

LANCASTER COUNTY PLANNING COMMISSION

Minutes

July 17, 2008

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

Present were David Jones, Tara Booth, Steve Sorensen, Ty Brent, Robert Smart and Glenn Pinn.

Also present were Butch Jenkins, Board of Supervisors Representative, Don Gill, Planning/Land Use Director, Audrey Thomasson, Rappahannock Record, Starke Jett, Northern Neck News, David Donofrio, Jeanne Berry, Herb Aman, Charles Costello, Ben Burton and Doug Trittioe.

Mr. Jones welcomed Ty Brent as the new at-large Planning Commission member.

Mr. Jones asked if there were any corrections or additions to the minutes of the June 19, 2008 regular meeting.

Mr. Jones moved to approve the June 19, 2008 minutes as submitted. VOTE: 6-0.

PUBLIC HEARINGS

1.) REVISIONS TO THE LANCASTER COUNTY EROSION AND SEDIMENT CONTROL ORDINANCE

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

Mr. Gill stated that the issue was to take public comment on revisions to the Lancaster County Erosion and Sediment (E&S) Control Ordinance required for the local program to conform to the state program.

Mr. Gill stated that the Virginia Department of Conservation and Recreation (DCR) conducted a comprehensive review of our E&S program in October 2007 and issued a Corrective Action Agreement (CAA) to bring Lancaster's E&S program into compliance with state regulations. One of three things required is the revision of our E&S ordinance, which has not been revised since its adoption in January 1995. DCR staff has reviewed our ordinance and recommended changes. This issue has been advertised as

required by law. To date, there has been one inquiry from the public seeking additional information. The inquiry dealt with the wording of Section 10-8 of the ordinance, specifically changing the word “shall” to “may” in two places under the “Note” of that section.

Mr. Jones asked if the county attorney had been made aware of this.

Mr. Gill stated that he had passed it by the DCR staff, but not the county attorney.

Mr. Jenkins stated that he thought the county attorney’s opinion was needed.

Mr. Jones suggested that the issue be forwarded to the Board of Supervisors and in the meantime the county attorney could review it.

Mr. Smart asked Mr. Gill if the blue colored text in the ordinance was the DCR recommendations.

Mr. Gill stated yes.

Mr. Jones asked if the commission was in consensus about the wording of Section 10-8 to change from “shall” to “may”.

The members agreed with the wording change.

Mr. Gill asked if the members would refer to Section 10-4 of the ordinance and the optional text section. He stated that it was his recommendation to include the text, but wanted to know the commission’s opinion.

Mr. Jones asked the members of the commission and they were in agreement with the optional text being included in the ordinance.

Mr. Jones asked if there was any comment from the public.

A District One citizen asked what the civil penalties were for violations of the ordinance.

Mr. Gill stated that the civil penalty for any one violation was not less than \$100 nor more than \$1,000 and each day in violation would constitute a separate offense up to a \$10,000 maximum.

Another citizen asked if the land disturbance area needed for a permit was still anything over 2,500 square feet.

Mr. Gill stated yes. He further stated that the state law for erosion and sediment control is 10,000 square feet, but because the county is in the Chesapeake Bay Preservation Area, the area here is 2,500 square feet.

Mr. Jones asked if there was any other comment from the public.

Mrs. Booth made a motion to forward the amended erosion and sediment control ordinance to the Board of Supervisors recommending approval. VOTE: 6-0.

2.) PROPOSED NEW ORDINANCE, R-4 – RESIDENTIAL COMMUNITY DISTRICT

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

Mr. Gill stated that the issue was to take public comment on a proposed new ordinance, R-4 – Residential Community District, which allows multi-family housing with an emphasis on creating workforce housing.

Mr. Gill stated that on May 15, 2008, the Planning Commission considered this draft ordinance. The suggestions and corrections mentioned at that meeting were incorporated into the draft. At the June 19th meeting, with no further suggestions or corrections, the Commission decided to forward it to public hearing this month. Lancaster County does not currently have a district which allows multi-family housing and this ordinance accomplishes that and encourages workforce housing as well. Conservation subdivision for all districts will be addressed in a future re-write of Section 5-26 of the Subdivision Ordinance. Mr. Gill further stated that he did not have the county attorney's input yet on the proposed ordinance. This issue has been advertised as required by law and to date, there had been four inquiries from the public seeking additional information.

