

LANCASTER COUNTY PLANNING COMMISSION

Minutes

April 21, 2011

The regularly scheduled meeting of the Lancaster County Planning Commission was called to order at 7:00 p.m. in the Old General District Courtroom of the Lancaster County Administration Building, Lancaster, Virginia.

Present were David Jones, Chairman, Robert Smart, Tara Booth, Steve Sorensen, David Chupp, and Ty Brent.

Also present were Butch Jenkins, Board of Supervisors Representative, Don Gill, Planning/Land Use Director, Audrey Thomasson, Rappahannock Record, Lewis F. Conway, Charlie Costello, Julia Mattocks and others.

Mr. Jones asked if there were any corrections or additions to the minutes of the March 17, 2011 regular meeting.

Mr. Jones moved to approve the March 17, 2011 minutes as submitted. **VOTE: 6-0.**

PUBLIC HEARING #1

CAPITAL IMPROVEMENT BUDGET- FY 2012-2016

Mr. Jones asked Mr. Gill to present the issue.

Mr. Gill stated that the summary cost sheet that the Commission members received in their packets is the revised version after the 3/17/11 meeting and no other additional documentation has been provided.

Mr. Smart asked about there being no cost in the year 2014 for the HVAC system at the middle school. He stated that he understood it to be a multi-year project.

Mr. Gill replied that that was how it was presented by the school and he wasn't sure why, except that the performance contract that the school system had entered into last year may have taken care of some of that expense.

Mr. Brent stated that he thought the restoration of the old jail and clerk's office was going to be put on hold until a formal bid was received.

Mr. Gill stated that from last month's meeting, it was decided that the old jail restoration item would be the last item for the 2012 budget year.

Mr. Jones stated to remember that these items are just the Planning Commission's suggestions to the Board of Supervisors.

Mr. Jones opened the floor for public comment.

There was no public comment.

Mr. Smart made a motion to forward the Capital Improvement Budget FY 2012-2016 to the Board of Supervisors with a recommendation for approval. **VOTE: 6-0.**

PUBLIC HEARING #2

APPLICATION FOR CHANGE OF ZONING DISTRICT CLASSIFICATION- LEWIS F. CONWAY

Mr. Jones asked Mr. Gill to present the issue.

Mr. Gill stated that the issue is the application for change of zoning district classification from R-1, Residential, General to R-4, Residential Community by Lewis F. Conway for a 1.026-acre parcel described as Tax Map #28-106A and located at 953 Irvington Road.

Mr. Gill stated that this is the first potential rezoning to the new R-4, Residential Community District that was adopted by the Board of Supervisors on April 30, 2009 after the Planning Commission spent many months developing this replacement to the old R-2 District that had been repealed in 2005.

Mr. Gill stated that the applicant currently has a duplex on this parcel and wishes to add a third dwelling unit, which is not allowed under the current zoning. He further stated that the R-4 District is the only district that will allow this multi-family use as stated in Article 6A-1-4.

Mr. Gill stated that this request conforms to the statement of intent of the R-4 District and is considered reasonable and appropriate for several reasons. He stated that the property is located within the designated Primary Growth Area (PGA) for Lancaster County, which is the triangular shaped area between the three incorporated towns of Kilmarnock, Irvington and White Stone. He further stated that this area of the PGA is

served by central water and sewer and is in very close proximity to the corporate limits of the Town of Kilmarnock. He stated that the third dwelling unit triggers the requirement for ten percent of the total number of dwelling units to be built and priced for purchase or rental or subsequent rental after purchase, in a range that is affordable to residents with incomes between 80 and 120 percent of the median family income as determined by the most recent U.S. Department of Housing and Urban Development estimate for Lancaster County as stated in Article 6A-4-2 and since all three dwelling units will be rented under the Section 8 Housing Program, that requirement has been met. He stated that the site plan that was included in the members' packets verifies that all setback, open space, parking and storm water management requirements have been met.

Mr. Gill stated that adjoining property owners have been notified and advertising conducted as required by law and to date, there has been one inquiry from the public for additional information.

Mr. Brent referred to Section 6A-4-4 of the R-4 ordinance and asked if the deed restriction requirement had been met.

