

**FLUVANNA COUNTY PLANNING COMMISSION REGULAR MEETING
MINUTES
Circuit Court Room
Fluvanna County Courts
June 25, 2014
7:00 p.m.**

MEMBERS PRESENT: Barry Bibb, Chairman
Patricia Eager, Vice-Chair
Donald Gaines
Lewis Johnson
Ed Zimmer

MEMBERS ABSENT: Tony O'Brien, Board of Supervisors Representative

ALSO PRESENT: Frederick Payne, Fluvanna County Attorney
Jason Stewart, Planning and Zoning Administrator
Steven Tugwell, Senior Planner
Jay Lindsey, Planner
Kelly Belanger Harris, Senior Program Support Assistant

CALL TO ORDER/PLEDGE OF ALLEGIANCE

Chairman Bibb called the meeting was called to order at 7:00p.m., after which the Pledge of Allegiance was recited.

PLANNING DIRECTOR'S REPORT

Mr. Jason Stewart, Planning and Zoning Administrator, gave the monthly report to the Planning Commission.

➤ Board of Supervisors Actions:

*June 4, 2014: **Approved 5-0*** to reappoint Mr. Ed Zimmer (Columbia District), Mr. Donald Gaines (Rivanna District), and Mr. Lewis Johnson (Fork Union District) to the Planning Commission with terms to begin July 1, 2014 and to terminate June 30, 2018.

June 18, 2014: None.

➤ Board of Zoning Appeals Actions:

- *No May Meeting.*

➤ Technical Review Committee:

- *No June Meeting*

PUBLIC COMMENTS #1

Chairman Bibb opened the floor for the first section of public comments.

With no one wishing to speak, Chairman Bibb closed the first public comment section.

APPROVAL OF MINUTES

MOTION:

Ms Eager moved to approve the minutes of the May 28, 2014 Planning Commission meeting as presented, which Mr. Johnson seconded. The motion carried **with a vote of 5-0-0. AYES: Bibb, Eager, Gaines, Johnson, Zimmer. NAYS: None. ABSTAIN: None.**

PRESENTATIONS:

- *None*

SUBDIVISIONS:

➤ *None.*

SITE DEVELOPMENT PLANS:

SDP 14:04—Grace and Glory Lutheran Church—Request for approval of a sketch plan to construct a 1,392 square foot picnic shelter and 65 additional parking spaces with respect to 10 acres of Tax Map 30, Section 6, Parcel which is zoned A1.

Mr. Steve Tugwell, Senior Planner, presented the site development plan for the subject property located on the southern side of Route 53 (Thomas Jefferson Parkway), approximately 0.63 miles west of Route 15 (James Madison Highway). The addition of the requested 65 parking spaces will bring parking to a total of 135 spaces.

Chairman Bibb opened the floor to questions.

Chairman Bibb remarked that he remembered that the requested picnic shelter was noted at the time of the original site plan.

There being no discussion or questions, Chairman Bibb called for a motion.

MOTION:

Ms. Eager **moved** to **approve SDP 14:04**, subject to the conditions listed in the staff report. Mr. Gaines seconded and the motion carried with a vote of 5-0-0. AYES: all. NAYS: None. ABSTAIN: None.

PUBLIC HEARINGS:

SUP 14:04—Joyce Parr—Request for special use permit to allow for an educational facility with respect to a portion of 6.34 acres of Tax Map 18A, Section 4, Parcel 13A, zoned B1—Business General.

Mr. Jay Lindsey, Planner, presented the application with respect to the property located within the Lake Centre Shopping Center at Center Court, Palmyra on the northwest side of the intersection of Slice Road and South Boston Road (route 600), approximately 500 feet from that intersection. The SUP is in request of an educational facility, a kindergarten through 8th grade school with a kindergarten through 12th grade homeschool cooperative, with no more than 50 students on site at any given time.