Mr. Jones asked if any commission member had any comments or questions.

Mr. Smart referred to Section 6A-3-1 and asked if a central water/sewer system would be an absolute requirement under R-4 zoning.

Mr. Gill stated that the way the ordinance is written at the present time, it could or could not have central water and sewer.

Mr. Jones asked Mr. Gill if he would check Section 6A-6-2, which refers to the 20-foot minimum lot width for duplexes or town houses.

Mr. Smart referred to Section 6A-9-1 and stated that he thought that 30% was a good amount of open space.

Mr. Jones agreed with Mr. Smart.

Mr. Jenkins stated that in Section 6A-2-1, he thought the wording should include “submitted and approved by the Zoning Administrator.” He further stated that in Section 6A-3-3, the word “zoning” should appear before the word administrator so that there is no confusion.

Mr. Jones opened the floor to public comment.

A Weems citizen, Herb Aman, stated he thought the 20-foot minimum lot size was probably not an error. He thought a way of resolving the issue would be to limit the amount of townhouses in a given acre. He further stated that workforce housing would require a way to administer it and a way to do that would be to require a homeowner’s association. When a workforce housing contract comes up, it would have to go through the homeowner’s association. He stated that the association would be self-regulating and not involved with the government, unless necessary.

A District Two citizen, Charles Costello, stated that he agrees with the enforcement of the continued affordability of workforce housing that Mr. Aman spoke of. He then referred to Section 6A-9-1, where it states there would be 30% open space. He then asked about Section 6A-9-2 and the 5% open space.

Mr. Gill stated that the 5% was included in the 30% and was set aside for recreational use.

Ben Burton of Bay Design Group spoke about Sections 6A-3 and 6A-4. Mr. Burton stated that the density stated in the ordinance is not what the industry considers a moderate to higher density. Mr. Burton showed a diagram of different densities. Mr. Burton stated that he thought the townhouse and apartment areas needed to be clarified.

A District 2 citizen, Doug Trittippoe, stated that his concern is that the restrictions are not spelled out in the R-4 ordinance in relation to workforce housing.

Mr. Brent asked Mr. Trittippoe if he was speaking of the income restrictions.

Mr. Trittippoe said yes.

Mr. Trittippoe stated that he didn’t think a person should be limited on what price he or she puts on their home for sale.

Mr. Jones stated that there should be a formula in place to ensure that workforce housing remains workforce housing and there is a need to regulate it.

A citizen asked what the status was on the Northern Neck regional housing study.

Mr. Gill stated that Virginia Tech had been chosen to do the study and we should have results by the end of the year.

Mr. Jones made a motion to table the proposed R-4 ordinance for additional fine-tuning and bring it back as a discussion item at next month's meeting. VOTE: 6-0.

DISCUSSION ITEMS

1.) Assemble a Parks and Recreation Guidance Committee

Mr. Gill stated that the issue was to appoint a guidance committee charged with making recommendations for projects and improvements to be included in a Parks and Recreation Program. The Planning Commission voted at its May 15th meeting to establish a Guidance Committee for Parks and Recreation consisting of a representative from each voting district, one member at large and one Planning Commission member. To date, suggestions have been received from committee members from Districts One, Two and Three. Suggestions are still needed for Districts Four and Five and the At-Large position, as well as someone from the Planning Commission to chair the committee.

Mr. Jones stated that he thought the Planning Commission should wait until next month's meeting for all of the members to get suggestions in for the guidance committee. The Commission was in consensus with this.

2.) Application for Change of Zoning District Classification-Confederate Interests, LLC

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

Mr. Gill stated that the issue was the prior application for change of zoning district classification by Confederate Interests, LLC for: 667.207 acres described as Tax Map #27-297 from A-2, Agricultural, General to R-1, Residential, General (for 37.0 acres of the total) and R-3, Residential, Medium General (for the remaining 630.207 acres) and also 29.016 acres described as Tax Map #27-297A from A-2, Agricultural, General to R-3, Residential, Medium General. This property is located in the roughly shaped triangle between VSH 200 (Irvington Road), VSH 629 (Lumberlost Road) and VSH 675 (Black Stump Road) near Kilmarnock, Virginia.

