

Spotsylvania County Planning Commission

Holbert Building Board Room, 9104 Courthouse Road, Spotsylvania VA 22553

MINUTES: January 4, 2017

Call to Order: Mr. Newhouse called the meeting to order at 7:00 p.m.

Members Present:

Mary Lee Carter	Lee Hill
Michael Medina	Salem
Howard Smith	Livingston
C. Douglas Barnes	Berkeley
Gregg Newhouse	Chancellor
Richard Thompson	Courtland
C. Travis Bullock	Battlefield

Staff Present:

Paulette Mann, Planning Commission Secretary
Wanda Parrish, AICP, Director of Planning
B. Leon Hughes, AICP, Assistant Director of Planning
Alexandra Spaulding, Acting Deputy County Attorney
Kimberly Pomatto, AICP, Planner II
Jacob Pastwik, AICP, Planner III

Announcements: Ms. Parrish reminded the Commission that the first meeting in February is the organizational meeting where the Chairman and Vice-Chairman are elected.

Review & Approval of minutes:

Motion and vote: Ms. Carter made a motion, seconded by Mr. Thompson to approve the minutes of December 21, 2016. The motion passed 6-0-1, with Mr. Bullock abstaining due to his absence.

Unfinished Business: None

Public Hearing(s):

R16-0004 Catherine T. Neale and Rebecca T. Acors (Thorburn Estates), Ordinance No. RO16-0004: Request a proffer amendment to an approved rezoning R14-0008 Catherine T. Neale and Rebecca T. Acors (Thorburn Estates) which rezoned approximately 171 acres from Rural (RU) to Residential 2 (R-2) with proffers for a maximum of a 59-lot subdivision of single-family, detached units with a minimum of 2800 finished square feet. The requested amendment would extend the deadline to either complete the proffered off-site transportation improvements at the intersection of Chancellor Road and Old Plank Road or provide a cash contribution to the County in the amount of \$971,664.00 to a time no later than the issuance of the 30th occupancy permit. The property is located along the south side of Chancellor Road (Route 674), approximately one (1) mile west of the intersection of Chancellor Road (Route 674) and Gordon

Road (Route 627). This property is located outside of the Primary Development Boundary in the Rural Residential Area as identified on the Future Land Use Map. The primary goal of the Rural Residential land use is the preservation of farms, forestland, and open space, with a residential density range of 1 to 2 units per acre. Tax parcels 21-A-60F, 21-A-60G and 21-A-95. Chancellor Voting District.

Mr. Newhouse opened the public hearing.

Ms. Pomatto presented the case. She reminded the Commission that this is a continued public hearing and the request is an amendment to proffers approved with rezoning R14-0008 which rezoned 171 acres from Rural to Residential 2 to create a 59 lot subdivision with proffers. The requested amendment commits the applicant to either construct the proffered transportation improvements or pay the total lump sum amount of \$971,664 prior to the 30th occupancy permit, which is the midpoint of the development. She advised that staff maintains their recommendation of denial of the requested amendment.

There was a question raised from the Commission regarding what the previous proposed proffers were.

Ms. Pomatto reminded the Commission that they had proffered to not pay the lump sum, however to spread the payments out over per unit when each certificate of occupancy is issued. The value was the same, but spread out.

Ms. Carter inquired what would happen if they builder stopped building at 29 lots with the new proffers.

Ms. Pomatto stated that the county would receive no proffers and no cash.

Applicant, Clark Leming, representing the owners: He advised that they have been attempting for two years to market the property with at least 2 dozen builders. The entire cash proffer payment has hindered any contract on the property. He stated that the sisters are faced with nearly a \$1 million payment in six months and they do not have it but would've had they sold the property. He advised that the sisters now have a contract on the property with a contingency on the proposal being approved by the Board. He stated that as far as Ms. Carter's concern of the builder stopping at the 29 lot mark that would not be in their best interest as the builder would lose their profit. He asked the Commission for their favorable recommendation to the Board of Supervisors.