Mr. Lindsay noted that at the Technical Review Committee meeting on May 14, 2014, the Virginia Department of Transportation (VDOT) indicated their approval for the project and water and sewer are adequate as verified by Aqua Virginia.

Chairman Bibb inquired about handicapped parking spaces in front of the proposed facility and if the current parking meets county ordinance. Mr. Lindsey remarked that the current parking does satisfy the current county ordinance with one parking space per 8 pupils of middle school age, and one space per 9 pupils of elementary age. With a maximum of 50 students, the current 7 parking spaces adjacent to the anticipated ingress meet the county ordinance.

Mr. Zimmer asks for clarification about what “fifty students” means; is this fifty total students on campus at one time or fifty students enrolled? Mr. Stewart indicated that the county Building Official has indicated that there is a maximum occupancy of 65. Mr. Payne suggested amending the condition to “fifty enrolled students.”

Mr. Zimmer also remarked on the hours of operation and whether or not these hours would be restrictive. The applicant, Ms. Parr, spoke to the hours of operation and indicated that there is a hope to use the space at times that are not during “regular school hours.”

Mr. Payne pointed out two potential issues with the application and proposed staff conditions: intent of use and specificity of use.

Chairman Bibb asked Ms. Parr to clarify the ages of students that can be expected to be in attendance; the application indicates school age children, however in comments made here, the applicant indicated that the space may be utilized for after-hours tutoring of adults, music lessons, or school plays. Chairman Bibb indicated that clarification around the exact proposed use would need to be reconciled as well as clearer staff conditions before a recommendation could be made for approval or denial.

Ms. Eager recommended resolving the conditions so that the applicant can use the school as she intends.

Mr. Gaines suggested changing the conditions by lengthening the time of use.

Mr. Payne recommended deferring the matter until the uses outlined in the application and the planned uses can be clarified.

Ms. Parr indicated that she is anxious to get school started and is willing to work with staff and the Commission to expeditiously resolve any issues brought about the inaccuracy of the application.

Mr. Zimmer suggested clarifying the hours of operation, recommending approval for the use as articulated in the application.

Mr. Payne suggested again deferring until clarified, or approving with use articulated clearly.

Chairman Bibb opened the floor to any citizens wishing to speak. With no one wishing to speak during the Public Hearing portion, Chairman Bibb moved to a discussion with the Planning Commission.

Mr. Johnson indicated his willingness to amend staff conditions and allow Ms. Parr to begin operations.

Discussion centered on the hours of operation and the meaning of “fifty students.” Chairman Bibb noted that parking after 5p.m. can be tricky in the parking lot of the proposed location. Ms. Parr indicated that the school will utilize the back side of the building, and not the front side, where Dogwood Restaurant patrols park.

Chairman Bibb called for recommendation and a motion.

Mr. Payne recommended language for the motion.

MOTION: Mr. Zimmer moved that the Planning Commission recommend approval SUP 14:04, with respect to a portion of 6.34 acres of Tax Map 18A, Section 4, Parcel 13A, as described in the application with a maximum number of students on site at any given time of fifty and regular school hours of operation shall be 7am-8pm M-F, as well as any other conditions as set forth in the staff report. Mr. Gaines seconded. The motion carried with a vote of 5-0-0.

AYES: Bibb, Eager, Gaines, Johnson, Zimmer. NAYS: None. ABSTAIN: None.

SUP 14:03—Jeffrey Stoneman—Request for a special use permit to allow for a commercial kennel with respect to 2.631 acres of Tax Map 30, Section A, Parcel 84B. The applicant is proposing to operate a commercial kennel and accompanying single-family residence.

Mr. Steve Tugwell, Senior Planner presented the application for the affected property located on the southeast side of Route 15 (James Madison Highway), approximately 0.18 miles northeast of Route 53 (Thomas Jefferson Parkway). Mr. Tugwell noted that the associated single family dwelling is a by-right use in A1 zoned property; however the inclusion of a commercial kennel calls for a Special Use Permit.

