

Planning Commission Meeting Minutes

January 6, 2022

VIRGINIA: AT A REGULAR MEETING OF THE PLANNING COMMISSION HELD IN THE POWHATAN VILLAGE BUILDING AUDITORIUM, 3910 OLD BUCKINGHAM ROAD IN POWHATAN COUNTY, VIRGINIA, Thursday, January 6, 2022, AT 6:00 PM

Planning Commissioners Present

Vicki Hurt, District 1 (Chair)
Bobby Hall, District 3 (Vice-Chair)
Amy Kingery, District 2
Jane Pendergast, District 4
Barbara Brown, District 5

Planning Commissioners Absent

Staff Members Present

Frank Hopkins, Planning Director

1. Call to Order

Ms. Hurt called the meeting to order at 6:00 PM and discussed the postponement of the meeting from January 4th to January 6th due to weather. She subsequently shared instructions on how members of the public participating in the meeting virtually can indicate their interest in speaking during the public hearing portions of the agenda.

2. Invocation

Mr. Hall gave the invocation.

3. Adoption of Agenda

The agenda was adopted without any addendums.

4. Administrative Items

- a. Approval of Minutes: October 5, 2021 (Regular Meeting)

Dr. Brown spoke about the quality of the minutes and the creation of standards for the minutes. She found the minutes unacceptable and wished to defer the minutes to the next regular meeting. Ms. Hurt agreed and added that she did not want the minutes referencing the video. The council of Mr. Lacheney was sought, and he agreed that the minutes should not reference the video. Ms. Hurt went on to point out errors on page four and five of the October 5th meeting. Dr. Brown added that she was disappointed in the quality of the minutes and preferred for there to be more concern and accuracy for the minutes and for them to be done on time.

Ms. Hurt and Ms. Pendergast added that they had concerns about information and recommendations flowing from the Planning Commission to the Board of Supervisors.

- a. Approval of Minutes: November 3, 2021 (Regular Meeting)

Dr. Brown mentioned that we would need to have a detailed record of the postponement of the workshop. The assumption is a 90-day deferral to the February meeting.

Both sets of minutes will be deferred for review until the next meeting.

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5. Public Comment Period

Ms. Hurt opened the public comment period, reminding members of the public that were participating virtually on how they may indicate their interest in participating in this public comment period.

Skyler Zunk (9511 Deer Range Rd Mosley VA) Wanted to thank the Planning Commission for not passing the solar ordinance and staying with the CUP process. Wishes that the County would keep an open mind to different sources of energy. He spoke about the resiliency of different energy sources in times of outages. He continued to be complimentary of the Planning Commission and how they are vetting applications.

Seeing no one wishing to speak, Ms. Hurt closed the public comment period.

6. Old Business

None

7. Public Hearings

- a. Case #22-01-REZ: Powhatan County requests the rezoning of the Tax Map Parcels listed at the bottom of this notice from General-Commercial (C) to Commerce Center (CC) and amendment of the zoning district map. General Commercial being designated a Transition zoning district is no longer in line with the goals of the Comprehensive Plan and has few allowable commercial uses. The following properties contain existing structures, and to ensure the continued operation of commercial uses in such structures, the County proposes to proactively rezone those properties on behalf of the property owners. Rezoning to CC will allow a much wider range of allowable commercial uses going forward, more consistent with the uses these properties historically would have had but are no longer permitted today under General Commercial zoning. The 2021 Long-Range Comprehensive Plan predominantly designates the desired land use of these properties as gateway business. That tax map parcels to be rezoned as a part of this rezoning are as follows. 26-116, 26-117A, 26-117B, 26-117C, 26-117D, 26-117E, 26-117F, 26-122, 26-24, 26-25, 26-68, 26-74, 26-8-1, 26B1-1-1A, 26B1-1-2A, 26B1-1-2B, 26B2-1-30, 26B2-1-38, 26B3-1-22, 26B3-1-6A, 27-12A, 27-17, 32-29, 38-51A, 38-52, 38-52A, 38-53, 38-54, 39-100, 39-108B, 39-64A, 39-84, 39-84A, 39-85, 39-87, 39-99, 39C-2-1, 39C-2-4, 41-10, 41-12D, 41-19, 41-24, 41-45, 41-45B, 41-57, 41-61, 41-86E, 41-86M, 41-86N, 41-8A, 41-9, 41A-1-B-1A, 41C-1-1, 41C-1-10, 41C-1-11, 41C-1-14, 41C-1-16, 41C-1-19, 41C-1-20, 41C-1-21, 41C-1-22, 41C-1-2A, 41C-1-3A, 41C-1-4A, 41C-1-5, 41C-1-6, 41C-1-7, 41C-1-7A, 41C-1-8, 41C-2-10, 41C-2-11, 41C-2-12, 41C-2-14, 41C-2-2, 41C-2-4, 41C-2-5, 41C-2-7, 41C-2-9, 42-19, 42-27, 42-5-2, 42-57B, 42-6-1, 42-68B, 42-72, 42-7-2, 42-7-3, 42-7-4, 42-7-8, 42-9A, 42-9H, 42E-1-1, 42E-1-2, 42E-1-2A, 42E-1-3-1, 42E-1-3-2, 42E-1-4, 42E-1-5, 42E-1-6, 42E-2-10, 43-24, 43-24B, 43-28A, 43-28B, 43-34, 43-C-4-2.

