

VIRGINIA: AT A REGULAR MEETING OF THE PLANNING COMMISSION HELD IN THE POWHATAN VILLAGE BUILDING AUDITORIUM, 3910 OLD BUCKINGHAM ROAD IN POWHATAN COUNTY, VIRGINIA, TUESDAY, February 1, 2022, AT 6:00 PM

Planning Commissioners Present	Vicki Hurt, District 1 (Chair), Amy Kingery, District 2, Bobby Hall, District 3 (Vice-Chair), Jane Pendergast, District 4, Barbara Brown, District 5 (Vice-Chair)
Planning Commissioners Absent	None
Staff Members Present	Thomas Lacheney, County Attorney Office Bret Schardein, Deputy County Administrator Frank Hopkins, Planning Director

1) **Call to Order**

Ms. Hurt called the meeting to order at 6:00 PM.

2) **Invocation**

Mr. Hall gave the invocation.

3) **Adoption of Agenda**

Case #21-13-REZC: FD&B Enterprises LLC (District #1: Flat Rock/Subletts) requests the rezoning of Tax Map Parcels 041A-1-A-4B from General-Commercial (C) to Commerce Center (CC) and amendment of the zoning district map of approximately 1.67 acres of land located on the north side of State Route 60 (Anderson Highway). The applicant is seeking to build two commercial buildings. 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.

This case was officially **DEFERRED** for one month per applicant request.

4) **Administrative Items**

a. Election of Chair (2022-2023):

Ms. Kingery made a motion to nominate Ms. Hurt for the position of Planning Commission Chair.

Ms. Pendergast seconded the motion.

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

VOTE 5-0

MOTION PASSED

b. Election of Vice-Chair (2022-2023):

Ms. Kingery made a motion to nominate Dr. Brown for the position of Planning Commission Vice-Chair.

Ms. Hurt seconded the motion.

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

VOTE 5-0

MOTION PASSED

c. Adoption of the Rules of Order (2022-2023):

Ms. Hurt asked if anyone had any questions or concerns regarding the Rules of Order.

No one had any comments.

d. Adoption of the Meeting Schedule (2022-2023):

Ms. Hurt asked if anyone had any questions concerning the meeting schedule. She said the meetings will continue to be on the first Tuesday of every month.

No one had any comments.

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

Page 1: Consistency of Chair and Vice-Chair.

Page. 12: Correct “Dr. Hurt” to “Ms. Hurt”

Page. 13: Clarification of the case description. Sentence correction. Specify the type of facility and intent behind the facility.

The minutes were **DEFERRED** to the March meeting.

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

Page 1: Consistency of Chair and Vice-Chair.

Ms. Pendergast made a motion to **ACCEPT** the minutes with the changes noted.

Mr. Hall seconded the motion.

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

VOTE 5-0

MOTION PASSED

g. Approval of Minutes: December 7, 2021 (Regular Meeting)

Administrative Items: clarification of why certain minutes were being deferred.

Page. 21: Correction of Ms. Hurt’s name.

Ms. Pendergast made a motion to **ACCEPT** the minutes with the changes noted.

Mr. Hall seconded the motion.

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

VOTE 5-0

MOTION PASSED

h. Approval of Minutes: January 6, 2022 (Regular Meeting)

Corrections were updated online that day.

Page. 27: Spelling correction: the word “made” was left out of a motion statement.

Page. 29: Correction of a words spelling from “hire” to “higher”.

Correction of some typos.

Correction of Gender identification of Ms. Pendergast.

Correction of “no workshop” to “board discussion”.

Preview of Hexagon Project: clarify how the panels are cleaned.

Page. 25. Case 22-01: Correction of the vote to include Mr. Hall.

Page. 30: Correction from a personal desire to be open to growth to “the planning commission’s”.

Ms. Kingery made a motion to **DEFER** the minutes.

Dr. Brown seconded the motion.

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

VOTE 5-0

MOTION PASSED

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.

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

6) Old Business

No old business.

7) Public Hearings

- a) **Case #21-10-REZC: DJM Ventures (District #2: Flat Rock/Holly Hills)** requests the rezoning of Tax Map Parcel #41A-1-B-1A and 41-82D from General-Commercial (C) to Commerce Center (CC) and amendment of the zoning district map of approximately 2.2 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 gave an overview of the case, stating that the two lots were bisected by a property line. The zoning ordinance has a provision in it for a buffer concerning property lines that border residential running districts. To keep it as a 10 parcel the left parcel would have required a buffer that would have taken out access to Urbine Road, so the decision was made to include the second parcel and rezone them both as CC to create access to Urbine Road. The total area will now be 2.25. The proffers are the same except the desire to keep the separate A-10 parcel as forested as possible while accommodating access to Urbine Road. The land use designation is still a gateway business. An access management waiver will be required at the property's most eastern point.