Chairman Bibb asked if Mr. Stoneman will be leasing or purchasing the land. Mr. Stoneman answered that the intent is to purchase the land if approved.

Chairman Bibb called for any questions for Mr. Tugwell and invited the applicant to address the Commission. Chairman Bibb asked the Commission if there were questions for the application; there were none.

Mr. Stoneman addressed the commission indicating his fourteen years’ of experience operating a commercial kennel in a residential area, the idea of a family-run operation, and living on the property.

Mr. Stoneman spoke to the type of construction that he will be using and outlined a typical day in the operation of the kennel.

Chairman Bibb inquired of Mr. Stoneman of his thoughts regarding the sewer and water needs, as articulated by Mr. Wayne Stevens, County Engineer.

Mr. Stoneman is aware and is exploring options for the water and sewer needs of the property and operation.

Chairman Bibb thanked the applicant.

Chairman Bibb opened the Public Hearing.

Mr. Jeff Suling, 219 Main St., voiced his belief that a kennel would be the worst use of the property.

Betty McGehee, 630 Courthouse Road, was initially pleased but now has questions, particularly regarding dog waste, and where it will go. Mr. Stoneman indicated that the waste will be collected at the end of each shift and removed to the county landfill. Ms. McGhee noted that if the tourist attraction planned for the “lock” is completed, citizens enjoying the Rivanna and associated park will be subject to the sound of barking dogs. Ms. McGehee questioned whether there is room for a dwelling, a kennel, and associated septic and well if it is not possible to tie into the county water and sewer facilities. Ms. McGhee questioned the commission and Planning Staff about the possibility of Mr. Stoneman turning around and selling the property for a different use. Ms. McGehee indicated that she does not “strenuously object” but that, if this is approved, she is worried about other businesses moving onto the property if Mr. Stoneman does not follow through with his proposed plan.

Chairman Bibb began the discussion with the Planning Commission. Mr. Zimmer noted that this is not a public hearing for a rezoning, it is a Special Use Permit and any other business wishing to operate on the same property would likewise be subject to applying for a special use permit.

Mr. Gaines noted that the lot does seem a bit small for the uses as proposed, but has no objections.

Chairman Bibb called for a motion.

Ms. Eager noted that this year the Commission has recommended approval for several other kennels. Ms. Eager also remarked about need for Health Department approval for sewer and water before final site plan approval and building.

MOTION:

Ms. Eager **moved that the Planning Commission recommend approval**, with **Mr. Zimmer seconding**, of SUP 14:03, a special use permit request to allow for a commercial kennel with respect to 2.631 acres of Tax Map 30, Section A, Parcel 84B, [if approved] subject to the conditions listed in the staff report.

The motion passed with a vote of 5-0-0. AYES: Bibb, Eager, Gaines, Johnson, Zimmer. NAYS: None. ABSTAIN: None.

SUP 14:02—Hotel Street Capital, LLC & ZMP 14:01—Hotel Street Capital, LLC—A request to amend the Fluvanna County Zoning Map with respect to approximately 220.56 acres of Tax Map 30, Section A, Parcel 110, and 10 acres of Tax Map 19, Section A, Parcel 39C, for an aggregate of 230.56 acres, to amend the same from R-3, Residential, Planned Community (conditional) to R-3, Residential, Planned Community (conditional).

Mr. Steve Tugwell, Senior Planner presented the plan for the affected property which is located in the Palmyra Election District on the western side of State Route 15 (James Madison Highway) and Route 644 (Friendship Road) approximately 0.25 miles north of Route 661 (Rescue Lane).

Chairman Bibb clarified with Mr. Payne that the two Public Hearings could proceed at the same time and Mr. Payne concurred stating only that each must be voted on separately.

Mr. Tugwell indicated that the most recent comments from VDOT arrived the morning of June 25, 2014. Reading through these comments for the Commission, Mr. Tugwell noted that if this master plan is approved, VDOT will again have to review the final plans.