Mr. Hopkins gave an overview of this request.

Ms. Hurt opened the public comment period.

Clay Cook (2168 Urbine Rd) spoke about his concern for the parcel next to him turning to Commerce Center. He did not want to see a restaurant go in next door and was concerned about alcohol being served on the premises.

Mr. Hopkins responded to the citizen and explained the change in zoning from General Commercial to Commerce Center.

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Ms. Hurt broke in to ensure that the staff and board simply listened to public comments without responding.

Mr. Cook also mentioned his concern about traffic on Urbine Rd if the lot were to be redeveloped.

Seeing no other people wishing to speak, Ms. Hurt closed the public hearing.

Mr. Hall spoke about not wanting the parcels to exist in a nonconforming state and asked Mr. Hopkins about notice.

Mr. Hopkins informed the Planning Commission that he sent out the letters to the parcels involved in this proactive rezoning. He added that there was a phone call from Mr. Metts in support of the rezoning.

Ms. Pendergast clarified that the case that Mr. Cook commented on was next.

Mr. Hopkins interjected that the parcel in the DJM Ventures case is also in case 22-01-REZ. The parcel involved in the DJM Ventures case fits the same parameters as the larger rezoning. If the county-led initiative passes, the DJM Ventures case would like to be tabled.

Dr. Brown wanted to ensure that all the parcels were accounted for.

Mr. Hopkins confirmed that it had been audited.

Dr. Brown wanted to create a safety valve, but Mr. Lacheney advised that that was not practical. Applicants would have to come back and reapply.

Ms. Hurt said she would have liked to see the entirety of General Commercial rezoned and not just do the lots with structures.

Ms. Pendergast added that perhaps the rezoning could be phased.

Mr. Hopkins stated that those ideas were thought about but ultimately staff decided to go with making the properties most effective as a whole.

Mr. Lacheney also advised the Planning Commission that parcels left out of the rezoning for not having a building would not be able to say that they were discriminated against because nothing is being taken away from them.

Ms. Hurt expressed that she still thought undeveloped land would be included and what reason could there be for not rezoning all the parcels

Mr. Hopkins reiterated that the thought was to simply rezone the parcels that were most impacted and that to rezone all the parcels would be roughly twice as many parcels.

Ms. Pendergast asked about the proffers in the DJM case if they vote to move the Commerce Center rezoning forward.

Mr. Hopkins advised that they would not attach.

Ms. Kingery made a motion to approve the request. Dr. Brown seconded the motion.

Ms. Kingery, Ms. Pendergast, Mr. Hall, and Dr. Brown voted AYE.

Ms. Hurt voted NAY

VOTE 4-1
MOTION PASSED

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Case #21-10-REZC: DJM Ventures (District #2: Flat Rock/Holly Hills) requests the rezoning of Tax Map Parcel #41A-1-B-1A from General-Commercial (C) to Commerce Center (CC) and amendment of the zoning district map of approximately 1.0 acre of land located on the south side of State Route 60 (Anderson Highway) just east of State Route 676 (Urbine Rd). The applicant is seeking to repurpose the existing building for use as a restaurant. The 2021 Long-Range Comprehensive Plan designates the subject property as Gateway Business (Route 60 Corridor East Special Area Plan) on the Countywide Future Land Use Plan.

