

Chesterfield Planning Board
Tuesday, January 17, 2006
7:00 p.m.

Present: Davis Peach (Chairman), Wanda McNamara (Selectmen Representative), Valerie Starbuck, Bob Del Sesto, Tom North, Susan Lawson-Kelleher, and Padi Blum (Secretary)

Guest: Chester Greenwood, Code Enforcement/Building Inspector

Peach called the meeting to order at 7:23 p.m. Peach stepped down from the Chair and Del Sesto assumed the chair.

- 1. Minutes** – The minutes of December 19, 2005 and January 3, 2006 were reviewed.

North motioned to accept the minutes of January 3, 2006 as presented. Starbuck seconded the motion and the motion carried.

Peach motioned to accept the minutes of December 19, 2005 as presented. Starbuck seconded the motion and the motion carried.

- 2. Zoning Map Petition Public Hearing-** A petition has been submitted to amend the zoning map of the Town of Chesterfield from Office/Retail/Services to Rural/Agricultural for the following properties:

- Property owned by Very Mill Corporation on Route 9 (Chesterfield Heights area) Tax Map 8 Lot C 2.1, Tax Map 8 Lot C 2.505, Tax Map 8 Lot C 2.516, Tax Map 8 Lot C 2.514
- A portion of property owned by Francis and Sherryl Shield on Very Mill Road off Route 9 (Chesterfield Heights area) Tax Map 8 Lot C 2.513. The remainder of the property is already in the Rural/Agricultural zone.
- A portion of property owned by Cheryl Meehan on Very Mill Road off Route 9 (Chesterfield Heights area) Tax Map 8 Lot C 2.512. The remainder of the property is already in the Rural/Agricultural zone.

David Bergeron from Brickstone Masons presented the proposed zoning amendment, along with Robert Clarkson of Very Mill Corporation. Clarkson contends that although the most beneficial route financially would be to develop his parcels of land in this area commercially (O/R/S), the residents in the neighborhood have stated to him that they would rather the land be developed residentially. After rezoning, the only way that this land could be developed residentially is if it is adopted into the Very Mill cluster. The feeling is that the makeup of the general area has become more of a neighborhood and potential O/R/S business developing in this area is no longer a welcome prospect.

Del Sesto reiterated that any development of the land, if the land were rezoned, it would still have to come before the Planning Board for approval. It was also noted that if the land is rezoned to R/A, any development would be subject to the

regulations pertaining to the R/A zone. This includes 5-acre minimum for development unless it is then approved to be included in the Very Mill Cluster Development. If the land is not then added to the cluster; without once again rezoning, the land would be of no use for development either residentially or O/R/S at that point.

The Board also noted that this was the largest O/R/S zone of only three such areas in the Town of Chesterfield. Without further rezoning, this is a substantial loss of O/R/S space. There is some concern that the Master Plan shows that residents want to see more O/R/S development in the Town. Bergeron noted that although in fact it is the largest in area, the majority of this area is unusable and could not be developed for any purpose (designated open space, wetlands, etc.).

Peach stated that residents in this zone purchased and built homes in the area knowing that the O/R/S zone existed in this area. He also asked residents to consider the possibility of the need or desire for such a zone for business ventures that may not be foreseen at this time.

The Hearing was open to the Public for questions and comments.

Rian Peloquin requested to see the plans with proposed lot sizes. Del Sesto stated his concern regarding reviewing plans that would be a matter for another public hearing if the rezoning occurred. Bergeron did review the plans showing the development they intended to pursue if the rezoning was approved and Clarkson's property were approved to be adopted into the Very Mill cluster.

