

A REGULAR MEETING OF THE PLANNING COMMISSION OF THE COUNTY OF JAMES CITY, VIRGINIA, WAS HELD ON THE THIRD DAY OF APRIL, TWO-THOUSAND AND SIX, AT 7:00 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101-F MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

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| 1. | <u>ROLL CALL</u> | <u>ALSO PRESENT</u> |
| | Jack Fraley | Marvin Sowers, Planning Director |
| | Don Hunt | Adam Kinsman, Assistant County Attorney |
| | Anthony Obadal | Toya Ricks, Administrative Services Coordinator |
| | Mary Jones | Jason Purse, Planner |
| | George Billups | Matthew Smolnik, Planner |
| | Shereen Hughes | John Horne, Development Manager |
| | James Kennedy | Joel Almquist, Planner |
| | | David German, Planner |
| | | Joel Almquist, Planner |
| | | Ellen Cook, Senior Planner |
| | | Darryl Cook, Environmental Director |
| | | Mike Woolson, Senior Watershed Planner |

2. COMMITTEE AND COMMISSION REPORTS

A. Policy Committee

Mr. Billups presented the Policy Committee report stating that an initiating resolution for an amendment to the Sign Ordinance would be heard later in the meeting. Mr. Billups stated that upon approval of the initiating resolution the Committee would consider the proposed amendment.

B. Development Review Committee (DRC) Report

Mr. Kennedy presented the DRC report stating that the Committee heard four cases at its March 29th meeting. He stated that the Committee voted unanimously to recommend preliminary approval for Liberty Ridge, Liberty Crossing and Villas at Five Forks. Mr. Kennedy also stated that the Committee voted unanimously to recommend deferral of Governor's Grove due to Environmental issues.

Mr. Kennedy motioned to approve the DRC report.

Ms. Jones seconded the motion.

In a unanimous roll call vote the report was approved (7-0).

Mr. Fraley commended Noland Commercial Properties, Villa Development LLC, and East West Partners for submitting designs that exceed minimum standards. Mr. Fraley also stated that the Commission will be releasing their suggested design standards for new residential developments within the next few days.

3. PLANNING COMMISSION CONSIDERATION

A. ZO-7-05 Initiating Resolution – Sign Ordinance

Mr. Sowers presented the initiating resolution stating that it is customary for the Planning Commission to authorize review of a proposed ordinance amendment prior to conducting the appropriate studies and

hearings. He stated that the request is to consider an amendment to the Sign Ordinance to adopt pedestrian scale signage.

Mr. Sowers motioned to approve the resolution.

Mr. Fraley stated the proposed amendment would be considered by the Policy Committee.

Mr. Billups seconded the motion.

In a unanimous voice vote the resolution was approved (7-0).

4. PUBLIC HEARINGS

A. Z-13-05 Village at Toano

B. SUP-4-06/MP-1-06 Prime Outlets MP Amendment

Mr. Fraley stated that the applicants for cases Z-13-05 Village at Toano and SUP-4-06/MP-1-06 have requested deferral until the May meeting. Mr. Fraley asked if Staff concurred.

Mr. Sowers answered yes.

Mr. Fraley opened the public hearing.

Hearing no requests to speak the public hearing was continued.

C. AFD-9-86-3 Gordon Creek Withdrawal

Mr. Jason Purse presented the staff report stating that Mr. Sanford Wanner has applied to withdraw approximately 44 acres from the existing Gordon Creek Agricultural and Forestal District (AFD). The withdrawn site will be used as the site for the 8th Elementary School in Williamsburg /James City County. The property is located at 4085 Centerville Road, which is located off of Brick Bat Road, and can further be identified as parcel (1-1) on the JCC Tax Map (36-3). The AFD Advisory Committee recommended denial of the application by a vote of 7-1.

Mr. Kennedy asked if ownership of the parcel had been conveyed to the County.

Mr. Purse stated that although the land belonged to the County compensation and property boundaries had not been established.

Mr. Kennedy asked if the County had officially taken ownership of the property.

Mr. Kinsman stated that ownership had officially been passed to the County although there were details to be worked out.

Mr. Kennedy asked if a compensation package had been worked out.

Mr. Kinsman said it had not.

Mr. Obadal asked if environmental plans had been submitted.