Mr. Medina inquired why with the original rezoning they requested R-2 versus R-1.

Ms. Pomatto advised that it was the only density they could attain under the comprehensive plan.

Mr. Medina inquired what the by right development would yield.

Ms. Pomatto stated 10 lots.

Mr. Bullock stated that he is also concerned that the builder would stop at the 29 lot mark to avoid paying proffers.

Mr. Leming stated that it would not be in the builder's best interest to not complete the development and maximize his profit. He stated that they are fine with the original proffers they proposed with paying at each lot, or the new proffers that outline paying at the midpoint of development.

Ms. Carter stated that she wants the sisters to be able to sell their property and the builder to be profitable but is concerned about there being no assurance that the builder wouldn't stop at 29 lots.

Mr. Leming stated that the only way to have that assurance is to go back to the last offered proffers of paying at each lot. He stated that county staff and several commissioners expressed concern regarding receiving the proffers on a per lot basis and that is why they have come back with the proposed proffers.

Mr. Barnes reminded the Commission that they can only consider the proffers that are before them tonight and not the previous offered proffers.

Mr. Newhouse stated that he is entirely correct but wanted to be reminded what was previously offered.

Speaking in favor or opposition: None

Mr. Newhouse closed the public hearing.

Mr. Newhouse stated that he feels that the proposed amendment to the proffers is a good compromise and the money will be available at the halfway point of the development.

Motion and vote: Mr. Newhouse made a motion, seconded by Mr. Smith to approve the amendment to the proffers. The motion passed 7-0.

R16-0005-A Harrison Crossing Square, LLC (Ordinance No. R016-0005-A): Requests proffer amendment to approved rezoning (R05-19 Harrison Crossing Square) which rezoned 2.9 acres to Commercial 3 (C-3) for the construction of a financial institution and office buildings in 2006. The proposed proffer amendment will remove the requirement that the property be developed in accordance with the Generalized Development Plan approved in R05-19; remove the requirement that the property be included in the Route 3 Special Service District; remove the requirement that the property develop in accordance with LID Guidelines; remove the requirement that all common area landscaping be maintained by a property owner's association; remove the requirement that the architectural design of buildings meet the building standards for Harrison Crossing Square. Harrison Crossing Square is located on the west side of Harrison Road at the intersection of Plank Road (Route 3) and Harrison Road (Route 620). The property is located within the Primary Development Boundary and is designated as Employment Center on the Future Land Use Map in the Comprehensive Plan. Tax Map Parcel 22(A)32. Chancellor Voting District.

Mr. Newhouse opened the public hearing.

Mr. Hughes presented the case. He advised that the request is for the following:

- Remove that the property be developed in accordance with the Generalized Development Plan approved in R05-19
- Remove the requirement that the property be included in the Route 3 Special Service District
- Remove the requirement that the property develop in accordance with LID Guidelines
- Remove the requirement that all common area landscaping be maintained by a property owner's association.
- Remove the requirement that the architectural design of buildings meet the building standards for Harrison Crossing Square.

He stated that the proffers would do the following:

- Continue to limit uses
- Continue to limit building size & heights
- Maintain free standing sign design that matches Harrison Crossing Development
- Maintain increased parking lot landscaping requirement.

Mr. Hughes stated that the findings in favor are that it allows development of the property which has been vacant since the original rezoning in 2008 and the proposed self-storage is consistent with the current consumer services development pattern in the area.

The findings against are the amendment allows an alternative to the character of the Harrison Crossing architecture. It would also allow a development type that was not envisioned when the property was rezoned.

Mr. Hughes stated that based on the findings in favor, staff supports the amendments and recommends approval of the proposed request with the amended proffers.

Applicant, Chris Hornung: He stated that it has become difficult to obtain tenants because of the limited access. He stated that they were approached by a self-storage user and the Fredericksburg Islamic Center which are not high traffic generators and these are both good uses for the county.

Mr. Barnes inquired if the 2.9 acres is in a Special Service District.

