



MEMORANDUM

Date: July 2, 2015
To: Records Management
From: The Planning Commission
Subject: Planning Commission Minutes: 09/02/1998

The following minutes for the Planning Commission of James City County dated 09/02/1998 are missing an approval date and were either never voted on or never presented for approval in the year surrounding these meetings.

These minutes, to the best of my knowledge, are the official minutes for the 09/02/1998, Planning Commission meeting.

They were APPROVED by the current Planning Commission at the July 1, 2015 meeting.

Please accept these minutes as the official record for 09/02/1998.

Robin Bledsoe
Chair

Paul Holt
Secretary

A REGULAR MEETING OF THE PLANNING COMMISSION OF THE COUNTY OF JAMES CITY, VIRGINIA, WAS HELD ON THE SECOND DAY OF SEPTEMBER, NINETEEN HUNDRED AND NINETY-EIGHT AT 7:00 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101C MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

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| 1. <u>ROLL CALL</u>
Martin Garrett
Donald Hunt
John Hagee
Wilford Kale*
Alexander Kuras
Willafay McKenna
A. Joe Poole, III | <u>ALSO PRESENT</u>
Leo Rogers, Deputy County Attorney
O. Marvin Sowers, Planning Director
Matthew Maxwell, Senior Planner
Paul Holt, Senior Planner
Jill Schmidle, Planner |
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*Mr. Kale departed the meeting at approximately 10:00 P.M.

2. MINUTES

Upon a motion by Joe Poole, seconded by Alex Kuras, the minutes of the August 3, 1998 meeting were approved by unanimous voice vote.

3. INTRODUCTION OF ASSISTANT COUNTY ATTORNEY

Leo Rogers introduced the new Assistant County Attorney, Andrew H. Herrick, to the members of the Planning Commission, staff, and the general audience.

4. DEVELOPMENT REVIEW COMMITTEE

Alex Kuras reviewed five cases and recommended approval by the Commission.

Joe Poole made a motion, seconded by John Hagee, to recommend approval and by unanimous voice vote motion passed.

5. CASE NO. SUP-7-98. J. W. CROSSING (formerly C & N Dining, LLC.)

Jill Schmidle presented this report stating the applicant had requested deferral and staff concurred with this request.

Martin Garrett opened the public hearing. There being no speakers, the public hearing was continued to the next meeting.

6. CASE NO. SUP-38-97. EXXON.

Matthew Maxwell presented the staff report stating one aspect of the proposal staff opposed was the size of the canopy due to the six pumps requested by the applicant. He stated the applicant had redesigned the canopy and reduced the site to four pumps. He continued his presentation and concluded staff believed, with the attached conditions which addressed the citizens' concerns, the proposed convenience store and gas station were consistent with the Comprehensive Plan and compatible with the nearby residential subdivisions.

Marvin Sowers commented to the Commission that this case presented the opportunity to apply new policies which were adopted in the 1997 Comprehensive Plan involving Neighborhood Commercial and Community Character Corridor areas.

John Hagee asked about the distance from Burton Woods Drive to Longhill Road and what were the curb cut distances.

Matthew Maxwell estimated the distance to be 150' to 200' but asked that the applicant verify this distance. He said staff looked to VDOT for their requirements and was concerned there could be three curb cuts along Longhill Road within 200'. Staff, therefore, requested a shared access between the Exxon site and Mr. Chinnis.

Wilford Kale asked what legal authority the County had to require one applicant to make provisions for another development that had not been proposed or part of this application.

Leo Rogers stated staff was not imposing a restriction on the adjacent property owner. The condition put on the property was for Exxon to work on a shared access easement. He said if the Chinnis property later submitted a site plan that was a by-right development, they would need approval from VDOT to have a curb cut on Longhill Road. If it were not a by-right development, the Commission and Board ultimately had authority to allow another entrance or require a shared entrance with Exxon. He concluded by saying, if there were no conditions on Exxon, the County could not force them to have a shared access.

Wilford Kale had concerns about the legality of the condition and asked Leo to check the specifics of that condition.

Martin Garrett opened the public hearing.