Kathy Davidson stated that although Clarkson and Bergeron declared that the residents of the development had all been consulted with personally by Clarkson, never had she been approached about her feelings. She stated that she was dead against the rezoning. Once rezoned, anyone could develop within any accepted development guidelines for that zone. She stated that she went through that with Marty Blumberg (the previous developer) – he had a great presentation and made promises, then he went under and new developers came in and everything changed. She has great concerns over what the Town loses and what could happen in the aftermath. She also has mixed feelings - when this land was proposed for the O/R/S zone, residents were told that it would offset their taxes, and nothing has been developed in this zone. She has concerns overall in the planning process and actions. She is here for more discussion on the topic. She wanted to know why the Planning Board proposed the change in the first place. It was clarified that the change was requested by petition, and not proposed by the Planning Board. The role of the Board is to present the matter to the public and then vote to either recommend or not recommend the warrant article at Town Meeting. It was also explained that the idea behind the original O/R/S zoning was to provide a designation for a lower intensity of commercial usage. This area was one of several proposed at the time (by the owner at the time), and determined to be one of the better locations. Some of the allowed O/R/S uses could provide a convenience for the residents, and all ventures would have to go through the site plan review process.

James Hogancamp asked if this would be a case of spot zoning and would the lost O/R/S zone area be replaced with other O/R/S zoning. He was told that this should not be construed as spot zoning, and that there was no proposal for other land to be zoned O/R/S at this time.

Bob Vita said that he supports residential development because the area has become very residential and R/A would be a better choice for that area at this time. He believes this because he thinks it would provide a safer environment for the children and because you don't know what kind of business could go into the O/R/S zoned property. He stated that it was probably a good choice for an O/R/S zone at the time it was designated O/R/S, but no longer due to the change in the character of the surrounding neighborhood.

Gary Vonderesch supports rezoning because, again, anything (allowed in O/R/S) could go in there and it was a good point about the safety of the kids. He questioned the tax benefit to the Town. Del Sesto acknowledged that it was a good point – it used to be considered that taxes from residential did not cover the cost to the town for education, etc. but that times have changed and with declining enrollment (less children per house) and other factors, studies have shown that that is not the case. It is not an easy question to answer. Peach questioned if there were statistics to compare R/A to O/R/S income. There was none presented. It was also noted that the expected income from O/R/S development were not being realized since there has been no O/R/S development in that area to date.

Kathy Davidson requested clarity regarding the possibility of being allowed to revise an approved site plan. The answer is that an applicant may return to the Board and apply for approval of a revised site plan. The application would be subject to a complete and formal review and may or may not be approved.

Patricia McDerby stated that she would rather see residential due to safety concerns for the children in the development.

Rian Peloquin asked about the land owned by McFadden and Youngman that was petitioned for rezoning recently (initiated due to a purchase inquiry by Federal Express), and stated that that demonstrated a good example of why it is good that the Town has land available for commercial development. Peloquin also referred to a notation on the original site plan on file for the Very Mill Cluster Development that he said stated as a restriction that no further subdivision of the new lot of record for the purpose of creating additional building lot(s). He is unsure of whether or how this may affect Clarkson's plans for the property, but he would like to make sure that this is of record and investigated should rezoning take place and Clarkson pursue adding to the Cluster.

Frank Shield stated that he would certainly rather have residential traffic in his neighborhood than commercial traffic, and he was concerned about access to the lots.

James Hogancamp said that as a business man, he could certainly understand that this would be the wisest financial decision and he would probably want to do the same thing as Mr. Clarkson if it were his property, but he wanted it known that he had himself made an offer to purchase the land for a family business that caters to brides. The business would have been very low impact on traffic and safety, and family would reside on the premises, providing security. The business would be aesthetically appealing and not invasive. He stated that Clarkson declined the offer citing the concerns of the neighborhood residents. He suggested that if there was concerned over the potential use of the land, they might want to consider obtaining a fair market appraisal of the underlying land to be sold at a low cost to the association.

Hogancamp also cited discussion over potential 7-11s going in, etc. and was concerned over the F.E.A.R. (False Evidence Appearing Real) factor. He urged residents not to vote based on fear of what may happen – his offer was an example of a proposed O/R/S use that could go into the land in question. He mentioned concern over setback requirements and other restrictions affecting the use of the land if rezoned.

