

LANCASTER COUNTY PLANNING COMMISSION

Minutes

September 18, 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, Paul Sciacchitano, Helen Edwards, Lloyd Hill, Martha Dobyns, Blanche Yerby, Clementine Belle, David Donofrio and Charles Costello.

Mr. Jones asked if there were any corrections or additions to the minutes of the August 21, 2008 regular meeting.

Mr. Jones moved to approve the August 21, 2008 minutes as submitted.
VOTE: 6-0.

PUBLIC HEARING

APPLICATION FOR CHANGE OF ZONING DISTRICT CLASSIFICATION – WHITE STONE CHURCH OF THE NAZARENE

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

Mr. Gill stated that the application was for a Change of Zoning District Classification from C-2, Commercial, Limited to C-1, Commercial by White Stone Church of the Nazarene for a 22.541-acre parcel described as Tax Map #34-401A. This property is located at 57 Whisk Drive off VSH 3 (Mary Ball Road) near White Stone, Virginia.

Mr. Gill stated that the purpose for this rezoning request is to correct an improper designation applied at the time the church was built in 2004 and does not indicate any additions or changes to the use of the property. The White Stone Church of the Nazarene has proffered that the property will “be used as a church with church related activities.” The improper designation involved the fact that churches are **not** listed as a permitted use

in the current C-2 district. Furthermore, the White Stone Church of the Nazarene's 21,000+ square foot building far exceeds the 4,000 square foot maximum for a building in the current C-2 district.

Mr. Gill further stated that staff views the conditional C-1 zoning as reasonable. The property is located in an area with many other commercial properties. It is adjacent to several C-2 properties, and there are other C-2 as well as two C-1 properties in the immediate vicinity. The church use is a permitted use in the C-1 District. As a matter of fact, churches are listed twice under permitted uses in C-1, but not at all in C-2, which is an issue the Commission may choose to address in the future.

Mr. Gill stated that adjoining property owners have been notified and advertising conducted as required by law. To date, there has been one request for additional information.

Mr. Gill stated that Mr. Paul Sciacchitano, a representative from the White Stone Church of the Nazarene, was present at the meeting if anyone had any questions.

Mr. Jones opened the floor for public comment. There was no input.

Mr. Jones closed the public hearing.

Mr. Jones asked if any of the Planning Commission members had any questions or comments.

Mr. Smart stated that this issue seemed like a natural thing to resolve and was probably just an oversight at the time.

Mr. Jones made a motion to forward the application for Conditional Change of Zoning District Classification for the White Stone Church of the Nazarene to the Board of Supervisors recommending approval. VOTE: 6-0.

CONSIDERATION ITEMS

1) TABLED APPLICATION FOR CHANGE OF ZONING DISTRICT CLASSIFICATION-HELEN EDWARDS

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

Mr. Gill stated that the application was for a Change of Zoning District Classification from R-1, Residential, General to C-1, Commercial by Helen Edwards for

a 0.64-acre parcel described as Tax Map #34-101A. This property is located on VSH 200 (Irvington Road) near White Stone, Virginia.

Mr. Gill stated that the applicant wishes to establish a real estate office for Edwards Bay and River Properties, LLC on this unimproved parcel located just past Woods Drive on the left going from White Stone to Irvington. Current R-1 zoning will allow a professional office with one unit and up to four workers with a Special Exception from the Board of Supervisors, however the applicant has stated that the number of workers may exceed that number. The applicant also seeks the C-1 zoning for the reduced setbacks, however this parcel lies within the Highway Corridor Overlay District and would be subject to its setbacks under either the current zoning or the proposed zoning. The applicant has offered a proffer that as a condition of approval the only permitted C-1 use would be the professional offices allowed under Article 8-1-12.

Mr. Gill stated that staff believes this request could be considered as spot zoning and recommends disapproval. The GIS map clearly shows that there are no other C-1 properties adjacent to this location. Contiguous properties are either R-1 or A-2. Staff believes the intended use could be accomplished under the current R-1 zoning with the Special Exception from the Board of Supervisors and would recommend approval of such a request.