Alvin Anderson, representing Exxon, introduced John Hopke, the architect making the presentation on the design of the project; Steve Rhodes, Market Development Specialist for Exxon; Chris Henderson of Trammel-Crow, who assisted Exxon in locating and developing the site, and Mark Bennett of AES, the site engineer. He gave a brief report on the intention of Exxon stating Exxon would prefer to have six pumps with 24-hour operation, and then turned the public hearing over to John Hopke.

John Hopke made a brief slide presentation to give the Commission an overview of the key issues worked on by the applicant and staff. He provided visuals of the property site with views from Longhill and Centerville Roads showing the building details and canopy design.

John Hagee stated staff's recommendation was for a square canopy and asked why staff was not satisfied with the rectangular canopy.

Matt Maxwell stated staff preferred the square canopy to the starting gate configuration. He said the square canopy would have less footage along Centerville Road and the perception of the canopy would appear to be smaller.

Marvin Sower stated there was a Land Use Plan consideration since gas stations were not an acceptable use in a Neighborhood/Commercial area and staff believed that changing the design of the canopy would reduce the appearance of the site as a gas station by making the canopy less visually dominant and the building more visible.

Alvin Anderson continued his presentation stating there were two main issues the Commission

appeared interested in. The first was the number and configuration of the pumps proposed by Exxon and requested by staff. The second was related to the shared entrance on the Chinnis property. He said he had concern over the language in the special use permit because he did not feel Exxon should be required to build an entrance on property it did not own, or did not have a contract right to do so, and, it also placed conditions on the adjacent property owner.

Alvin Anderson stated he spoke with Leo Rogers regarding language which might be appropriate to include in the minutes which read as follows:

"It is not the intention of the Planning Commission by making this recommendation to recommend that the applicant make any Longhill Road entrance improvement on property it does not own or control, nor is it the intention of the Planning Commission to impose on the adjacent property which is not included within this application these special use permit conditions."

William Phillips, 5525 Centerville Road, spoke against the proposed application citing the problems that occurred when the old convenience store was in operation just across from the proposed site.

Willie Brown, a nearby neighbor, also spoke against this proposal, expressing the reoccurrence of problems that occurred at the previous store, including beer drinking, late night deliveries, loud music and profanity.

There being no further speakers, the public hearing was closed.

The Commission decided to vote on the following issues separately regarding the application.

1. Should this facility be allowed at this location?

Willafay McKenna had concerns because this was a Neighborhood/Commercial property and she had been aware of the problems that occurred at the previous convenience store and felt the same circumstances could occur at the new location.

Joe Poole supported the comments by the citizens and Willafay McKenna. He said he could not support the application since the Comprehensive Plan clearly stated that fast food restaurants, convenience stores, and gas stations were unacceptable in Neighborhood/Commercial areas.

John Hagee did not consider a gas station as a business that attracted crime. He added the area was zoned LB and felt the Commission might be looking to solve a social situation by not allowing facilities in certain areas.

Wilford Kale said he attended the public review meeting and noted the community wanted the telephones placed inside so they could be monitored. They also had concern as to what would be going on outside the store. He believed Exxon was taking steps to make sure that this facility would not be a duplication of the old one. He commented that the only control the County had was to down zone or purchase the property.

Alex Kuras made a motion, seconded by Willafay McKenna, to allow the facility at this location. In a voice vote, motion passed 5-2. AYE: Hagee, Hunt, Kale, Kuras, Garrett (5); Nay: McKenna, Poole (2).

2. Should there be four or six pumps?

After a brief discussion, Willafay McKenna made a motion, seconded by Wilford Kale, to allow only four pumps. In a voice vote, motion passed 6-1 AYE: McKenna, Hunt, Kale, Poole, Kuras, Garrett (6); NAY: Hagee (1).

3. Should the canopy be designed in a starting gate or square configuration?

After a brief discussion, Willafay McKenna made a motion, seconded by Martin Garrett to allow the starting gate canopy. In a voice vote, motion passed unanimously 7-0. AYE: McKenna, Hagee, Hunt, Kale, Poole, Kuras, Garrett (7); NAY: (0).