Ms. Hurt presented the opportunity for the applicant to make a presentation.

Ms. Hurt opened the public comment period.

William Cook, 2168 Urbine Road: Mr. Cook inquired about doing an easement to make the road come out at the light. He also asked about the setback on the specific project.

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

Mr. Lacheney asked if they advertised the added parcel.

Ms. Hurt responded that she had checked and that they did.

Ms. Kingery expressed her issues with the setback, stating that it seemed like they would have to tear the building down. She stated that she was not sure of the VDOT rules about potentially having to put in a turn lane or the water and sewer system connection. She asked if VDOT had looked at the site plan. She expressed her concern with the many unanswered questions.

Ms. Pendergast expressed her questions regarding their authority to create a nonconforming situation.

Mr. Lacheney responded that existing structures are not technically part of tonight's discussion, only zoning. He explained that the commission would not be conceding that the building can be repurposed. Those matters will not be discussed until the site plan becomes available.

Ms. Kingery expressed her concern with the future matters regarding the property including the price of the project because there seems to be no way to use the building already on the property.

Ms. Hurt stated that it is the applicant's right to apply for rezoning.

Mr. Hall asked if the crossing over of the driveway from one property to the next would require that there be an easement of right of way to cross between them.

Mr. Lachenev explained that part of the development process would be to show that one has valid legal access.

Dr. Brown asked the proposed developers about where the parking would be, and the size of the restaurant being created because of the unique shape of the property. She expressed the community's interest in the size of the potential restaurant.

DJM Ventures Inc., 2491 Goodwin Lake Court: The applicants explained that the existing building will not be torn down or changed but will have a few hundred square feet added to the back for a patio. The entrance will also be relocated. They stated that the maximum occupancy will be less than 100. They confirmed that as of right now there will be 32 parking spaces.

The applicants and commission discussed the fact that the property must be rezoned to be made into a restaurant.

Mr. Schardein explained that the Urbine Road location would require an access management waiver. He stated that if the commission was conceptually okay with the location being in that spot it would be okay to vote on that now otherwise it would have to be brought back later as a separate approval.

Ms. Hurt expressed that she would feel more comfortable only doing the rezoning. Everyone agreed.

Dr. Brown made a motion to re-zone the property associated with case 21-10 to APPROVE only the rezoning as stated.

Ms. Kingery seconded the motion.

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

VOTE 5-0

MOTION PASSED

- b) **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, 41C1-2A, 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 case, stating that it was a countywide rezoning of over 100 parcels in response to being taken out of general commercial in 2018. This decision left a variety of non-conforming scenarios throughout the county. He stated that goal of this rezoning is to make people who have structures that are in growth areas and have existing structures on their houses whole. He clarified that he would get the tax map to the commission because within the parcels at least just one structure [from previous case] was still in it so if a motion was made that needed to be pulled out.

Ms. Hurt opened the public comment period.

Darwis Stroud, 3235 Three Bridge Road: Mr. Stroud explained he owns the strip shopping center across from Dunkin' Donuts and that under the previous zoning, whenever a tenant left the space was open for new tenants. The rezoning that occurred in 2018 limited the types of businesses that could rent out the space. He asked that the Planning Commission change the zoning back to the way it was before 2018.

Ms. Hurt asked that Mr. Stroud email or contact staff for guidance.

Dr. Brown asked Mr. Stroud if any part of his parcel was listed in this motion.

Mr. Stroud said he was not sure.

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

The Planning Commission discussed if Mr. Stroud's parcel was listed in the motion.

Mr. Schardein said that the parcel, 41-12D, should be in the list because his property was the one that brought this issue to their [County] attention.

Ms. Hurt asked if this rezoning would correct Mr. Stroud's problem. Mr. Schardein assured that it would.

Ms. Hurt said that she wanted people to be able to lease their properties with appropriate uses. She stated her concern with undeveloped property, but that those problems would be dealt with on a case-by-case basis. She stated that she did not want someone that owns property that has not been improved to feel as if their needs were overlooked.

Ms. Pendergast asked if they had reconciled the notices and were comfortable that everyone was notified. She also asked if everything had been published on the website. Mr. Hopkins said that everything was taken care of.

Ms. Hurt asked if the rezoning would mess up anyone [property owners] regarding setback rules and things of like manner.

Mr. Lachenev said that everyone with an existing business would a lawful non-conforming use and be fine even if the setbacks changed. He explained that a new tenant would not affect this either because the building itself is the valid use.