Mr. Purse said a conceptual storm water management plan was submitted with the Special Use Permit (SUP) application. Mr. Purse stated that the Environmental Division did not have any problems with the plan.

Mr. Obadal asked if a Best Management Plan (BMP) was included.

Mr. Purse showed the location of the BMP.

Mr. Obadal asked where the run-off collected.

Mr. Purse said it ran toward Warburton Pond.

Mr. Obadal asked if there was a holding bay beyond the BMP.

Mr. Purse stated that he did not know.

Mr. Kennedy asked if the prior owners could appeal the condemnation.

Mr. Kinsman said no. He stated that the County had filed its Certificate of Take and the only dispute is over compensation.

Mr. Fraley opened the public hearing.

Hearing no requests to speak the public hearing was closed.

Mr. Kennedy stated his concerns with giving special privileges to the government in allowing them to do something that citizens cannot do. He stated that allowing an early withdrawal sets a bad example. Mr. Kennedy also stated that he received phone calls urging him to vote on the case at the meeting. He stated that the process is wrong and his vote to deny the case will be based on the process and has nothing to do with the school.

Mr. Obadal stated that the request is for a public use and he could distinguish between a public need and private development and that the school is vitally needed. He also stated that early withdrawal was to allow time for construction. Mr. Obadal stated his concern with the lack of a basic environmental plan and identified some environmental protections that he would like to see incorporated.

Mr. Fraley stated that the case currently being considered was the AFD withdrawal. He stated that the SUP for the school was next on the agenda where this item could be addressed.

Mr. Billups motioned to recommend approval of the application.

Ms. Jones seconded the motion.

In a roll call vote the application was recommended for approval (5-2). AYE: Billups, Obadal, Jones, Hughes, Fraley (5); NAY: Hunt, Kennedy (2).

D. SUP-5-06 WJCC 8th Elementary School

Mr. Jason Purse presented the staff report stating that Mr. Sanford Wanner, on behalf of James City County, has applied for a Special Use Permit to allow for an elementary school, on approximately 44 acres of land, on a parcel zoned A-1, General Agricultural. The property is located on the north side of Brick Bat road, and approximately 2,150 feet west of Brick Bat's intersection with Centerville Road. The property is currently part of a larger parcel located off of Brick Bat Road, which can further be identified as parcel (1-1) on the JCC Tax Map (36-3). The site is shown on the 2003 Comprehensive Plan Land Use Map as Rural Lands. Recommended uses on property designated for Rural Lands areas are agricultural and forestal activities, together with certain recreational, public or semi-public and institutional uses that require a spacious site and are compatible with the natural and rural surroundings.

Mr. Kennedy asked if it was normal to approve an application that lacked an environmental plan.

Mr. Purse stated that the Environmental Division had reviewed the plan and was comfortable with the proposal. Mr. Purse stated that Staff believed the storm water management plan was adequate.

Mr. Billups asked if the Virginia Department of Transportation (VDOT) had agreed to provide the proposed road improvements.

Mr. Purse said the road improvements would be provided by the County. He also stated that VDOT

concurred with the proposed improvements.

Mr. Hunt asked if there would be improvements to Brick Back Road leading from the school to Route 5.

Mr. Purse showed the areas where improvements are proposed.

Mr. Fraley asked Mr. Cook to comment on the environmental concerns.

Mr. Cook stated that he did not review the plan and deferred questions to the school's representative.

Mr. Kennedy asked if the environmental plan represented a work in progress or a finished plan.

Mr. Cook said it was a work in progress. He stated that the details had not been worked out.

Mr. Obadal confirmed that there is no watershed plan for Gordon Creek.

Mr. Cook said that was correct.

Mr. Obadal asked what protections are required in the absence of a watershed plan.

Mr. Cook said the site must meet normal criteria for the Chesapeake Bay Ordinance in terms of water quality and the Erosion and Sediment Control Ordinance for storm water quantity.

Mr. Obadal asked if the major portions of the Powhatan Creek plan could be used.

Mr. Cook stated that both the Powhatan and Yarmouth Creek plans are specific to those watersheds. He stated that the principals could be transferred not the specific applications.

Mr. Obadal stated his desire to see a turf management plan and low impact (LID) techniques. He stated that such measures would be demanded of other applicants.

Mr. Fraley opened the public hearing.

Mr. Alan Robertson, facilities manager for the School Division, provided the history of the project. He discussed the meetings and preliminary work that have gone into developing the application.