4. What should be the hours of operation?

Alex Kuras made a motion, seconded by Joe Poole, to support staff's recommendation of daily hours of operation for both the convenience store and gas station to be 5 a.m. to 12 midnight. In a voice vote, motion passed unanimously 7-0. AYE: McKenna, Hagee, Hunt, Kale, Poole, Kuras, Garrett (7); NAY: (0).

Martin Garrett asked Marvin Sowers to have staff and the applicant discuss the language in the conditions of the special use permit regarding the entrances.

Leo Rogers stated staff would discuss the language with the applicant and commented the difficulty in drafting the language was not knowing what was going to happen on the Chinnis property. He said they were not requiring an agreement with Chinnis but only that Exxon commit to a design that allowed for a shared access and that there be an agreement.

Willafay McKenna felt Condition #2 appeared to be a binding agreement because it stated "A shared access agreement.....with the adjoining Chinnis property shall be provided to the County...."

Leo Rogers stated the County was looking for an agreement with the adjacent property owner and Exxon, but if that did not occur, it could be an agreement with the County, or a declaration where the County was a third party beneficiary. He said the last sentence could be changed or eliminated depending on the agreement of the Chinnis property.

Alex Kuras made as motion, seconded by Wilford Kale, to accept the application as discussed. In a roll call vote, motion passed. AYE: McKenna, Hagee, Hunt, Kale, Kuras, Garrett (6); NAY: Poole (1).

7. CASE NO. SUP-20-98. RICHMOND ROAD FLEA MARKET.

Paul Holt stated that information regarding this applicant was received too late for staff to adequately review this proposal and requested deferral until October 5.

Alex Kuras opened the public hearing. There being no speakers, the public hearing was continued to the next meeting.

8. CASE NO. ZO-7-98. ZONING ORDINANCE AMENDMENT/AIRPORT APPROACH OVERLAY DISTRICT.

Paul Holt presented the staff report which outlined several proposed changes to the district. He stated that earlier today staff was contacted by the Virginia Department of Aviation, who originally gave their approval to the changes, requesting additional time to review the ordinance. Staff recommended the Commission indefinitely defer this case.

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

9. CASE NO. ZO-8-98. ZONING ORDINANCE AMENDMENT/LB AND B-1 DISTRICTS.

Jill Schmidle presented the staff report stating this case was deferred from the August meeting with the recommendation that the Business/Industrial Zoning Ordinance Committee reviewed the recommendations for permitted uses in the LB, Limited Business District. She said the committee had considered additional substantive changes to LB and was currently in the process of revising their recommendations for LB. No further recommendations are proposed for B-1 and staff recommends the Commission vote on the B-1 amendments.

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

Willafay McKenna made a motion, seconded by Don Hunt, to approve the B-1 District. In a roll call vote, motion passed. AYE: McKenna, Hagee, Hunt, Kale, Poole, Kuras, Garrett (7); NAY: (0).

10. CASE NO. ZO-9-98. ZONING ORDINANCE AMENDMENT/SIGNS.

Matthew Maxwell stated that both Keith Nowady, Chair, and Mary Higgins, Co-Chair of the Community Character Committee apologized for being unable to make this presentation to the Commission. In their absence, Matthew Maxwell presented the staff report stating the committee reviewed the sign ordinance and drafted the revisions as outlined in the staff report. He said the committee and staff recommended approval of the revised ordinance, with the exception of Section 24-73(8). Off-Premises Residential Real Estate signs, which staff did not support.

Alex Kuras requested that under "Gross Sign Area" clarity be made to the mathematical equation and the last sentence be eliminated. Also regarding subdivision signs at main entrances, he felt thirty-two square feet seemed excessive if it did not include part of the supporting structure.

Matthew Maxwell said staff would make the requested changes to the Gross Sign Area Section. He said that subdivision entrance signs would be brought to the DRC and reviewed on a case-by-case basis.

Willafay McKenna said she had concern with the flag limitations, specifically Paragraph 18 (C) (D) (E), which she felt were not constitutional. She felt paragraphs (A) and (B) were sufficient and was opposed to putting this type of restriction into the James City County ordinance

Leo Rogers stated did not want an inordinate number of flags which could become a sign advertising a property. He did not feel limiting the number of flags would be challenged.

