Permits. (6-0)

H. PLANNING DIRECTOR'S REPORT

1. Planning Director's Report - May 2018

Mr. Holt stated that he had nothing in addition to the report provided in the Agenda Packet.

Mr. Polster noted that the Planning Director's Report provides a link to the Virginia Employment Commission Labor Market Information Community Profile for James City County. Mr. Polster encouraged the Commission to review the report as it provides information that may be beneficial to the upcoming Comprehensive Plan review process and to the Workforce Housing Task Force efforts.


I. PLANNING COMMISSION DISCUSSION AND REQUESTS

Ms. Leverenz noted that she would not be at the June 6, 2018 Planning Commission meeting.

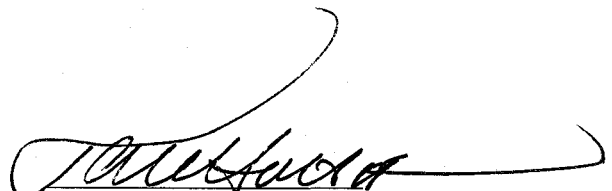
J. ADJOURNMENT

Mr. Krapf made a motion to adjourn.

The meeting was adjourned at approximately 6:56 p.m.



Heath Richardson, Chair



Paul D. Holt, III, Secretary