Mr. Obadal asked the applicant for a general commitment to provide a basic environmental plan prior to consideration by the Board of Supervisors.

Mr. Robertson stated his intent to do so.

Mr. Kennedy asked that Mr. Obadal replace the word basic with extraordinary in order to be consistent with the requirements of other applicants.

Mr. Billups inquired about the ability to acquire additional acreage if it becomes necessary.

Mr. Robertson stated that the work that has been done so far has been site specific. He stated that only the archeology survey remained outstanding.

Ms. Jones asked if 700 students referred to the design capacity or the effective capacity for the school.

Mr. Robertson stated that the building was designed to accommodate 700 students.

Ms. Jones asked if Mr. Robertson felt parking would be adequate at the school.

Mr. Robertson pointed out the parking areas. He stated that parking would be substantially more than other schools.

Mr. Steve Kropf, 3307 Westover Ridge, stated his concerns about buffering, traffic, and property values.

Mr. Russell Atkinson, 3275 Westover Ridge, asked if the centerline for Brick Bat Road would be

adjusted to prevent encroachment upon the current Greensprings West buffer.

Mr. Steve Raugh with the Timmons Group stated that the existing buffer in Greensprings West would remain intact and the widening would come off the school site.

Mr. Kennedy asked if the buffer would be impacted by the road expansion.

Mr. Raugh said the existing edge of pavement on the Greensprings side of the road would remain. He stated that all the road improvements would be pushed toward the school.

Mr. Russell asked if the view to the school would be landscaped.

Mr. Raugh stated that the intent is to maintain the natural vegetation. He stated that the required buffer from Brick Bat Road is 50 feet.

Mr. Fraley asked if the final design would require DRC approval.

Mr. Sowers said that was correct.

Mr. Fraley concurred with Mr. Kennedy's comments regarding holding the County to same standards as private developers. He asked Mr. Kinsman to advise the Commission of the procedure to attach a recommendation or suggestion requiring unusual environmental protections.

Mr. Kinsman stated that the Commission could add a specific condition or recommendation to do so. He said the application is a public project and that adding such a condition would increase expenses. Mr. Kinsman also stated that the desire to move the project along was due to time constraints.

Mr. Kennedy stated that he understands the time sensitivity issue. He said the County has sold land in the past that could have been used for a school. Mr. Kennedy also stated that additional schools will be needed and that it would behoove the County to start identifying sites now to avoid a similar situation in the future.

Mr. Kinsman stated that he was certain that this was not a spur of the moment decision and that he understood Mr. Kennedy's position. He also stated that the County had begun looking for additional sites, adding that they follow growth patterns. Mr. Kinsman said the County has agreed to abide by all rules and regulations.

Mr. Kennedy stated that other applicants would have been required to provide more specific information. Mr. Kennedy stated that he would support the project and trust that everyone will do the right thing.

Mr. Horne stated that he did not want the audience to be left with a misimpression as to level of detail of environmental design. He stated that he met with County and Environmental Engineers yesterday regarding implementing above standard stream protection measures. Mr. Horne said the staff report does not adequately reflect the level of work being done.

Mr. Obadal asked if there would be a problem with adding a condition requiring unusual environmental protections.

Mr. Horne stated that the condition was broad. He requested a clear expression of the Commission's intent. Mr. Horne also stated that the DRC would have an opportunity to review the plan.

Hearing no other requests to speak the public hearing was closed.

Mr. Hunt stated that he felt the environmental condition must be specific so that other applicants will understand the expectation for extraordinary and average protections.

Ms. Hughes stated that specific language had been included in two upcoming cases. She suggested using the same language in the condition.

Mr. Kinsman asked if Ms. Hughes was suggesting the language be added as a recommendation or ~~29~~ a

condition.

Mr. Kennedy said the government has a great opportunity to set the bar.

Ms. Hughes stated that adding the language as a recommendation would be fine.

Mr. Fraley addressed Mr. Hunt in stating that the Commission should agree on the specifics of definitions for extraordinary and unusual protections prior to advising the public.

Mr. Hunt called for the question.

Ms. Jones agreed with the other Commissioners. She stated her concerns with condemnation and locating the school outside the Primary Service Area (PSA). She also stated that she understood the reasons and needs. Ms. Jones stated that she was pleased that the effective capacity was consistent with the Comprehensive Plan and with the recreation plan. She stated her support.