Mr. Gill stated that at the June 19, 2008 public hearing, the Planning Commission voted to table this request until more information was received and for the issue to come back as a discussion item at the July 17th meeting. Specifically, the Commission requested a plan of development showing the number of lots possible under current zoning versus the proposed plan, as well as a commitment from the Town of Kilmarnock that they will provide water and sewer service to the development. Donofrio has provided a concept plan of "by-right" A-2 zoning showing 592 lots with private septic and wells with the minimum required 10% open space versus a conceptual plan under the proposed zoning of 642 lots with public sewer and water and 30% open space. The Waterfront Residential Overlay is depicted in each plan. He has also provided a new proffer stating

that as conditions of approval of this rezoning, the total number of dwelling units on the proposed rezoned acreage will not exceed 600, that the portion of Tax Map #27-297 proposed for R-1 zoning will be surveyed as depicted in the plan of development and that water and sewer will be provided by the Town of Kilmarnock or a new private wastewater treatment system he will install.

David Donofrio of Confederate Interests, LLC and Jeanne Berry of Higgins & Gerstenmaier were in attendance to make a presentation and answer any questions.

Mr. Donofrio showed maps of the different concepts under current and proposed zoning.

Ms. Berry stated that the maps showed lots with and without public water and sewer.

Mr. Jones asked what the status was of the public water and sewer because at last month's meeting, a letter from the Town of Kilmarnock was presented stating that it had the capacity to serve the subdivision, but did not commit to doing so.

Mr. Jones stated that the request was to change to R-3 zoning before knowing whether or not there will be public water and sewer. He further stated that the proffer states that the project will not go over 600 lots, but if a private wastewater system is needed, it will cut down on the number of lots.

Ms. Berry stated that the Commission has the reassurance that there would not be more than 600 lots, because it is stated in the proffer.

Mr. Jones stated that he saw no need to rezone, until there was more information about the water and sewer system.

Mr. Gill stated that if Mr. Donofrio could not obtain public water and sewer, the worst-case scenario if rezoned would be that lot size could be reduced from 33,000 square feet under the current A-2 down to 25,000 square feet under the proposed R-3, but the total number of lots would be controlled by the proffer. He further stated that individual, private septic systems would likely still be possible on the smaller sized lots.

Mr. Jones stated that the Donofrio project is a huge project for the county and that before the Commission gives an approval for rezoning, a detailed plan should be shown. He stated that it is a fair question to ask about the water and sewer plan.

Mr. Jones stated that the project encompasses approximately one percent of the total land area of the county and that all the Commission has seen thus far are just conceptual plans. Mr. Jones further stated that before any lot is subdivided in the county, there has to be proof of water and sewer and this project should follow the same guidelines.

Mr. Smart stated that he agreed with Mr. Jones. He said he likes the project and knows that the property will eventually be developed, but thinks it is reasonable to ask for more information. He asked Mr. Donofrio if he had met with an engineering firm about the sewer and water system.

Mr. Donofrio stated that he had met with Kilmarnock's town manager and also engineers to discuss the water and sewer options for the subdivision.

Mr. Jones stated that if Mr. Donofrio could present the Commission with either a letter from the Town of Kilmarnock stating that they have the capacity for and will earmark that capacity for this project or a certified report from an engineer stating that a private system would work for this project, that he would be satisfied.

Mr. Smart stated that he thought a licensed engineer's plan of where the system would go and how it would work would be good to present to the Commission.

Mr. Gill stated that he had reviewed the topographic maps and believes that there are no unbuildable areas outside of the RPA. He further stated that he had reviewed the soil maps, and the soils that typically do not perk are also located within the RPA. As a result, the 592 by-right lots are realistic, however he stated that about 20 of those lots are not buildable because they are entirely within the RPA.

Mr. Jones made a motion to table this request for 30 more days so Mr. Donofrio can gather some more information and bring this issue back as a discussion item at next month's meeting. VOTE: 6-0.

ADJOURNMENT

The July 17, 2008 regular meeting of the Lancaster County Planning Commission was adjourned at 9:15 p.m.