Mr. Hopkins informed the Planning Commission that the item would be tabled in lieu of the vote in the prior case.

Public Comment was initiated

Mr. Cook (2168 Urbine Rd) commented again that he was not in favor of this request. He has concerns about drainage as well as a retaining wall on the neighboring property. He also expressed concern over the parking lot coming up to his property.

David Anderson (2366 Bell Crest Circle) expressed concern over the notice to adjoining properties. He thought there would be more comments generated by the case.

Ms. Hurt closed the public comment.

Dr. Brown mentioned that a residential building could not go on this lot.

Ms. Pendergast expressed her sympathy with Mr. Cook and the proximity of his residence to the rezoning.

Mr. Hopkins discussed site plan regulations and how they might pertain to the case.

Ms. Pendergast questioned the notice going out on this case.

Mr. Hopkins explained that he sent letters out to adjoining properties in the case.

Mr. Lacheney explained that a lack of notice could open the door to a lawsuit. Since Mr. Cook showed up at the meeting, he empirically had notice.

Ms. Hurt expressed concern about the notice.

Mr. Hall echoed those concerns.

Ms. Hurt asked about the relationship between the Commerce Center case and the DJM Ventures case and if notice was made.

Ms. Kingery made a motion to revisit the case 22-01.

Ms. Pendergast seconded the motion.

Ms. Hurt, Ms. Kingery, Mr. Hall, Ms. Pendergast, and Dr. Brown voted AYE.

Ms. Kingery made a motion to defer case 22-01 to the February meeting.

Ms. Pendergast seconded that motion.

Dr. Brown wanted to ensure that we discovered that everyone was noticed properly.

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Ms. Pendergast asked about how the development of the site would impact traffic access.

Mr. Hopkins said he would have to get back to her on that.

Ms. Hurt clarified that the item would be deferred until the February meeting.

New Business

Preview of Hexagon Energy Beldale Solar Project

Mr. Price presented to the Planning Commission to receive feedback.

Ms. Kingery mentioned that she liked the buffering and is leaning toward a favorable vote.

Mr. Hall liked the spacing between the arrays and commended Mr. Price on doing his homework.

Ms. Pendergast wanted to ensure that chemicals were not sprayed on the panels.

Mr. Price is working on getting a pollinator expert and is waiting on the results.

Ms. Pendergast wanted to know about the financial side of the project.

Mr. Price talked about the siting agreement process that would lay out the financial conditions that may come with the project.

Dr. Brown attended the community meeting for the Beldale project and commended the comment process.

Ms. Hurt wanted to know how so much power is generated from a smaller array of panels.

Mr. Price said that technology is improving and, in the aggregate, makes a difference. The panels also tilt toward the sun as it moves.

Ms. Hurt is concerned about the materials of the panels.

Mr. Price mentioned that there are no new materials.

Ms. Hurt asked about the cleaning of the panels.

Mr. Price said that in Virginia normal rain does a decent enough job of cleaning panels. He said they do not need to be manually cleaned because the environment takes care of it. He also stated that they will be picking plants that do not need to be trimmed around the panels.

Ms. Hurt thanked Mr. Price for being receptive to their concerns.

Mr. Price understood and wanted to make himself available for future concerns.

Preview of upcoming text amendment: Gas Station Access

Mr. Hopkins presented on the subject explaining the amendment and describing the current need to remove the provision capping gas station entrances as two.

Ms. Hurt mentioned that she had done some research and found that local jurisdictions do not do this and favored leaving the decision up to VDOT.

Ms. Kingery agreed with Ms. Hurt.

Ms. Pendergast also agreed and mentioned that our spacing standards would still be in place.

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Dr. Brown agreed since we don't have traffic engineers. She also mentioned her disfavor with the proposed language with removing the provision altogether.

Ms. Hurt echoed this sentiment.

Mr. Lacheney mentioned that no motion was needed.

No Board Discussion

Ms. Pendergast asked about how we do notices and wanted staff to notice adjacent owners on the proactive rezoning.