Mr. Fraley asked if the motion included a recommendation for the design to contain unusual environmental protections.

Mr. Kennedy answered yes.

Mr. Kinsman advised that there had been a call for the question and that a motion to approve or deny was still needed.

Mr. Hunt motioned to recommend approval of the application with the recommendation stipulated.

Mr. Kennedy seconded the motion.

In a unanimous roll call vote the application was recommended for approval (7-0).

E. Z-12-05 Moss Creek Commerce Center (Toano Business Center)

Ms. Ellen Cook presented the staff report stating that Mr. Vernon M. Geddy, III has submitted an application to rezone 21.23 acres of land from A-1, General Agricultural to MU, Mixed Use, with proffers. The applicant proposes 3,575 square feet of bank; 4,725 square feet of convenience store with fueling; 34,630 square feet of retail; 54,000 square feet of office/warehouse space; and a mini-storage facility. The property is located at 9686 and 9690 Old Stage Road, and is further identified as parcels (1-4), and (1-34) on the JCC Real Estate Tax Map (4-4). The property is designated Low Density Residential and Mixed Use on the Comprehensive Plan Land Use Map. Recommended uses on property designated for Low Density Residential include single family homes, duplexes, cluster housing, and very limited commercial establishments with a gross density of up to 4 units per acre in developments that offer particular public benefits. Recommended uses on property designated for Mixed Use in the Stonehouse mixed use area include light industrial and office/business park, with commercial uses clearly secondary in nature.

Mr. Fraley opened the public hearing.

Mr. Vernon M. Geddy, III stated that the applicant proposes to create a high quality, mixed use business development designed to service people living and working in the Stonehouse mixed use area. Mr. Geddy highlighted the changes in the proposal since its presentation to the Planning Commission in December 2005.

Ms. Jones asked about the overhead power lines.

Mr. Geddy stated that they would be placed underground.

Mr. Obadal asked to see pictures of the storage facility and asked if they would be visible from Route 30.

Mr. Geddy pointed to the locations of a wooded area, and proffered berms and landscaping stating that those elements would screen the storage facility.

Mr. Obadal stated that he was concerned about the use of the phrase “where feasible and appropriate” in reference to the use of low impact design (LID) measurements in the proffers.

Mr. Geddy stated that the proffer will be amended by their commitment to take runoff from 30% of the site into LID.

Mr. Fraley stated that 30% should be the minimum.

Mr. Obadal asked what happens to the other 70% of runoff.

Mr. Geddy stated that there will be a storm water management pond (BMP) that will treat the water.

Mr. Obadal asked where the BMP leads.

Mr. Geddy stated that it ultimately meanders to Ware Creek.

Ms. Hughes asked if the buffer in front of the storage facility is on the applicant’s property.

Mr. Geddy showed the property line and stated that the enhanced landscaping would take place on the applicant’s side of the property line.

Ms. Hughes asked Mr. Geddy if he thought the Community Character Corridor was wooded or rural.

Mr. Geddy stated that it transitioned into one at the site and continued into the other beyond it.

Ms. Hughes asked for the locations of the archeological sites.

Mr. Geddy showed the locations.

Ms. Hughes if any of the buildings were historical.

Mr. Geddy answered no.

Mr. Fraley referred to a citizen letter that indicated that the property was for sale.

Mr. Geddy stated that Mr. Brown is the developer and that once the property is rezoned portions would be sold to businesses.

Ms. Hughes asked if the traffic study included traffic leaving Interstate 64 to use the convenience store and gas station.

Mr. Geddy said it assumes a certain level of traffic coming from that direction but not specifically from the Interstate.

Ms. Hughes asked if two lights would be necessary if access occurs off of Fieldstone Parkway into the development.

Ms. Deborah Lenceski, LandMark Design Group, stated that if the access is allowed then only the proposed light at Fieldstone Parkway and Route 30 would be required.

Mr. Obadal asked if a light would be required at the entrance to the development off of Route 30.

Mr. Geddy stated that it would not be required if access into the development at Fieldstone Parkway becomes a reality.

Mr. Obadal stated that it might be dangerous to make a left turn into the development from Route 30 without a traffic signal.

Mr. Geddy stated that there is an assumption that traffic would be lower with an entrance off of Fieldstone Parkway.

