

AT A REGULAR MEETING OF THE PLANNING COMMISSION OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE TENTH DAY OF APRIL, NINETEEN HUNDRED AND NINETY, AT 7:30 P.M., 101C MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

1. ROLL CALL

Mr. Raymond L. Betzner
Mr. A. G. Bradshaw
Mr. Wallace Davis, Jr.
Mr. Martin Garrett
Ms. Victoria Gussman
Mr. John Hagee
Ms. Judith Knudson
Mr. Alexander Kuras
Ms. Carolyn Lowe
Ms. Willafay McKenna

ALSO PRESENT

Mr. O. Marvin Sowers, Jr., Director of Planning
Mr. John T. P. Horne, Manager of Development Management
Mr. Leo Rogers, Assistant County Attorney
Mr. Allen J. Murphy, Jr., Principal Planner
Mr. R. Patrick Friel, Planner

Mr. Kuras welcomed Mr. Leo Rogers, Assistant County Attorney, and introduced him to the Commission.

2. MINUTES

Upon a motion by Mr. Kuras, seconded by Ms. McKenna, the Planning Commission minutes were approved. Ms. Lowe had a change on the Planning Commission minutes for March 13, 1990, regarding Case No. Z-4-90 and SUP-12-90, Lether Investments. She stated her comment on page 24 should read, "Ms. Lowe stated the quality of a development is not determined by the size of the homes."

3. COMMITTEE REPORTS

Mr. Garrett presented the Development Review Report. Upon a motion by Mr. Garrett, seconded by Ms. McKenna, the report was accepted as presented.

Ms. McKenna presented the Policy Committee Minutes of January 24, 1990, February 7, 1990 and March 21, 1990. Upon a motion by Ms. McKenna, seconded by Mr. Hagee, the minutes of the Policy Committee were accepted as presented.

4. CASE NO. Z-6-90. STEWART/OWENS PROPERTY

Mr. Friel presented the staff report (appended) to rezone approximately 48 acres from A-1, General Agricultural, to M-2, General Industrial. The property is located east of and adjacent to CSX railroad on the west side of Richmond Road in Toano. Mr. Friel stated that the applicant, Mr. Howard Clayton, had requested a deferral of this case until the May 8, 1990 Planning Commission meeting.

Mr. Kuras opened the public hearing. There were no speakers, and the public hearing was continued.

Upon a motion by Ms. McKenna, seconded by Mr. Bradshaw, the Commission by roll call voted 10-0 to recommend deferral of Case No. Z-6-90 until the May 8 meeting.

5. CASE NO. SUP-14-90. JACK L. MASSIE CONTRACTOR, INC.

Mr. Friel presented the staff report (appended) for a special use permit to allow the placement of a communications tower in excess of 35 in height on 34.48 acres zoned A-1, General Agricultural. The property is located at 3900 Cokes Lane.

Mr. Kuras opened the public hearing.

Mr. Alvin Anderson, on behalf of Jack Massie Contractor, Inc., presented slides depicting improvements on the site since 1985. The slides featured various towers around the area and compared their heights and location to the proposed Massie tower. Mr. Anderson gave background information of Case No. SUP-14-85 which permitted the Massie Contracting business to move from its present location on Richmond Road to Cokes Lane, and established its development within the Reservoir Protection Overlay District.

Mr. Anderson stated that he provided a copy of the special use application, information on lighting and painting of the tower to Ms. Susan McCleary, representative of Mirror Lakes subdivision. He stated that she did not want a strobe light placed on the tower.

Mr. Anderson suggested a revision to condition #6: prohibit a white strobe light, and have painting and lighting the same as is currently on the tower on Richmond Road in accordance with Federal Aviation Administration requirements.

Mr. Hagee asked what communications radius the tower would have at 210 feet. Mr. Anderson stated a 60 mile radius. Mr. Garrett asked the distance of radius if the

tower is lowered. Mr. Massie stated that if the height of the tower is lowered, than the radius is reduced.

Ms. Lowe asked if the Massies' needs could be served by the tower on Little Creek Dam Road. She stated that tower can accommodate other uses, and asked if they had checked into this. Mr. Anderson stated they could tie into the tower and lease space, but in 1985 when the special use permit was approved, mention was made about moving the operations to the Cokes Lane site.

Mr. Sowers clarified that if a tower is greater than 200 feet in height it must have a white strobe light or orange and white stripes and a red light because of FAA regulations. He stated the other towers are not near residential areas.

Mr. Andre Shirest, a member of Mirror Lakes Homeowners Association, stated their group wants to be sure that the Planning Commission knows that Mr. Anderson has talked with them and provided information to them. He stated that Mr. Anderson agreed with Ms. McCleary's request of no white strobe light. He is concerned about trees being removed due to further expansion of this site. He preferred a neutral color and lower tower.

Mr. Michael Hill, owner of a lot in Mirror Lakes, stated the tower will not be an eyesore for the development.

Mr. Kuras closed the public hearing.

Mr. Kuras stated his concerns with safety of a high tower with a neutral color and no lighting, and lots of air traffic in the area.