Ms. Hurt expressed her concern for those without developed property having to come to them [Planning Commission] if they wanted to rezone. She asked if those people would have to pay a fee.

Mr. Lachenev confirmed that the county would be taking care of the fee for them. He also explained that the commission's predecessors had stripped out some of the uses to gain some control over what kind of development was happening.

Mr. Hopkins stated the setbacks were the same if not better in this case.

Ms. Hurt made a motion to **STRIKE OUT** parcel #41A-1-B-1A from the proposal.

Ms. Pendergast seconded the motion.

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

VOTE 5-0

MOTION PASSED

Dr. Brown made a motion to **APPROVE** the proposal for case 22-01 for Powhatan County to rezone the tax map parcels as listed.

Mr. Hall seconded the motion.

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

VOTE 5-0

MOTION PASSED

- c. **Case #21-10-CUP:** Chadham & Sarah Taylor (District #3: Jefferson/Fine Creek Mills) request a conditional use permit (CUP) to allow a rural event venue within the Agricultural-10 (A-10) zoning district per Sec. 83-162 of the Zoning Ordinance of the County of Powhatan. The use is located at Tax Map Parcel #17-24 and #17-24A (2987 & 2983 Huguenot Trail) in north central Powhatan County. 28 The 2021 Long Range Comprehensive Plan designates the subject property as Rural Areas and Natural Conservation on the Countywide Future Land Use Plan.

Mr. Hopkins gave an overview of this case, stating that it is a CUP an event venue located at 2987 Huguenot Trail. It is currently zoned agricultural 10 and is on 104 acres. There are two lots with a residential structure on each. The future land use map is rural areas and protected lands. The venue would like to host 290 guests at 70 events a year. The weddings would take place south of the structure. Parking would be in the fields on the property. The property would be conditioned to have waste done by porta-potties. The only part of the property on the future land use map that is protected is in the back near the pond, very far from where events are planned to occur. A commercial entrance condition was placed because there was one on the last rural event venue.

Sarah Taylor, 2986 Huguenot Trail: Ms. Taylor stated that their family lives on-site and that they are not trying to become a boutique wedding and event venue there is a set number of events during any wedding season. She also stated that the event would be held outdoors. She stated that they wanted to focus on quality over quantity to provide a beautiful experience for clients. She explained that a chart located in the packet shows how the venue would compare in size to others in the county and that the excessive acreage would allow for a sound buffer during events. The closest home is 1300 feet away. She also explained that they would not want a full commercial entrance because surrounding businesses do not have them. She also offered further details about the property plans including tent and an explanation of the map in the packet.

Ms. Hurt opened the public comment period.

Matt Caldwell, 2910 Huguenot Trail: Mr. Caldwell expressed his support for the applicants.

Jessica Wennell, 4140 Huguenot Trail: Ms. Wennell expressed her support for the applicants.

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

Dr. Brown asked for clarification on the actual number of events being used.

Ms. Taylor explained that they would be allowing clients to stay in the guest home for some time around the event and the excessive time was stated to account for that.

Dr. Brown referred to a prior case in which the commission allowed the bypassing of a VDOT entrance but instead being required to rent policemen to control traffic from an hour before any to an hour after the event has ended. She proposed that this route be taken for the case at hand.

Ms. Hurt said that the applicants made it clear that there would be parking attendants to that parking would occur in a professional, safe manner.

Ms. Pendergast stated her support for Dr. Brown's proposal to forgo the full commercial entrance. She also asked if a tent would be considered an enclosed structure.

Mr. Hopkins said that he believed that the point at which a tent becomes building permissible is 900 square feet.

Mr. Schardein clarified that the file said the previous case Dr. Brown had referred to (Smith's) had been a matter of forgoing the turn lane but requiring the minimum commercial entrance. The commercial entrance has to do with the width of the private driveway and not a turn lane.

Ms. Hurt asked what the signage was when referring to the commercial entrance. Mr. Schardein said that signage typically does not play into the VDOT commercial entrance.

Ms. Kingery made sure that the applicants understood that the commercial entrance only has to do with width and not a turn lane.

Mr. Hall said that he had been to visit the property and supported a commercial entrance. He stated that his only concern was the amplified music.

Ms. Pendergast asked that the applicants what the expectation for entertainment and noise level would be.

Ms. Taylor explained that once a tent exceeds a certain size that they would have to submit their tent size to the county. She also stated that they were planning to defer the noise level restraints to the county because there have been large events at the property in the past that seemed to affect no one in the surrounding areas.

Ms. Hurt asked Mr. Lacheney what the ruling was regarding the question of the tent being considered a structure.