Cheryl Meehan said she did move in knowing that the lot between her and Route 9 was zoned O/R/S, but she did not know that part of her lot was O/R/S. She would prefer that a house be built on the tiny little cul-de-sac; she would prefer the entire area to be residential. She stated that she was not heavily opposed to the land staying O/R/S, but would prefer to see residential.

Linda Lord recalled that there was a lot of thought and work in creating the current zoning. If she had to vote tonight, she would vote no, but she would like to hear more discussion. Particularly the effect such rezoning would have on the Town and she did have concern with taking away from available O/R/S zoned land.

Gary Vonderesch asked why the land had not yet been sold for commercial development. Clarkson indicated that in addition to his concern for the neighbors' wishes, the only offer(s) he had received was for substantially less money than the land was listed.

Cheryl Meehan asked what can and cannot go in the O/R/S zone. Peach read from the Land Development Regulations the permitted uses and the exceptions (see LDR).

Lawson-Kelleher noted at this time that there is only a 2.5-acre minimum requirement for R/A development. She also asked who would like to see more O/R/S in the Town. There were 7 responses from the residents – 3 yes, 4 no. Lawson-Kelleher stated that there was indeed a lot of thought put into the limitation of O/R/S and that is why she has concern that the limited O/R/S area that was determined to be necessary may be reduced, and that indeed there may be a need for this area in the future.

Del Sesto also made mention of the PDD process that is available and being utilized for the first time this year. He noted that (although rezoning of any kind must be approved at

the annual Town Meeting) this process also offered the opportunity to create a zoned area with even more limiting restrictions of the permitted uses within that district.

Del Sesto closed the public input portion of the public hearing and reopened the matter to Board discussion.

Starbuck appreciates the residents' concern for the children's safety, but the decision must be based on the greater good for the Town. She has great concern over the potential loss of 1 of only 3 O/R/S zoned tracts of land. She is also concerned over the potential that the rezoning may pass and then if the land cannot, or is not, added to the cluster the land could be locked for developing and will sit unused.

Lawson-Kelleher reminded everyone that the minimum acreage for development in O/R/S was 5 acres. These lots would not meet that requirement.

Peach stated that he did understand why people living in a residential neighborhood would like to retain the continuity of a residential neighborhood; however, when you buy a house the buyer must know the zoning of the land in that area. He does not feel that the surrounding area should be rezoned because the current occupants now want to change the land around them (that was selectively zoned O/R/S to serve a purpose and an identified need). He did also state that that was his opinion and he welcomed the opinions and votes of the residents.

Del Sesto said that there was a good point to be made that the land had been sitting for a long time, not being utilized as it was envisioned and not generating the tax revenue that would be expected. He believes that it would be in better keeping with the surrounding neighborhood as it has evolved.

*Lawson-Kelleher motioned to recommend support of the warrant article. The motion was seconded by Starbuck. A role-call vote was taken: Lawson-Kelleher – Yes, McNamara – No, Starbuck – No, North – No, Del Sesto – Yes, Davis - No. The Board vote was split 2-yes, 4-no; with the motion defeated, the petition will go on the ballot **without** the recommendation of the Planning Board.*

- 3. Town of Chesterfield Planning Board** – This is a Public Hearing to amend the Town of Chesterfield Zoning Ordinance. Pending approval, the following article shall be incorporated; the Planning Board shall submit the item as a Warrant Article on the ballot at the Town Meeting in March, 2006:

ARTICLE IV

SECTION 410 JUNKYARDS

410 JUNKYARDS

The outdoor storage of any of the following are not permitted in any district:

- More than two unregistered vehicles or major parts thereof

This item was opened for public discussion.

Linda Lord thought that the Ordinance was a good thing, but expressed concern that we may be adding more rules that would not get enforced.