Mr. Hornung stated that it is and felt that there was no need for the proffer since it is already part of the SSD.

Speaking in favor or opposition: None

Mr. Newhouse closed the public hearing.

Motion and vote: Mr. Newhouse made a motion, seconded by Mr. Barnes to approve the rezoning proffer amendment. The motion passed 7-0.

R16-0005-B Harrison Crossing Square, LLC (Ordinance No. RO16-0005-B): Requests proffer amendment to approved rezoning (R07-12 Harrison Crossing Square) which rezoned 1.83 acres to Commercial 3 (C-3) for the construction of a financial institution and office buildings in 2008. The proposed proffer amendment will remove the requirement that the property be developed in accordance with the Generalized Development Plan approved in R05-19; remove the requirement that the property be included in the Route 3 Special Service District; remove the requirement that the property develop in accordance with LID Guidelines; remove the requirement that all common area landscaping be maintained by a property owner's association; remove the requirement that the architectural design of buildings meet the building standards for Harrison Crossing Square. Harrison Crossing Square is located on the west side of Harrison Road at the intersection of Plank Road (Route 3) and Harrison Road (Route 620). The property is located within the Primary Development Boundary and is designated as Employment Center on the Future Land Use Map in the Comprehensive Plan. Tax Map Parcels 22(8)C1; 22(8)C2. Chancellor Voting District.

Mr. Newhouse opened the public hearing.

Mr. Hughes stated that the same presentation basically applies to this case and would be happy to answer any questions.

Speaking in favor or opposition: None

Mr. Newhouse closed the public hearing.

Motion and vote: Mr. Newhouse made a motion, seconded by Ms. Carter to approve the rezoning proffer amendment. The motion passed 7-0.

New Business:

Initiation Request/Zoning Amendment – Historic Overlay District, Highway Corridor Overlay District, and Accessory Uses Slaughter of Domestic Laying Hens Provision

Mr. Pastwik briefly discussed the proposed amendments:

DRAFT Ordinance 23-165: Chapter 23, Article 5- General Development Standards, Division 3- Accessory Uses

As proposed, domestic laying hens raised onsite for personal consumption may be slaughtered only inside any enclosed structure shielded from public view. This amendment removes the current prohibition on slaughter presently adopted in the ordinance. The proposed language is consistent with staff recommendation and direction received by the Planning Commission at work session on March 18, 2015. This amendment applies only to the domestic laying hens

allowance enabled for agricultural and residential type lots under five acres. No changes have been proposed in reference to farming operations over five acres where livestock is allowed as part of the use agriculture.

The Zoning office reports there have been 39 permits issued under the backyard chickens ordinance (specifically the keeping of domestic laying hens) since the backyard chickens ordinance was adopted on February 12, 2013. During that same time period enforcement staff received 24 complaints. The majority of complaints involve reports of roosters onsite, backyard chickens without permit, or chickens loose on the run. Considering slaughter onsite, staff contacted the local Virginia Cooperative Extension Office, Environmental Health office, and the Spotsylvania County Solid Waste Division to raise the prospect of backyard chicken slaughter in residential areas and whether any additional code language pertaining to such activities would be advised. Based on feedback received, no “red flags” have been raised to warrant further code modification above what is proposed pertaining to slaughter. Citizens would be advised to ensure any private trash haulers would not have issues with hauling any remains. Considering the backyard chickens allowances with an established cap of up to six at a time (depending on lot size), staff does not foresee major issues arising with this amendment. The volume of potential wastes generated do not warrant additional regulation at this time, especially considering inorganic and organic food wastes are generated by households and eating establishments on a daily basis countywide.

In an instance where a nuisance was created by such activities, the County has existing enforcement power under Chapter 4, Animals and Fowl, and Chapter 13, Nuisances to protect the public from negligent or inconsiderate activities that may cause injury or annoyance.