Mr. Gill replied that the deed restriction is not included with this package, but it is required and will be done at a later date.

Mr. Smart stated that he noticed that the plat contains the existing and reserve drain field sites and wanted to know if those had been checked out by the County's Health Department.

Mr. Gill replied yes.

Mr. Smart asked why, with town water and sewer available, did Mr. Conway choose not to hook-up to those utilities.

Mr. Conway stated that it was very expensive to connect to those utilities, so he put in his own well and septic system.

Mrs. Booth asked where Section Eight housing falls in the 80-120 percent of the median family income range.

Mr. Gill replied that it would fall at the lower range or less.

Mr. Jones asked if the rezoning could be allowed if the income level is less than 80 percent.

Mr. Gill stated that his interpretation would be that if the dwelling were affordable to families with incomes below the 80 percent, then it would certainly be affordable to families within the 80 to 120 percent range, and therefore would be allowed.

Mr. Jenkins stated that, in his opinion, the intent of the ordinance was certainly not to exclude people whose income falls below the 80 to 120 percent range of the median income.

Mr. Smart stated that the parcel is only about 100 feet out of the Kilmarnock town limits. He asked if the Town of Kilmarnock expanded its limits, would water and sewer hook-up be required of this parcel.

Mr. Gill replied no.

Mr. Smart stated that this parcel seems to do what was intended with the R-4 zoning, for example being close to one of the incorporated towns.

Mr. Brent referred to Section 6A-9-3 of the ordinance and asked about the provisions for common open space and where that is depicted on the plat.

Mr. Gill stated that the open space is depicted with the hatched areas on the plat.

Mr. Brent referred to Section 6A-12-2 of the ordinance and asked about the VDOT specifications for the proposed rezoning.

Mr. Gill replied that VDOT specifications do not apply to roads serving three or fewer homes.

Mr. Brent referred to Section 6A-7-3 of the ordinance and asked about the difference between a main building and building groups in this type of zoning.

Mr. Gill replied that the initial intent was to place townhouse clusters at least twenty feet away from each other. He further stated that in this case, the third structure would be connected to the duplex and the entire structure would constitute one main building.

Mr. Chupp referred to Section 6A-9-2 of the ordinance and stated that he thought the five percent of set aside land for recreational purposes for its residents should be shown on the plat.

Mr. Gill stated that he had discussed that issue with the surveyor and the five percent recreational open space will be shown on a revised plat.

Mr. Jones opened the floor for public comment.

Julia Mattocks, an adjoining property owner, stated that she had received a letter concerning the proposed rezoning and wanted clarification of the application.

Mr. Gill stated that Mr. Conway has a duplex on the property behind his insurance agency and wants to add a third dwelling. He further stated that the only way Mr. Conway can add a third dwelling is to have the property rezoned to the R-4 District.

Mrs. Mattocks asked what the R-4 District was.

Mr. Gill replied that R-4 stands for Residential, Community, which is the multi-family zoning district in Lancaster County.

Mrs. Mattocks asked how it would affect her.

Mr. Gill replied that it does not change her property's zoning and the reason she received the letter was because she is an adjoining property owner and he is required by state law to send those notices to all adjoining property owners.

Mr. Jones closed the floor to public comment.

Mr. Jenkins stated that he would suggest that whatever the recommendation to the Board of Supervisors be, that there be an amendment to the R-4 zoning ordinance to take out the 80 percent and just include the 120 percent parameter.

Mr. Jones stated that those figures had originally come from some source.

Mr. Gill stated that the 80 to 120 percent was a typical range to describe workforce housing.

Mr. Jenkins stated that there are going to be communities in the County, where the 80 percent is going to be tough to reach. He further stated that affordable housing should also be for people who couldn't otherwise afford any housing at all.

Mr. Jones stated that the ordinance states the 80 to 120 percent range of income and he did not see how a favorable recommendation could be made to the Board. He further stated that he thought it should come back at next month's meeting to possibly change the criteria before it goes before the Board.

Mr. Gill stated that the Planning Commission could table the vote on the rezoning issue until the May 19 meeting and advertise to amend the ordinance, vote on the proposed ordinance amendment and then vote on the rezoning, and forward them both to the Board of Supervisors for their May 26 meeting.