Mr. Lacheney advised that rezoning over 25 parcels there is not a requirement to make adjoining notice.

Mr. Hopkins mentioned that he sent out letters to the properties involved, advertised, and posted the properties.

Ms. Pendergast wanted to make sure that we were doing everything we could to take notice.

Mr. Lacheney says that we can add things to our code to over notice properties, but we are not required to.

Mr. Hopkins interjected that if adjoining properties on a rezoning of this size were done it could very well be a thousand parcels.

Ms. Hurt said that maybe we could use the same form letter.

Dr. Brown agreed that for infrequent cases, people need to know.

Ms. Pendergast also agreed and was concerned about quality-of-life factors inherent with development and not getting notice. She mentioned her desire to seek a higher standard for making notice.

Ms. Hurt asked if the Board of Supervisors would have to take this up.

Mr. Lacheney advised that they can initiate a text amendment as the Planning Commission.

Mr. Hall mentioned the problem being the research required to notice all those properties. He asked Mr. Hopkins how much time would have been involved to notice adjoining properties on 22-01?

Mr. Hopkins went over the process to make letters and onerous it would be time-wise to attempt to notice that many properties.

Mr. Lacheney mentioned that abutting properties under 25 parcels is State law.

Ms. Kingery asked about some sort of bulk mail process.

Ms. Hurt said she is concerned about the reach of the paper in making notice and wants to make sure people get notice.

Ms. Pendergast wants to go behind the minimum.

Ms. Kingery wanted to know more details about the uses in the structures that are a part of the 22-01 rezoning.

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Dr. Brown clarified the request of the Planning Commission in that they would like abutting properties of rezoning 22-01 be notified. She was also concerned about potential conflict between property owners when development occurs without notice.

Mr. Lacheney chimed in and explained that by state law notice of the 106 parcels needs to happen but that abutting notices would never be needed as a requirement. As to the DJM Ventures parcel, staff will investigate ensuring notice. Was given to all abutting property owners.

Ms. Hurt understood and mentioned that maybe we should go above and beyond to notice extra parcels.

Ms. Pendergast agreed, saying that these rezonings are life-altering for neighboring parcels.

Mr. Hopkins mentioned that the rezoning is taking place along U.S. RT 60 where people would likely expect commercial development to occur. He also mentioned the scale of the notice being suggested is not feasible.

Ms. Hurt said she is concerned about Mr. Cook being notified. He may never have received notice under the rules of the 22-01 case's notice requirements.

Mr. Lacheney subsequently went over the reasoning behind the 22-01 rezoning being to give these parcels more uses.

Mr. Hopkins demonstrated how notice works to create mail on GIS. He mentioned that if this idea was implemented, it might take two full work weeks to accomplish simply the notice being suggested.

Mr. Lacheney went over the nuances of nonconformity with restaurants going in and out of a parcel.

Ms. Pendergast asked if there was any other way to do this?

Mr. Lacheney said you could rezone them as they crop up.

Mr. Hopkins interjected on the logic of why we chose to only go with US. R.T. 60 growth areas.

Ms. Hurt understood that these buildings need to be able to lease their properties. She asked what is changing for the neighborhood.

Mr. Hall mentioned that these uses used to be in these districts, but the County took them out. This rezoning is trying to give them back.

Mr. Hopkins mentioned that the issue is recent that a restaurant could have gone on these parcels until 2018.

Mr. Lacheney added that these residents should be aware that they bought next to a growth zone.

Dr. Brown said that before their time there was an RC zoning and there was more of a mix of uses but it has since changed.

Mr. Lacheney said technically there was a time before where you could do commercial up to 500 feet from 60.

Ms. Pendergast mentioned her desire to see an audit of the notices.

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Mr. Lacheney mentioned that we could flip the order of the two items.

Ms. Hurt mentioned the Planning Commission's desire to be open to growth and want to be responsible to the citizens and educate the public.

Mr. Hopkins mentioned that he would make sure notice was made to all parcels involved in these cases and suggested posting the agenda on social media.

Everyone agreed that we should advertise on social media.

8. Adjourn

There being no further business, Ms. Hurt adjourned the meeting at approximately 7:39 PM.

Vicki Hurt
Chairman

Frank Hopkins
Planning Director