Chet Greenwood stated that previously there had been much stricter State Regulations that the Town relied upon for enforcement, but those had been removed from State Regulations. He is trying to enforce the Town's Ordinances and Regulations, but is having difficulty identifying regulations/ordinances to cite to support his enforcement of Town requirements. The proposal was much less strict, but it was a place to start. This would address the largest need at this time, and could be amended through the same process to add on to the Ordinance at a later time.

Dave Smith said that the proposal was vague with undefined words – he cited the word “vehicles” and questioned how it could affect vehicles that customarily had accepted uses without the need for registration (farm vehicles, large equipment that was trailered site-to-site, etc.) This could present a flaw that could negate the enforceability of the Ordinance. Definitions would be needed. He said that discretion can be a good thing, but the Town needs to avoid what could be construed as selective enforcement (to avoid lawsuits and to aid enforceability).

Jim Hogancamp also expressed concern that “unregistered” may need definition so that one could not present the argument that if a previously registered vehicle expired, it was indeed registered and it was only in an expired state. The Board felt that this would not be an issue, that it was clear in accordance with State definition that if your registration expires, you are not currently registered.

Linda Lord thinks that the Ordinance needs to be more specific and thinks that it should be expanded. It was explained that there was an element of time constraints and that is why the board decided to move forward with the most basic ordinance addressing the strongest need at this time. Again, the ordinance could be amended when the Board had the time to research a further reaching ordinance addressing more situations – but they wanted to be sure that each situation met with the public's approval, and that the wording was legally correct and enforceable when it makes it to the books.

*Peach motioned to close the public input portion of the public hearing.
North seconded and the motion carried.*

McNamara stated that our Code Enforcement officer is attempting to enforce the

Regulations, but could not because of lack of a clearly documented ordinance. North agreed.

Starbuck stated that there is time to reword the current basic ordinance on the table and to hold another hearing on February 6th prior to putting it on the ballot for Town Meeting.

*Peach motioned **not** to approve due to vagueness. Lawson-Kelleher seconded. A role-call vote was taken: North – No, Starbuck – Yes, McNamara – No, Lawson-Kelleher – Yes, Peach – Yes, Del Sesto – No. The motion was defeated.*

The Board resumed discussion.

Starbuck motioned to change the bulleted item to read:

- More than two unregistered automobiles or trucks.

The motion was seconded by North. A role-call vote was taken: North – Yes, Starbuck – Yes, McNamara – Yes, Lawson-Kelleher – No, Peach – Yes, Del Sesto – Yes. The motion carried.

This item will be revised, re-warned and listed on the agenda for a public hearing on February 6, 2006.

- 4. Town of Chesterfield Planning Board** – This is a Public Hearing to amend the Town of Chesterfield Floodplain Development Ordinance. Pending approval, the following article shall be incorporated to repeal the current Floodplain Development Ordinance in its entirety, adopted March 8, 1994, and replace with the new Floodplain Development Ordinance, revised to be consistent with the provisions of the National Flood Insurance Program; the Planning Board shall submit the item as a Warrant Article on the ballot at the Town Meeting in March, 2006. This amendment is required to comply with the National Flood Insurance Program.

There were no questions or comments from the public.

McNamara motioned to accept the amendment and place it on the ballot as a Warrant Article at the Town Meeting in March. Starbuck seconded the motion and the motion carried unanimously.

- 5. Pierre Saba/Riverside Hotel** – Major Site Plan Review of property located on Route 9, Chesterfield (Map 14C, Lot B1) in the Commercial/Industrial zone. Applicant wishes to replace the existing 14-unit hotel with a three story new structure with 36 units. Numerous improvements to the site are proposed.

Starbuck motioned to accept the application as complete. McNamara seconded and the motion carried unanimously.

Donald Scott from Clough Harbour & Associates presented the site plan.

The hearing was opened to the public for questions and comments.

Jim Hogancamp asked about handicapped access and would it meet accessibility codes. The response was that yes, they would have to meet all building codes.