Mr. Garrett stated concern because he did not feel that Mr. Anderson could answer questions regarding a lower tower and lower communication radius. Mr. Massie stated that Motorola will not guarantee reception for areas.

Mr. Lawrence Beamer, contractor, stated his company selected Motorola and were informed that the new equipment might not work as good as the old equipment.

Mr. Garrett commented that at the new site the Massies are not guaranteed the 60 mile radius.

Ms. Gussman asked what might happen with the 10 foot differential, and the possibility of adding services to the tower at Hankins Park.

Mr. Sowers stated that staff does not feel the tower is an expansion of the industrial use on the site and does not set a precedent for future rezonings, and

requested the Planning Commission to make such a finding as contained in the staff report if they are inclined to recommend approval.

Upon a motion by Ms. McKenna, seconded by Mr. Bradshaw, the Commission moved to approve the relocation of the Richmond Road tower to its new site on Cokes Lane and to amend condition #6 so that the tower would continue to have its same height, color, and lighting and that no strobe light shall be used on the tower. The motion passed by a roll call vote of 10-0.

6. CASE NO. SUP-16-90. WILLIAMSBURG FARMS, INC.

Mr. Friel presented the staff report (appended) for a special use permit to allow an inn on approximately 292.37 acres zoned A-2, Limited Agricultural. Mr. Friel stated a special use permit (SUP-41-87) was approved for this use on March 7, 1988. He further stated that since construction had not commenced on the project the special use permit had become void.

Mr. Kuras opened the public hearing. There being no speakers the public hearing was closed.

Upon a motion by Mr. Bradshaw, seconded by Ms. McKenna, the Commission by roll call voted 10-0 to recommend approval of Case No. SUP-16-90 to the Board of Supervisors.

7. CASE NO. ZO-7-90. ZONING ORDINANCE AMENDMENT/SITE PLAN CUT OFF DATE REVISION

Mr. Allen Murphy presented the staff report (appended) and explained that the amendment is required to implement the plan to extend cut off dates for development reviews which had been approved in concept by the Planning Commission and the Board.

Mr. Kuras opened the public hearing. There being no speakers the public hearing was closed.

Upon a motion by Ms. McKenna, seconded by Mr. Garrett, the Commission by roll call voted 10-0 to recommend approval of Case No. ZO-7-90 to the Board of Supervisors.

8. CHESAPEAKE BAY PRESERVATION ORDINANCE

Mr. Wayland Bass presented the report (appended) and explained the buffers and definitions. He stated the ordinance is a code amendment and Planning Commission

input is requested before the ordinance goes to the Board of Supervisors. Mr. Bass stated the ordinance has flexibility to address individual conditions.

Ms. Lowe stated that Mr. Bass and staff deserved praise for this outstanding land use regulation for the County. She asked about the CBPA map and whether GIS will help with a County map. She expressed concerns about consistency of designated areas. She also asked if the 40% reduction mentioned under performance standards and buffer area requirements is the same in both instances.

Mr. Bass stated that as site plans and subdivisions are approved, they are entered on the data base by Grant Roberts. He stated the reduction is the same.

Mr. Bradshaw asked if it was necessary to declare all of JCC a preservation area. Mr. Bass said in his opinion it was necessary because of the County's extent of highly erodible soils which contribute to water pollution.

Mr. Horne stated that declaring all of JCC a preservation area was not mandated by the State, but was recommended because of the extent of development, and the amount of sensitive land in the County to be considered.

Mr. Kuras asked how this would affect private homes in the County. Mr. Bass said that the erosion and sediment threshold is currently 10,000 sq. ft.; the CBPA goes down to 2,500 sq. ft. and this would affect many developments.

Mr. Horne stated that bonding and permitting has not been completely worked out yet. He stated that something will be worked out so that the County ordinance does not affect each house.

Mr. Kuras opened the public hearing.

Mr. Greg Davis, attorney, representing the Peninsula Home Builders, stated his clients support of preservation of the Chesapeake Bay. He stated that citizens and developers do not completely understand the aggressive ordinance. He stated that declaring all of JCC a preservation area is not required by the State, and that the entire County does not have erodible soils. He further stated this ordinance is 1-1/2 years before the deadline. Mr. Davis presented a list of potential problems that would be encountered by a person building a house and drive on a 50x50 lot and disturbing 2,500 feet of area. He stated that stormwater management and erosion and sediment control fees could add \$5,000 to the cost of a house. Mr. Davis stated the County has until 1991 to approve the ordinance, and suggested action be deferred to allow developers to work with the County.

Mr. Horne stated the Planning Commission is not being asked to act on this

ordinance, merely make comments to the Board. The ordinance will be adopted by the Board as a code amendment.

Mr. Albert White, IV, a JCC farmer, stated that farmers understand the need to protect the Bay, and establish guidelines that they can live with. He suggested reducing the buffers from 100 feet to 50 feet. He expressed a need for specific agricultural exemptions in the ordinance regarding submission of clearing and BMP plans. He explained problems farmers would have in clearing land and plowing land every year.

Mr. Horne stated that there is nothing in the ordinance that exceeds State requirements.