Willafay McKenna asked if there were existing problems which caused this change.

Matthew Maxwell stated several automobile dealerships have been putting flags on automobiles. Another example were several fast food restaurant that put flags on the roof top in quantities greater than three. He felt that these quantities indicated an advertisement rather than patriotism. He added the committee felt that three flags were a reasonable number for most parcels.

Alex Kuras mentioned that during Memorial Day flags were placed at nearly every gravesite and used to outline the entrance road. He said he would not want to prohibit this type of use.

Matthew Maxwell stated that staff could put in a provision which would exclude cemeteries and other memorials that might display a greater number of flags at a time.

John Hagee requested further information on the constitutionality and said that if it was unconstitutional, we should strike it from the ordinance otherwise, he would support the limitation request.

Leo Rogers stated he would research the constitutional issue involved in this case, but that would not eliminate the policy decision of the Commission.

Martin Garrett opened the public hearing.

Paul Robinson, President of the Williamsburg Area Association of Realtors, spoke on behalf of the realtors serving this area. He stated they applauded the Community Character Committee's recommendations of the proposed sign ordinance especially the amendment to Section 24-73.8 which addressed off-premises realtor open house signs. He explained to the Commission the importance of the open house signs to both the realtors and their clients. He requested that the Commission approve the proposed ordinance changes as presented by the Community Character Committee.

Cathy Short gave a brief history as to why realtors had been placing signs in the rights-of-way. She stated the Board of Realtors, in 1991, invited James City County, York County, Williamsburg, and VDOT to meet in order to come to a regional consensus on how to create a uniform, regional regulation for off-premises real estate signs. She said only York County responded with code changes to accommodate their request and that those changes were now being proposed by the Committee in Section 24-73.8 of the ordinance. She stressed that the off-premises signs were generic, temporary, directional and not an advertisement for any realtor or real estate company. She requested that the Commission support the proposal presented by the Community Character Committee.

Jack Kniest, a member of the Community Character Committee, spoke in favor of the proposed ordinance citing several instances throughout the County where temporary, directional signs were used. He stated the generic open house signs were small, temporary, and necessary and asked the Commission to approve the committee's proposal.

Payton Harcomb of Chickahominy Road asked if there were any provisions for permits for these temporary signs. He commented that he had a temporary sign placed on his property by James City County and asked where the line should be drawn.

There being no further speakers, the public hearing remained open.

Willafay McKenna stated the Commission had raised a number of objections regarding this ordinance but felt that approval should be made on Section 24.73.8.

Martin Garrett summarized the general concerns of the Commission.

1. Constitutionality of limitations on flags
2. Building face signage size on larger buildings
3. Realtor directional signs

Wilford Kale suggested using the verbiage "generic, temporary, directional signs" rather than "off-premises realtor open house signs."

Joe Poole, a member of the Community Character Committee, stated the committee had a good discussion regarding this ordinance and, due to the number of concerns brought forth by the Commission, recommended the ordinance be brought back to the committee for further review. He said he was opposed to the committee's recommendation regarding signs because he had concerns that

other business entities might want to promote their business using off-site generic signs. He felt approving this ordinance might set a precedent.

John Hagee said the ordinance specifically stated "open house signs" and felt it would not set any type of precedent.

The consensus of the Commission was to return the ordinance back to the committee for further discussion and the public hearing remained was kept open.

11. CASE NO. ZO-11-98. ZONING ORDINANCE AMENDMENT/FINES.

Leo Rogers presented the staff report stating the revisions to the ordinance reflected recent changes made to the state code. He stated staff considered these changes to be of a housekeeping nature and recommended the Planning Commission approve the revised ordinance.

Martin Garrett opened the public hearing. There being no speakers, the public hearing was closed.

Willafay McKenna made a motion, seconded by Alex Kuras, to approve the above ordinance changes. In a roll call vote, motion passed 6-0. AYE: McKenna, Hagee, Hunt, Poole, Kuras, Garrett (6); NAY: (0).