Mr. Hunt stated that signals create gaps that would allow opportunities to access the site.

Ms. Jones asked how optimistic the applicant was that access off Fieldstone Parkway will occur.

Ms. Lenczeski stated that she was more optimistic than the traffic study proposed. She stated that VDOT requires certain assumptions be used in the study.

Mr. Geddy said that if the Fieldstone Parkway entrance is not allowed there will be a traffic signal at the main entrance.

Mr. Fraley asked how committed the applicant was to getting a Fieldstone Parkway entrance.

Mr. Geddy stated that it would be mutually beneficial to this project and the Stonehouse project.

Mr. Fraley asked if the applicant was pursuing it.

Mr. Geddy stated that the applicant has contacted the other developers.

Mr. Fraley asked who would pay for the signal.

Mr. Geddy stated that that would be part of the discussion.

Mr. P.J. McQuade, 3108 Windy Branch Drive, stated his support for the proposal. He also stated that the elevations were consistent with the community.

Ms. Caroline Lott, 9804 Loblolly Court, stated that she and her husband submitted letters to the Commission in support of the project. Ms. Lott also said that she was part of a three person team that met with the developer to gather facts about the proposal to distribute to residents and to share residents' concerns with the developer.

Mr. Walt Rybak, 9808 Turning Leaf Drive, concurred with Ms. Lott's comments. He stated that he was also part of the three person committee and that he supported the project 100%.

Ms. Judy Bishop, 2924 Leather Leaf Drive, stated that she and her husband supported the project. She said they submitted a letter to the Commission and that they had expected retail and commercial sections to follow shortly after they moved into the community.

Mr. John Dodge, 3107 Cider House Road, stated that he doubted that Stonehouse at Williamsburg LLC (SAW) would permit access from Fieldstone Parkway through their property. He also stated his concerns about traffic and that the buffer would be eliminated when Route 30 is widened.

Mr. Tim Trant of Kaufman and Canoles representing SAW, the adjacent property owner, stated that the traffic signal at the intersection of Route 30 and Fieldstone Parkway has been proffered by SAW. He stated that the applicant should share in its costs because the proposal will increase traffic. He also stated that there has been no coordination on an access point into this development from Fieldstone Parkway. Mr. Trant asked for assurance of a 360 degree architectural review of the buildings.

Mr. Ken Kievit, 3150 Cider House Road, stated his concerns about the mini-storage facilities and the right-of way buffer that would be utilized if Route 30 is expanded. He also stated that the proposed level of traffic should require two signals.

Mr. Fraley closed the public hearing.

Ms. Jones stated the Comprehensive Plan Land Use Map designated the site mixed use. She stated that the proposed use is consistent with the Land Use Map and the Comprehensive Plan and Zoning Ordinance.

Ms. Hughes stated her concerns about traffic impacts and inadequate integration with Stonehouse. She stated that she will not support the application without confirmation of a second access point off of Fieldstone Parkway.

Mr. Obadal stated his concerns about the need for two traffic lights, lack of financial participation in Fieldstone signal, and inclusion of the VDOT right-of way in the buffer. He stated that he would vote no.

Mr. Billups stated that a second entrance from Route 30 would be appropriate for the project.

Mr. Hunt said he would support the project. He stated that he has not seen any significant traffic back-ups in the area.

Mr. Kennedy recused himself stating prior discussions with the applicant about locating his restaurant in other developments the applicant owns.

Mr. Fraley stated that the architectural design significantly camouflaged the mini-storage facility. He also stated that the proposal exceeds minimum standards and that he would support it.

Ms. Jones motioned to recommend approval of the application.

Mr. Hunt seconded the motion.

Mr. Billups stated that he would support the project based on the level of community support for the project.

In a roll call vote the application was recommended for approval (4-2). AYE: Jones, Fraley, Hunt, Billups (4); NAY: Hughes, Obadal (2). Kennedy abstained.