Mr. Tugwell noted that number of units by housing type in the preliminary master plan, identifies single family attached and detached, with the townhouses approved in 2009 having been deleted. The maximum gross density permitted for the entire Poplar Ridge development will be 3.175 dwelling units per acre or 317 units per the aggregate total acreage of 230.56 acres. Current approval from 2009 indicates 254 residential units and 63 units in the resort center. Commercial space is identified on the original, approved

plan as well as 67.2 acres set aside as reserved area; Mr. Tugwell noted that any future development on that land would require a Board of Supervisors action. Sixty-two acres is designated as open space, including a required riparian buffer, which is approximately 27% or 2% more than is required by the R3 zoning. Recreational amenities include walking trails, pond, swimming pool, picnic pavilion, and club house. Private roads constructed to VDOT standards would be maintained by the Home Owner's Association.

Mr. Tugwell reminded the Commission that the applicants had provided experts' commentary in ground water and sanitary sewage disposal who provided feedback at the Work Session of the Planning Commission meeting.

Mr. Tugwell noted that the affected property is located in the Palmyra Planning Area and the bulk of the property is in the Neighborhood, Residential use area. Neighborhood, Residential use density calls for between 4 and 8 dwellings per acre; the applicant is requesting 1.375 residential dwellings per acre.

The Special Use Permit (SUP) application refers to sanitary disposal that will be accomplished by onsite central treatment works using mass drip fields. Treatment work shall be operated by licensed utility company in accordance with local and state ordinances. Connection to Palmyra area wastewater treatment plant is not possible at this time; the property is not within 400 ft. of sanitary sewer disposal as required by county code.

Applicants provided results from a preliminary feasibility studies completed on Oct 29, 2013 and November 1, 2013. According to the applicant the assessments conclude that there is an adequate area and soils available to support an onsite wastewater disposal system for 952 units.

Per the plan, water would be provided by an onsite, centralized water system, operated by licensed utility company, in accordance with local and state ordinances. If onsite wells are used as a source of water then an assessment will be required by a professional geologist or similarly qualified individual, with design specifications as required by the Virginia Department of Health guidelines. If a test drill indicates sufficient quantity, then pumping shall be performed for 72 hours. Any public well within 500 feet of the test well shall be pumped at its rated capacity simultaneously to determine any possible interference, with any significant interference requiring abandonment of that well, and a new well site developed. Two observation wells shall be installed to determine impact on any nearby wells. Owners of nearby wells will be notified.

On October 28, 2013, the Center for Sustainable Groundwater, and Dr. Nick Evans, provided preliminary assessment for impact to groundwater. The assessment found that there would be sufficient ground water recharge for 952 units. Most groundwater would be returned to the ground as recharge through sanitary drain field system. The nearby ponds and river would provide hydrologic buffer that recharges groundwater contained in the surrounding rocks.

Mr. Tugwell then provided a detailed analysis of the application.

Chairman Bibb asked Mr. Tugwell to clarify the number of units planned. Mr. Tugwell noted that while the maximum density could shift, the number of actual units will remain at 317.

Ms. Eager noted that in the proffer the applicant indicates they will not be liable for any further easements and questions what happens if VDOT requires future easements. Mr. Tugwell referred the questions to Mr. Shimp.

Chairman Bibb called for further questions for Mr. Tugwell. There being no further questions, Chairman Bibb invited the applicant to speak.

Mr. Justin Shimp, Project Engineer, addressed the Commission and gave a brief presentation to further clarify several points of the amended proposal.

Chairman Bibb inquired if the applicant had notified the owners of any neighboring, affected wells that there could be a test conducted. Mr. Shimp noted that according to the terms of public well applications and permits, owners of public well are aware that they must comply with any well testing. Mr. Shimp indicated that notification to those owners has not been done.