12. CASE NO. ZO-12-98. ZONING ORDINANCE AMENDMENT/SPECIAL REGULATIONS.

Jill Schmidle presented the staff report stating the Business/Industrial Committee proposed new language regarding outdoor display and sales of retail merchandise and made changes to the present ordinance. Staff concurred with these recommendations and recommended the Planning Commission approve the proposed ordinance amendments.

Martin Garrett opened the public hearing. There being no speakers, the public hearing was closed.

Willafay McKenna made a motion, seconded by Alex Kuras, to approve the above ordinance changes. In a roll call vote, motion passed 6-0. AYE: McKenna, Hagee, Hunt, Poole, Kuras, Garrett (6); NAY: (0).

13. RENEWAL OF ELEVEN AGRICULTURAL AND FORESTAL DISTRICTS.

Matthew Maxwell presented the eleven cases, up for renewal, in the Agricultural and Forestal District for review in order to continue, modify, or terminate each district. He said the districts were due to expire this year and that land owners could voluntarily withdraw property at that time.

The following is a list if the AFD's, their acreage, and the acreage to be withdrawn:

- AFD-2-86 Croaker - 1,081 acres
- AFD-3-86 Hill Pleasant Farm - 573 acres
- AFD-5-86 Barnes Swamp - 1,943 acres / 59 acres withdrawn
- AFD-6-86 Cranston's Pond - 1,174 acres / 26 acres withdrawn
- AFD-7-86 Mill Creek - 3,175 acres / 25 acres withdrawn
- AFD-8-86 Casey Property - 814 acres / 77 acres withdrawn
- AFD-9-86 Gordon Creek - 3,376 acres

AFD-10-86 Christenson's Corner - 562 acres
AFD-11-86 Yarmouth Island - 1,457 acres
AFD-12-86 Gospel Spreading Church Farm - 1,100 acres / 26.5 acres withdrawn
AFD-13-86 Gilley - 281 acres

Matthew Maxwell stated staff believed all the AFD's were consistent with the Comprehensive Plan and recommended renewing the districts for a period of four years, subject to the conditions listed in the staff report. He said the AFD Advisory Committee met on August 27 and voted 8-0 to approve the renewal of these districts. He added that the property owners in these districts had until the day of the September 22 Board of Supervisors meeting to withdraw their properties from the AFD District.

Don Hunt stated that he would defer from voting on AFD-3-86 Hill Pleasant Farm due to a conflict of interest.

Martin Garrett opened the public hearing.

Wayne Nunn, owner of Hidden Acres Farm, spoke in favor the renewing the districts and said that if they were not renewed, you would see the end of family farming due to the increase of their taxes. He asked that the Commission approve these applications.

There being no further speakers, the public hearing was closed.

Alex Kuras, made a motion to recommend approval of all the AFD district renewals, seconded by John Hagee. In a roll call vote, motion passed. AYE: McKenna, Hagee, Hunt*, Poole, Kuras, Garrett (6), NAY: (0).

*Don Hunt abstained from ADF-3-86 and the vote was as follows: AYE: McKenna, Hagee, Poole, Kuras, Garrett (5), NAY: (0), ABSTAIN: Hunt (1).

14. PLANNING DIRECTOR'S REPORT

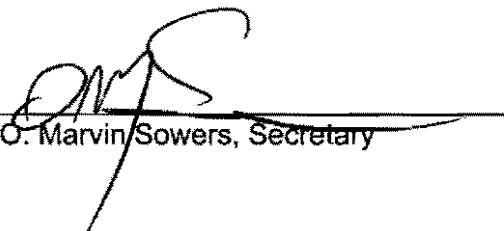
Marvin Sowers stated that the Planning Director's Report was on page 97 in the Commission's packet, and that he would be happy to answer any questions.

Joe Poole asked if the Planning Commission Annual Report had been presented to the Board of Supervisors.

Martin Garrett stated that he would be presenting it to the Board at a later date.

There being no further business, the Planning Commission adjourned at approximately 10:10 P.M.


Martin A. Garrett, Chair


O. Marvin Sowers, Secretary