DRAFT Ordinance 23-168: Chapter 23, Article 7- Overlay District, Division 3- Historic Overlay District

Amendments proposed to the Historic Overlay District are relatively minor. Most of the amendments are meant to simply clean up language, remove unclear or vague language and to add capitalization where needed to be consistent with other sections of the code. Staff has also modified reference to providing incentives for the upkeep and rehabilitation of older structures as a purpose and function of the Historic Overlay District, encouraging such activities through additional means in Sect 23-7.3.1(b)(3). During review, staff noted that the Zoning Administrator has been identified throughout the Historic Overlay District as chief point of contact involving Historic District applications as well as the maintenance of an inventory of buildings and structures within the overlay district. Traditionally within Spotsylvania County this has been a function of the Planning Department and the Planning Director who also coordinates historic overlay district reviews with the Historic Preservation Commission. Staff has drafted an amendment to redirect Historic Overlay District review and processes to the Planning Director.

DRAFT Ordinance 23-168: Chapter 23, Article 7- Overlay District, Division 6- Highway Corridor Overlay District

The Highway Corridor Overlay District (HCOD) has been revised on a couple of occasions since its expansion on November 12, 2008. Of particular note was the repeal of the special uses permit

section of the Highway Corridor District in its entirety on January 8, 2013 with Code Amendment Case CA12-0003. Prior to January 8, 2013, the Highway Corridor Overlay District included a list of required special use permit uses, including a number of uses that would have been permitted by-right had they not been located within the Highway Corridor Overlays. Considering the fact that the HCOD already had enhanced design standards in place, staff, the Planning Commission, and Board at the time agreed the HCOD special use requirements were unnecessary and had them removed. Now, all uses within the HCOD are subject to the permitted or special use requirements of their underlying zoning district. With the removal of the special use section in 2013, upon review staff has not identified need for many substantive changes. Staff has proposed to significantly reduce language pertaining to Section 23-7.6.1. Purpose and Intent, of the HCOD. The language proposed to be struck from the Purpose and Intent is viewed as unnecessary and as written has no benefit from a project review and enforcement standpoint. In Section 23-7.6.6. Permitted uses, staff proposes removing references to special use permit conditions under Section 23-7.6.7. This language is out of date and unnecessary resulting from the removal of special uses in January, 2013 as referenced above.

The impetus for proposed amendments concerning chicken slaughter comes from a policy question posed to the Planning Commission on March 18, 2015. Minutes from the aforementioned Planning Commission meeting have been attached for reference. At that time staff asked the Planning Commission to confirm whether they would support drafting an amendment to the backyard chickens ordinance to allow for slaughter onsite. The Commission agreed to allow slaughter onsite provided such actions occurred within an enclosed space or structure. Questions about the slaughter prohibition were initially raised during the backyard chickens ordinance public hearing process that culminated in approval of CA12-0004 at the Board of Supervisors on February 12, 2013. The subject came up again through public comment during CA13-0009, a subsequent revision to the ordinance that effectively expanded the domestic laying hens provision to have county-wide application, approved March 11, 2014 at the Board of Supervisors.

Ms. Carter expressed her concerns regarding the four mile fork area to Cosner's Corner and doesn't want strict guidelines for that commercial corridor. She stated that she would like to cut out the bureaucracy and let them redevelop without strict regulations.

Motion and vote: Mr. Barnes made a motion, seconded by Mr. Barnes to initiate the ordinance amendments for the following: *Based upon the public necessity, convenience, the general welfare, good zoning practices and compliance with the Virginia Code, I move that the Planning Commission initiate changes to the Spotsylvania County Ordinances found in Chapter 23 amending and adding provisions related to the Historic Overlay District, Highway Corridor Overlay District, and Accessory Use Domestic Laying Hens Slaughter provision.* The motion passed 7-0.

Public Comment: None

Adjournment:

Motion and vote: Mr. Thompson made a motion, seconded by Ms. Carter to adjourn. The

motion passed 7-0.

The meeting adjourned at about 8:40 p.m.

Paulette L. Mann

Commission Secretary

January 18, 2017

Date approved