Mr. Gill stated that the applicant was not present at last month's meeting because her husband had been involved in a boat explosion the night before that meeting and was hospitalized out of town. Since the public hearing had been advertised, it was held, however the vote was tabled until this month to give the applicant an opportunity to be present. Adjoining property owners were notified and advertising conducted as required by law prior to last month's public hearing. Staff has since received an affidavit signed by surrounding property owners opposing this rezoning request.

Mr. Lloyd Hill, a District 4 citizen, asked Mr. Jones if he could speak on behalf of the surrounding property owners. Mr. Hill stated that the purpose of zoning laws is to improve the use of land and help with long range planning. Mr. Hill further stated that it disturbed him that some of the zoning applications were asking to turn predominately black residential areas into commercial zones. The area has been residential for many years and he doesn't think it is a good idea to have any commercial zoning there even with proffers. Mr. Hill stated that he was asking the Planning Commission to deny the Edwards' application.

Mrs. Martha Dobyms, a District 4 citizen, stated that she lived on Irvington Road and was concerned about the application because the area had always been residential and she was asking that the Commission reject the application.

Mrs. Blanche Yerby stated that she was there to represent a citizen who had lived in the neighborhood for over eighty years and was against the rezoning application.

Mrs. Clementine Belle, another District 4 citizen, stated that she lived within a minute of the property and was against the Edwards application.

Mr. Jenkins stated that he didn't believe the Board of Supervisors would pass the application.

Mr. Smart stated that the parcel was very small and that the owner could operate a real estate office under a special exception with the zoning left as is. He stated that in his opinion, it would be considered spot zoning to change the zoning.

Mr. Jones stated that he agreed. He stated that sometimes a piece of land is purchased in a residential area because it is cheaper than commercial lots and then the purchaser will try to get it rezoned, which causes the other lots around it to be more expensive.

Mr. Jones made a motion to forward the application for Conditional Change of Zoning District Classification for Helen Edwards to the Board of Supervisors recommending denial. VOTE: 6-0.

2) TABLED 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 amended application for Change of Zoning District Classification by Confederate Interests, LLC for: 613.707 acres described as Tax Map #27-297 (portion of) from A-2, Agricultural, General to R-3, Residential, Medium General and 53.5 acres described as Tax Map #27-297 (portion of) from A-2, Agricultural, General to R-1, Residential, General and 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 if the development of this property is imminent, staff favors the option that will yield the most open space.

Mr. Gill further stated that the Planning Commission has tabled this request for three months seeking additional information from the applicant. The applicant has attempted to address the concerns raised by the Commission at each meeting and has incorporated the additional information in the plan of development. The plan compares the "by-right" A-2 zoning showing 592 lots served by private septic and wells with the minimum required 10% open space, to the conceptual plan under the proposed zoning of 575 lots with public sewer and water and 30% open space. The Waterfront Residential

Overlay is depicted on each plan. The applicant has provided a proffer stating that as a condition of approval of this rezoning, the total number of dwelling units on the proposed rezoned acreage will not exceed 575 and that water and sewer will be provided by a municipal or public system such as the Town of Kilmarnock or by a private system he will install. The proposed R-1 acreage has been surveyed as 53.5 acres instead of the previous 37 acres and would need to be subdivided prior to the rezoning. That subdivision of one conforming lot from the large, undeveloped parcel could be approved administratively, prior to the submission of a subdivision plat for Phase One of King's Grant which would require Board of Supervisor approval. Subsequent subdivision plats for Phases 2, 3, and 4 would also require Board approval, which could serve as a "check and balance" to ensure the development proceeds per the plan.

Mr. Gill stated that prior opposition to this request has claimed inconsistency with the Comprehensive Plan with regards to the property's location within the Primary Growth Area (PGA) and its listing as one of seven potential reservoir sites. Equally compelling arguments can be made that the property is part of the PGA as a result of the adopted revised language in the Comprehensive Plan and that to prohibit development of that parcel due to its potential reservoir status could constitute a "taking" of property rights. Postponement of this rezoning until a "cash proffer policy" is in place has also been mentioned since a development of this size will obviously increase the amount of public services needed. That point is also refutable since the total number of rezoned dwelling units will not exceed the number of by-right dwelling units, which are not subject to cash proffers.