F. Z-13-04/MP-10-04/SUP-31-04 Monticello at Powhatan North

Mr. Joel Almquist presented the report stating that Mr. Tim Trant of Kaufman and Canoles has applied on behalf of Powhatan Enterprises, Inc. to rezone 36.48 acres of land from R-8, Rural Residential, to R-2, General Residential with a Cluster Overlay and proffers. The applicant proposes the development of 91 condominiums at a gross density of 2.49 units per acre. The property is located at 4450 Powhatan Parkway and is also known as Parcel (1-01) on the JCC Tax Map (38-3). The site is designated as Low Density Residential on the 2003 Comprehensive Plan Land Use Map and is within the Powhatan Creek Watershed. Uses recommended by the Comprehensive Plan within the Low Density Residential designation include very limited commercial establishments, single family homes, duplexes, and cluster housing with a recommended gross density of 1 unit per acre up to 4 units per acre in developments that offer particular public benefits. Staff recommended denial due to lack of public benefit and environmental impacts. Staff also recommended denial of the applicant's deferral request stating that the revisions required to adequately address staff concerns would constitute would be a new proposal.

Mr. Fraley opened the public hearing.

Mr. Tim Trant, Kaufman and Canoles, represented the applicant stating that the time that has been expended so far was necessary to address staff and citizen concerns. He stated that the applicant now has sufficient direction from staff so that a revised plan that significantly addresses staff concerns can be submitted within 90 days. Mr. Trant presented a timeline of the history of the application and a progress plan and requested a 90 day deferral.

Mr. Kennedy stated that he would expect substantial progress in the application if a deferral is granted.

Mr. Trant said he respected Mr. Kennedy's position.

Mr. Fraley stated that the proposal contains several serious problems. He also stated that only minor changes have been made since the original submission.

Ms. Hughes said the site is located in the Powhatan Watershed and that Better Site Design Principles require that they be acknowledged and addressed at the conceptual stage. Ms. Hughes stated that a new design and new application were needed.

Mr. Billups stated that considerable effort has been made by staff to help move the project forward. Mr. Billups stated that he has no sympathy for the applicant and that the application does not meet standards. He said he will not support the proposal.

Mr. Obadal stated that too many deferrals have been granted. He stated that other parties are involved and have come ready to make their statements.

Mr. Trant stated that he has his client's commitment to make the revisions necessary to garner the support of staff. He said he is confident that it can be done in 90 days. Mr. Trant also stated that regulations have continually evolved since the original submission and asked for time to catch up.

Mr. Andy Poole, 4019 E. Providence Road, stated that residents of the Berkeley section of Powhatan Secondary opposed the proposal due to concerns about traffic, incompatibility with the Comprehensive Plan, lack of public benefit, and impacts on quality of life and schools.

Mr. Charles Grimes, 3940 Powhatan Parkway, stated his concerns about traffic.

Ms. Carrie Viciano, 3971 Powhatan Parkway, stated that Mr. Poole spoke for all the residents in attendance at the meeting tonight.

Mr. Howard Zlotnick, 3921 Powhatan Parkway, stated that the applicant has known that density was been a problem along. He also stated that the developer has not been cooperative with residents in listening to and addressing their concerns.

Mr. Gary Cosman, 3919 Cold Spring, stated that during ice storms residents on Powhatan Parkway cannot get up their drive ways and park on the streets which would create a hazard for school buses.

Hearing no other requests to speak the public hearing was closed.

Mr. Almquist stated that within 17 months there have been no substantial changes. He also stated that substantial changes would constitute a new proposal.

Mr. Kennedy asked Mr. Kinsman about the consequences of the actions the Commission may take tonight.

Mr. Kinsman stated that the Commission could defer the application or vote on it as is and forward it to the Board of Supervisors with a recommendation for approval or denial.

Mr. Sowers added that if the Board denied the application it could not be resubmitted for a year without substantial changes.

Mr. Hunt recommended that the application be voted on tonight.

Ms. Jones motioned to recommend denial of the applications.

Mr. Kennedy seconded the motion.

In a unanimous roll call vote denial of the applications was recommend (7-0). AYE: Hunt, Obadal, Jones, Hughes, Kennedy, Billups, Fraley (7); NAY: (0).

Mr. Fraley asked that the Planning Commission's recommendation to extend the intersections for analysis to Monticello and News Roads be considered by Staff in cases such as this one.