Mr. Woody Sirois, developer, stated his concerns regarding length of time to review plans, economic impacts, and making small parcels undevelopable. He would like to see a more workable ordinance. He suggested that the County meet with developers and engineers to discuss the ordinance.

Mr. Walker Ware, developer, stated his concerns with loopholes in the ordinance, and that too many factors were being left to the discretion of the Code Compliance officer. He stated that farmers could cause as much damage to the environment as developers. He cited concerns with the cost of locating trees on a proposed site plan and the net buildable area limited by certain requirements of the proposed ordinance. He wanted clarification of nonpoint source pollution reductions defined by the 100 foot buffer.

Mr. Henry Branscome, contractor, stated the development process is complicated enough. He spoke about the environmental damage of large floods. He also cited concerns with discretion of the Code Compliance officer in determining flexibility.

Mr. Joe Cottrell, stated that agriculture is being blamed for polluting the Bay. He agreed with Mr. White's comments.

Mr. Ed Overton, extension agent for the Virginia Cooperative Extension Service, stated that Mr. Horne has not indicated a timeline for the ordinance. He stated the need for public participation and public education regarding this ordinance.

Mr. Lawrence Beamer, developer, cited the lack of an economic impact analysis by County staff. He suggested that staff do an economic impact study on the factors readily identifiable and their impacts on developers. He mentioned the negative impact this ordinance would have on affordable housing in the County.

Ms. Patty Jackson, Lower James River Association, stated that now is the time for localities to implement the first phase of the Chesapeake Bay Preservation Ordinance

by September 1. She stated the County draft ordinance is an excellent example. She stated that JCC has taken the lead in protecting land and water, and that the Lower James River Association supports the ordinance. She stated the development community is concerned because they do not have a handle on the impacts and how they are affected. Ms. Jackson said the ordinance challenges the development community to find good ways to develop areas without harming natural resources. Ms. Jackson mentioned the forthcoming Watershed Management Plan by the Lower James River Association.

Mr. Kuras closed the public hearing.

Mr. Garrett favored the designation of entire County as a preservation area.

Mr. Betzner asked what is the schedule for the ordinance after the April 10, 1990 meeting. Mr. Horne stated the ordinance will go to the May 7, 1990 Board meeting.

Ms. McKenna stated there is an urgency to do something to clear up pollution.

Mr. Kuras stated aggressive action is needed, but suggested the ordinance should be phased so that developers and citizens are not adversely affected. He expressed concerns about the ability of citizens to have backyard gardens.

Mr. Bradshaw reiterated what Mr. Horne said, that the Commission does not have any authority on this ordinance, that the Board will be the approving body.

Ms. Knudson stated the Act has been around for a while, and that putting it in effect at this time is a good idea since building is slow now. She commended staff for pulling together such a good document. She stated that the developers willingness to participate in formulation of the ordinance may weaken the ordinance. She reminded developers that many people in the County want a stronger ordinance.

Mr. Kuras also commended staff on the well written document.

Ms. Lowe stated the ordinance is flexible, with waivers and exceptions provided. She also complimented staff for their work on the ordinance.

9. LANDSCAPE ORDINANCE WORKSESSION

Mr. Sowers presented the staff report (appended) on proposed amendments to the existing landscape requirements. It was stated that the Policy Committee unanimously agreed on most major changes, with only one issue not unanimously agreed on dealing with flexibility provisions to allow a reduction in the 30' landscape area along rights-of-ways. However, only one of the 7 Commissioners present at the

Policy Committee meeting did not support the provision with an amendment for 65,000 sq. ft. lots which has been added to the present ordinance draft.

Mr. Sowers identified the four major issues where a consensus was not reached or which were not discussed by the Policy Committee. These involved requirements for 3-1/2" caliper trees, parking lot landscaping, screening, and requirements for R-5 and PUD.


Mr. Sowers also identified changes made by staff since the Policy Committee's review as a result of comments from Development Management, Code Compliance, and the Attorney's Office, including criteria for granting modifications, coordination of proposed landscaping requirements with the draft Chesapeake Bay Ordinance and screening for major subdivisions. He stated a Planning Commission public hearing is scheduled for May 8 and staff will conduct a worksession with the development community prior to that hearing.

The Commission discussed the proposed ordinance as amended and agreed to recommend the following additional changes: reducing the 3-1/2" caliper tree requirement to 2-1/2"; requiring 25% of the trees and shrubs to be evergreen; requiring major subdivisions to provide screening where located adjacent to a multi-family, commercial or industrial zoning district; increasing landscape area in parking lots from 7.5% to 10% except for existing lots less than 65,000 sq.ft.; and increasing the number of required trees in parking areas from 1 tree per 10 spaces to 1 tree per 5 spaces except for such smaller lots.


The Commission unanimously concurred with the ordinance as amended and agreed to conduct a public hearing at their May 8, 1990 meeting.

10. ADJOURNMENT

The April 10, 1990 meeting of the Planning Commission was adjourned at 11:00 p.m.



Alexander C. Kuras, Chairman



O. Marvin Sowers, Secretary

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