Mr. Gill stated that the adjoining property owners were notified and advertising conducted as required by law prior to the public hearing in June. In addition to previous public comment, Dr. Frank Fletcher, a hydrogeologist who lives in Northumberland County, sent an e-mail that addresses the groundwater withdrawals of this proposed development and where it ranks in relation to other large water users in the County. Mr. Gill also stated that he had received two more e-mails prior to tonight's meeting that opposed this rezoning.

Mr. Jones asked Mr. Donofrio if the booklet he and the other Planning Commission members had received is the plan of development.

Mr. Donofrio stated yes.

Mr. Jones stated that the booklet and other papers referring to the proffers should be titled the "plan of development".

Mr. Jenkins referred to page 2, the fourth paragraph and 5th line in the plan that refers to the botanical and arboretum areas being a teaching resource for all County residents. He stated that he thought from last month's meeting that those areas would probably not be open to the public.

Mr. Donofrio stated that the teaching facility would be open to the public.

Mr. Smart stated that he thought the letters from the soil scientists, engineers and the water company were adequate and that is what the Planning Commission had asked for. He further stated that he was still concerned about dual zoning for a single tax map parcel.

Mr. Gill stated that the previously proffered survey had been done and that the 53.5-acre portion of Tax Map #27-297 would need to be subdivided prior to rezoning approval.

Mr. Jenkins stated that the rezoning is contingent on the subdivision.

Mr. Gill made reference to an email he had received from Dr. Frank Fletcher, a hydrogeologist, which refers to the groundwater withdrawals of the King's Grant development.

Mr. Jenkins stated that Dr. Fletcher's estimated water usage for the King's Grant development seemed high. He also questioned other figures where sparsely developed areas exceeded the water usage for more densely developed areas.

Mr. Jones asked Mr. Gill if all of this information would be in the Board of Supervisor's packages.

Mr. Gill stated that it would.

Mr. Jones made a motion to forward the application for Conditional Change of Zoning District Classification for Confederate Interests, LLC with signed proffers and the plan of development to the Board of Supervisors recommending approval.

Mr. Jenkins recommended that the project be presented to the Board of Supervisors as three parcels with each parcel having a separate public hearing.

Mr. Jones stated that he would make that part of his motion. VOTE: 6-0.

DISCUSSION ITEMS

1) CASH PROFFER STUDY

Mr. Gill stated that the issue was to study the "cash proffer system" and make a recommendation to the Board of Supervisors addressing the six points outlined in the memorandum from the County Administrator, William H. Pennell, Jr.

Mr. Gill stated that staff was still gathering information from James City, Middlesex and Westmoreland counties and this issue would come back at next month's meeting as a discussion item.

2) 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.

Mr. Gill stated that representatives from Districts 4 and 5 are still needed. This will come back on next month's agenda.

3) PROPOSED NEW DISTRICT ORDINANCE, R-4-RESIDENTIAL COMMUNITY

Mr. Gill stated that the issue is to revise 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 he had recently received a request from a concerned citizen to clarify language in the proposed ordinance that addresses rental properties if the County attorney's review did not identify it.

Mr. Gill stated that he did not have any comments from the County attorney at this time.

Mr. Jones stated that he thought the consensus of the Planning Commission was that the County attorney should take a look at the proposed ordinance before it proceeds further.

Mr. Jones suggested that Mr. Pennell, the County Administrator, might give the County attorney a phone call. Mr. Jones further stated that this issue would come back as a discussion item at next month's meeting.

OTHER BUSINESS

Mr. Gill stated that he had informed the Commission several months ago that after the R-4 ordinance had been drafted, the next step would be to re-write Section 5-26 of the subdivision ordinance to allow conservation/cluster subdivision. Mr. Gill stated that he had received some offers of help with this, including a design firm and some community

members. Mr. Gill further stated that it is his intention to bring this issue as a discussion item at next month's Planning Commission meeting.

ADJOURNMENT

The September 18, 2008 regular meeting of the Lancaster County Planning Commission was adjourned at 7:30 p.m.