Chairman Bibb inquired if the groundwater expert engaged by the applicant had visited the site. Mr. Shimp indicated that at the time of the Planning Commission work session that Dr. Evans attended, he had not been on the actual site.

Mr. Zimmer asked about the cost of the intended residential dwellings. Mr. Keith Smith indicated that a cost of \$250,000-300,000 would be expected.

Chairman Bibb noted the issues that VDOT has with the application, including the difference in proffers and what VDOT requires. Mr. Shimp clarified that the plan is to make all improvements across their frontage in accordance with VDOT standards.

Ms. Eager wondered why, with adequate frontage, the proffer for not acquiring easements and rights-of-way is even in the application. Mr. Shimp indicated that that is not what the proffer says. Mr. Payne, reading from the application, indicates the proffer indicates that the applicant will not seek the easements and rights-of-way.

Chairman Bibb read from the VDOT comments, including concerns about the proposed development. Mr. Shimp indicated his belief that the application is complete and to VDOT standards and requirements.

Chairman Bibb noted that County Engineer, Mr. Wayne Stevens, has continued concerns regarding the water and sewer needs. Mr. Shimp reiterated the findings of Dr. Evans; Chairman Bibb restated that it is Dr. Evans' theory only, as he has not visited the site. Chairman Bibb then asked Mr. Shimp if there had been flooding on the property due to recent rains. Mr. Shimp stated that he was not aware of any flooding.

Chairman Bibb voiced his concerns with conflicting information that has been given regarding the maximum density, dating back to 2009, which was given as 254 dwellings on the parcels in question.

Chairman Bibb opened the Public Hearing to the public:

Erin Weiss-Ackenbom, no address given, wanted to thank the public for coming out consistently since 1991 and voicing disapproval for this project. Ms. Weiss-Ackenbom appreciated the care and thoughtfulness being shown by the Planning Commission in consideration of this application.

Ray Ackenbom, 2042 Friendship Way, believes the development will impact the character and lifestyle of the area if allowed.

Mary Tillman, 15868 James Madison Hwy, believes this is the same story, just another name. Very concerned about the water. Noted that the fire department is strictly against this, infrastructure requirements are insufficient. Also concerned about the number entrances and the number of trips in and out of the entrances. If water were easier come by, then it would be different, but the traffic is still there. Please do not pass this.

Chuck Ackenbom, Camp Friendship, 48th year of running Camp Friendship. Wonders how he will protect the children that come to camp. Camp Friendship serves children from all over the world. Wonders if there is any way for the applicant to be compelled to protect what is already there? Camp Friendship is highly regarded worldwide.

Susan Corbett, 15983 James Madison Highway, ¾ miles north of Camp Friendship entrance, reiterated what others have said about traffic and change of character.

Al Talley, 14307 James Madison Highway. Would like to remind the Commission that the applicants are much slicker than the commission and citizens. Reminded the commission of previous promises made by previous applicants. Please deny. Same pig, new lipstick.

Dave Miller, Fairview Lane, asked several questions about the sewer and water facilities and ownership and maintenance, thereof.

Mr. Shimp addressed a few questions posed by the public. Mr. Shimp defers all questions regarding water and sewer to the engineers and geologists who have provided answers. Mr. Shimp stated that comments regarding the opposition of the fire department are not accurate; the fire department has stated their concerns and the applicants are willing to comply with any and all recommendations. Mr. Shimp clarified building standards and architectural standards. Utilities will be regulated, bonded utilities even if the developer/builder/investor goes away. Mr. Shimp reiterated that the applicants are trying to propose a plan that makes sense for the county.

Chairman Bibb closed the Public Hearing and opened the floor to discussion among the commissioners.

Mr. Payne offered suggestions for procedural avenues and standards for moving forward on these two applications. Three issues: SUP: 2 primary criteria to review. If the application meets the criteria, then it would be appropriate to approve. If does not meet the criteria, then should be denied. In order for approval, must find in favor of the application, applicant must satisfy criteria.