Linda Lord asked if there would be nighttime usage on the backside. The response was that there would not be any more than the current usage. Additional lighting in that area was not planned at this time, but would be installed if required, according to Planning Board requirements.

David Belanger stated that he owns property on the corner of Gulf Road. He is concerned over noise, traffic, and lights as well as disposition of mailboxes. Currently lights glance off the corner of his house, but with a 10-foot shift, the headlights would shine directly into his bay window in his living room. A small lit sign would be helpful. He noted that his house had been hit twice. He asked that if the mailboxes must be moved, could they go across the road. That would be researched and if possible, Saba agreed to move them across the road to accommodate the request of neighbors. Saba stated that he would also accommodate requests to do whatever he can to buffer lighting, etc. to the Belanger property at the exit near that property.

Jim Hogancamp offered that for a small contribution to the Boy Scouts, the applicant could obtain trees on property near Hogancamp and use to plant at the hotel.

Linda Lord questioned if the new hotel would accommodate overnight guests or long-term stay with kitchenettes, etc. It was noted that long-term stay would not be allowed per State Regulations. Short-term stay is defined as less than two weeks. Saba stated that he did not expect to pursue additional permits and requirements.

Linda Lord also asked if there would be conference rooms, etc. that would bring in larger numbers of people and higher traffic. Saba stated that there would be nothing like that. He does not intend to attract anyone other than occupants staying at the hotel. It was also noted that with the impending Welcome Center goes in atop the hill, the Liquor Store would also be moving up into that area. Saba stated that there would not be a large increase in cars/traffic.

Starbuck asked David Belanger if he would allow Board members to go onto his property to check out the view from his property. Belanger said yes, and offered to accompany Board members if they called ahead.

David Belanger requested that the old pavement stay down until construction is complete, and then tear up and repave all together. It was noted that drainage, etc. would require removal of pavement. Saba said he would make sure that the project was handled

in such a way as to create the least disturbance and keep the area as aesthetically pleasing as possible.

Linda Lord asked if there were plans for docks, boat landings, water access, etc. and would they keep boat trailers on-site. Saba stated that they did intend to add water access but nothing excessive. No boat trailers would be kept there. It was noted that the Town did not have restrictions to limit boat docks, but that was regulated by the State.

McNamara motioned to close the public input session of the public hearing. Starbuck seconded and the motion carried.

Lawson-Kelleher requested time for further review.

Lawson-Kelleher motioned to continue consideration of the application to the next Planning Board meeting. It was noted that the public hearing must first be re-opened, and the motion was rescinded

Peach motioned to re-open the public hearing. Lawson-Kelleher seconded and the motion carried. Board discussion as follows:

The Board requested additional materials from the applicant including lighting and structural appearance. The Board will conduct independent site inspection individually as desired.

Lawson-Kelleher motioned to continue consideration of the application to the next Planning Board meeting. Starbuck seconded and the motion carried unanimously. The public hearing will be continued to February 6, 2006. This item will be the first hearing on the agenda.

6. Signatures:

- **Minutes of December 19, 2005 and January 3, 2006.**
- **Goderre Site Plan (all copies of final site plans)**

7. Follow up on Greenwood request for Building Ordinance amendments (“Seasonal Use”) - Greenwood felt that a definition of seasonal use was needed in the Town’s ordinance in order to enforce rules applicable to change in use/conversion from seasonal to year-round occupancy.

The Board agreed that the State definition sufficed and could be used in conjunction with current Town Ordinances and Regulations for code enforcement.

8. Other – (items to be filed in the Planning Board Information file)

- **The Source** – Newsletter of the NHDES Drinking Water Source Protection Program.

9. Adjournment

North motioned to adjourn. The motion was seconded by McNamara. The motion carried unanimously and the meeting adjourned at 11:47 p.m.

Respectfully Submitted,

Patricia L. Blum

Secretary

Approved:

Davis Peach, Chairman

Date: _____