Mr. Lacheney responded that he did not believe the tent would be considered a structure. He also clarified that the applicants were offering to cut off the music an hour before the county says it needs to be turned off for anyone.

Ms. Kingery and Ms. Hurt expressed their support for the applicants.

Dr. Brown asked what the Commission thought about requiring traffic professionals. The Commission expressed their support for this idea and decided they would add that to the motion.

Mr. Hall said he was not sure if the traffic professionals needed to be enforced by the Commission.

Ms. Taylor expressed that much of the brush had been cleared near the road to allow for better vision for a safe experience when coming and going.

Mr. Lacheney advised against the Commission trying to group the decision about the tent and noise and instead take them one at a time.

Dr. Brown made a motion to require the applicant to be responsible for hiring a minimum of one properly qualified professional to provide traffic control on U.S. Route 711 Huguenot Trail for events where there shall be over 100 persons in attendance with standards set forth by VDOT beginning one hour prior to the start of the event.

Ms. Pendergast seconded the motion.

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

VOTE 5-0

MOTION PASSED

Mr. Hall said that previously, tents had not been considered an enclosed structure. He asked if because that was in the review standards it would mean that the Commission would need to stick to that ruling. He directly referred to sections 83-4232 E5 and B.

Mr. Schardein referred to a prior case to explain a condition made stating: the use of amplified music public address systems bands, brass percussion instruments, or disc jockeys be permitted only within enclosed buildings or tents except for outdoor wedding processions and ceremonies less than one hour in duration. Said use of amplified music PA systems or similar activities

outside of a permanent enclosed structure shall begin no earlier than 10 AM and end no later than 10 PM. The county-wide noise ordinance shall apply to all activities occurring on the property.

After some clarification of the conditional, Ms. Taylor expressed her support for the condition as presented.

Ms. Kingery made a motion to APPROVE the conditions as amended by Mr. Schardein.

Ms. Pendergast seconded the motion.

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

VOTE 5-0

MOTION PASSED

Ms. Hurt made a motion to APPROVE case #21-10-CUP as amended by the Commission.

Ms. Kingery seconded the motion.

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

VOTE 5-0

MOTION PASSED

- d. **Case #21-11-CUP:** George Stermer (District #4: Powhatan Village/Macon) request a conditional use permit (CUP) to allow an accessory dwelling unit within the Single-family Residential-2 (R-2) zoning district per Sec. 83-210 of the Zoning Ordinance of the County of Powhatan. The use is located at Tax Map Parcel #38B-2-8 (1627 Indian Pipe Ct) in central Powhatan County. The 2021 Long Range Comprehensive Plan designates the subject property as Rural Areas on the Countywide Future Land Use Plan

Mr. Hopkins gave an overview of the case, stating that it is a conditional use permit for an accessory dwelling unit at 1627 Indian Pipe Court that is agricultural A-10. The total area is 4.4 acres, and the future land use designation is rural areas. The main structure is approximately 4,000 square feet. The proposed addition is approximately 900 feet, and it is for a parent to come live with the applicants as an elderly citizen.

Ms. Hurt opened the floor for any comments the applicant may want to make.

Seeing that the applicant did not wish to speak, Ms. Hurt opened the public comment period.

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

Ms. Pendergast asked if the applicants would be using the same driveway for both structures.

Ms. Pendergast made a motion to APPROVE case 21-11-CUP.

Ms. Kingery seconded the motion.

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

VOTE 5-0

MOTION PASSED

- e. Case #22-01-AZ:** The County of Powhatan requests the amendment of the provisions set forth in Chapter 83 (Zoning Ordinance) Article VII (Use Standards) to remove language constraining gas stations to a maximum of two vehicular access points. Without this provision in place, future gas stations will be regulated by VDOT standards for parcel access.

Mr. Hopkins gave an overview of this case, stating that this is the gas station entrance amendment. It had previously been decided to take out previous changes regarding access points of contact with the public street and instead make things subject to VDOT spacing standards. There is no restriction on inter-parcel access.

Ms. Hurt opened the public comment period.

Ms. Hurt closed the public comment period.

Ms. Pendergast made a motion to **APPROVE** case 22-01-AZ.

Mr. Hall seconded the motion.

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

VOTE 5-0

MOTION PASSED

f. New Business

No New Business.

g. Workshop

No Workshop.

h. Adjourn

Ms. Hurt adjourned the meeting at approximately 7:20 PM.

Next Regular Meeting: Tuesday, March 1, 2022 (6:00 p.m.)

Vicki Hurt
Chairman

Frank Hopkins
Planning Director