Issues: Utilities, water sufficiency, sewer sufficiency, traffic implications, concerns stated by VDOT. Has the applicant met its burden of establishing that its plan adequately addresses these concerns. Fire protection and fire walls addressed in fire code. Final issue: implications on/of comprehensive plan.

Ms. Eager clarifies that the 2009 is not affected by the approval or denial of this application.

Chairman Bibb began the discussion with the Planning Commission. Mr. Bibb noted commented on the comprehensive plan and indications of the impact of the plan on future water availability. Mr. Bibb has many concerns: water, impact on Camp Friendship, traffic, fire department, not as much with sewer, but with water and the effects on adjoining properties. Believes this plan, if approved, could affect the county negatively.

Ms. Eager is also likewise concerned about water. Why should the county pass the SUP in order to find out if the water is there?

Mr. Gaines, questioned whether we can explore the availability of water before approving? Would like to see this go forward in order to put it away.

Mr. Zimmer stated the issue of water is clearly a big deal. Must be clarified before it can be approved. Zoning was changed in 2009 to R3. This plan is more intensive than what was proposed in 2009. If denied, how do we communicate what it is the county is looking for.

Chairman Bibb questioned the appropriateness of the commission recommending approval without utilities being clarified, without VDOT clearance, without better answers. Doing something just to do something is not a good answer.

Ms. Eager, would deferring until the answers are clear help?

Chairman Bibb inquired about the timeline for the application process and necessary time for deferring.

Mr. Payne, quoting Virginia Code, Section 15.2-2285B states that the Commission has 100 days to make a recommendation to the Board of Supervisors.

Mr. Tom Ross addressed the Commission, out of order, to reiterate points Mr. Shimp made earlier.

Ms. Eager indicated that she thinks the applicant has told the Commission what it needed to hear and would like to make a motion.

MOTIONS:

Ms. Eager MOVES that the Planning Commission recommend **denial** of the attached ordinance for ZMP 14:01, a request to amend the Fluvanna County Zoning Map with respect to approximately 220.56 acres of Tax Map 30, Section A, Parcel 110 and 10 acres of Tax Map 19, Section A, Parcel 39C, for an aggregate of 230.56 acres, to amend the same from R-3, Residential, Planned Community (conditional) to R-3, Residential, Planned Community (conditional);

Mr. Johnson seconded. The motion carried 5-0-0. AYES: Bibb, Eager, Gaines, Johnson, Zimmer. NAYS: None. ABSTAIN: None.

Mr. Gaines wishes to clarify that if the SUP is approved, can the applicant drill a test well?

Mr. Payne indicates that the applicant doesn't need approval to drill a test well.

MOTION:

Ms. Eager moved that the Planning Commission recommend **denial** of SUP 14:02, a request for a special use permit to allow for major utilities in conjunction with a Master Plan Amendment (MPA) with respect to approximately 220.56 acres of Tax Map 30, Section A, Parcel 110 and 10 acres of Tax Map 19, Section A, Parcel 39C, [if approved] subject to the condition listed in the staff report. Mr. Zimmer seconded. AYES: Bibb, Eager, Gaines, Johnson, Zimmer. 5-0-0. NAYS: None. ABSTAIN: None.

UNFINISHED BUSINESS: Comprehensive Plan Review discussion. Chairman Bibb, noting the late hour, recommended postponing the discussion of the Comprehensive Plan until the July Work Session.

NEW BUSINESS:

➤ *None.*

PUBLIC COMMENTS #2

Chairman Bibb opened the floor for the second section of public comments.

There being no one wishing to speak, Chairman Bibb closed public comments 9:56p.m.

ADJOURN

There being no further business, Mr. Bibb adjourned the Planning Commission meeting of June 25, 2014 at approximately 9:56p.m.

Minutes recorded by Kelly Belanger Harris.

Barry A. Bibb, Chairman
Fluvanna County Planning Commission
Approved July 23, 2014