Mr. Costello stated that he thought care should be taken to make sure there are no unintended consequences with changing the percentages.

Mr. Jenkins stated that market forces would determine certain development.

Mr. Jones stated that the main question is what does the lower range need to be.

Mr. Jenkins stated that he thought that the market should determine it.

Mr. Jones stated that property owners near or adjoining the potential R-4 properties need protection as well and thought that some number should be assigned as the lower end of the scale.

Mr. Jenkins stated that the problem with that is the fact that some Section Eight housing incomes are as low as zero percent.

Mr. Gill stated that he believed that Section Eight housing fell in the 50 to 80 percent range and workforce housing fell in the 80 to 120 percent range.

Mr. Jones asked what the median family income in Lancaster County was.

Mr. Gill replied that he believed it to be approximately \$41,000.

Mr. Jenkins referred to Section 6A-4-3 of the ordinance and stated that it states “priced for purchase for residents with incomes between the 80 to 120 percent range”. He further stated that he thought the criteria had been met for the ordinance.

Mr. Jones stated that he thought it did not meet the ordinance requirements.

Mr. Conway stated that the current duplex residents are on the Section Eight housing program. He further stated that the rent is the same, but the amount that the Section Eight housing participant pays is based on their income. He stated that he is willing to rent to anyone who can pay the rent.

Mr. Jones stated that the ordinance states “affordable to residents with incomes between 80 to 120 percent of median family incomes” and this rezoning is not meeting that criteria.

Mr. Jenkins stated that the rentals will be affordable to people in that range and it is not meant to be exclusive of people who don't make that much money.

Mr. Jones stated that he had no problem with Mr. Conway's request for rezoning. He further stated that he did not want to forward something to the Board of Supervisors that later could be called a misinterpretation.

Mr. Chupp stated that he still had a question about the deed restriction. He stated that the way he read it was that it was to be approved by the County Attorney.

Mr. Gill stated that the deed restriction needs to be approved by the County Attorney and/or the Zoning Administrator.

Mr. Chupp stated that he would like to see the five percent of suitable land area for recreational use shown on the plat. He stated that he would like to see a little more time taken before it is sent to the Board.

Mr. Smart stated this test case has been interesting. He stated that how much a person wants to put into their mortgage or rent is really a personal decision. He stated that the term “affordable” could mean a different amount to different people. He stated that he liked the idea of free market forces and letting a person making their own decision about what they want to pay.

Mr. Jones asked Mr. Gill how much it would hold Mr. Conway up if they tabled his rezoning request.

Mr. Gill replied that tabling it would not hold Mr. Conway up because the Board of Supervisors would not get the rezoning request until the May 26 meeting anyway. He further stated that the Code of Virginia does allow the Planning Commission and the Board of Supervisors to hear issues concurrently. He stated that it has been done before in an expedited fashion.

Mr. Jones stated that he wanted to send something to the Board of Supervisors that was “cleaned up”.

Mr. Gill stated that the five percent of set aside area for recreational purposes being shown on the plat can be remedied and the twenty foot area between buildings would be fixed by adjoining the third structure to the existing duplex. He further stated that the main issue is the interpretation of the 80 to 120 percent range for incomes.

Mr. Conway stated that most of the Section Eight participants’ income would fall under the 80 percent criteria.

Mr. Jones stated that it was his understanding that the R-4 District was set up to take the place of the R-2 District and be available for a range of incomes, not just Section Eight housing.

Mr. Jenkins stated that the intent was to try to avoid exclusive communities. He further stated that it would be ruled unconstitutional for a zoning district to be set up that states a person cannot live there unless they make a certain amount of money.

Mr. Jones made a motion to table Mr. Conway’s rezoning request until next month’s meeting so changes and clarifications can be proposed for the ordinance and for Mr. Gill to advertise those proposed changes. **VOTE: 6-0.**

OTHER BUSINESS

Mr. Gill stated that there would be the annual elections in May for the Planning Commission.

ADJOURNMENT

The April 21, 2011 regular meeting of the Lancaster County Planning Commission was adjourned at 7:55 p.m.