G. Z-16-05/MP-13-05 New Town Sec. 9 – Settler's Market

Mr. Matthew Smolnik presented that staff report stating that this joint application submitted by AIG Baker Development, LLC and Developer's Realty Corporation to rezone 58.0 acres of land located at 5224, 5244 and 5246 Monticello Avenue currently zoned R-8, Rural Residential and M-1, Limited Business/Industrial to MU, Mixed Use was deferred by the Commission on March 8, 2006. The property is also known as parcels (1-3), (1-2), (1-52) and a portion of (24-3) on the JCC Tax Map (38-4). Under the proposed Master Plan, a range of 401,945 to 426,342 square feet of buildings are proposed with a range of 215 to 279 condominium or townhouse units. The site is designated for Mixed Use development by the James City County Comprehensive Plan. Mixed Use areas are centers within the Primary Service Area where higher density development, redevelopment and/or a broader spectrum of land uses are encouraged. Staff found the proposal generally consistent with the New Town Master Plan, the Comprehensive Plan, and compatible with surrounding uses and recommended approval.

Mr. Fraley noted that the New Town Design Review Board (DRB) has granted an exception to the New Town Design Guidelines to allow larger retail buildings in Section 9.

Mr. Smolnik stated that staff worked with the applicant and the DRB on the overall layout. He also stated that Planning Commission must determine whether or not the design is consistent with the overall master plan.

Ms. Hughes referred to Mr. Carroll Collins' statement that as we move towards a more urban concept pedestrian and bicycle traffic will increase. She asked if the proposed design allows for that increase.

Mr. Carroll Collins with Kimley-Horn and Associates stated pedestrian and traffic have not reached a level where they can be quantified in this analysis.

Mr. Sowers added that staff is working with Virginia Department of Transportation (VDOT) to add pedestrian crossings and that the signals will have pedestrian heads, refuge island, and push buttons.

Ms. Hughes confirmed that traffic will be moving at 15-20 miles per hour and that pedestrians will be able to cross without interrupting the timing of the lights.

Mr. Sowers answered yes.

Mr. Collins stated that as pedestrian volume increases it will become a part of the signal timing.

Mr. Kennedy asked about the anticipated decrease in levels of service (LOS) expected by 2023.

Mr. Collins stated that that predication assumed all things stayed the same in terms of background growth.

Mr. Kennedy stated that he hoped that we were not planning for the demise of New Town in 15-20 years.

Mr. Collins said there will be additions to the market place that will share the load and that bike and walking traffic will increase.

Mr. Sowers stated that the intersections with the worst LOS do not reflect proposed road improvements.

Mr. Fraley opened the public hearing.

Mr. Geddy represented the applicant stating that the New Town Master Plan was approved in 1997 and that Section 9 represents 58 acres of the entire 375 acre development. He also stated that the proceeds from the sale of the portion owned by the Williamsburg Community Hospital will be distributed to the Williamsburg Community Health Foundation to be used to fund grants for community health needs. Mr. Geddy stated that the applicant has spent 8 months studying the Monticello Corridor and that both the

applicant's consultant and the County's consultants agree that the intersections of the project will operate at an LOS of "C" or better as called for in the New Town Master Plan. He also said the applicant is willing to incorporate LID measures consistent with the surrounding New Town area.

Mr. Fraley asked about a multi-use building that had been proposed to be located in an area of wetlands.

Mr. Geddy said the building and parking lot will be moved to a different location on the site.

Ms. Hughes asked for the location of the 50' buffer that will be added to the Resource Protection Area (RPA).

Mr. Geddy indicated the location on a map.

Ms. Hughes asked for the locations of the pedestrian accesses throughout the project.

Mr. John Abernathy with AIG Baker, LLC pointed out the locations on a map.

Mr. Kennedy asked if bike paths and bike racks would be available.

Mr. Abernathy answered yes.

Mr. Smolnik stated that the pedestrian facilities Mr. Abernathy spoke of were included in the design guidelines approved by staff and that they are binding.

Mr. Sowers said that master sidewalk and pedestrian path plans will be required during the development plan stage as they have been for other New Town sections.

Mr. Kennedy asked how the recreation and open space in New Town have changed over the years.

Mr. Sowers said that the configuration and location of open spaces have changed somewhat from the original master plan.

Mr. Kennedy asked if the size has changed.

Mr. Sowers stated that he has not tracked the size. He said it is his impression that there has been some decrease. He also stated that there have been substitutions of different types of open space.

Mr. Kennedy said it would be helpful in the future to track such changes. He stated his concerns with the amount of retail and traffic and the elimination of parks, museums, and performance art theatres.

Mr. Fraley asked if the size of the retail buildings would be addressed by the architectural designs.

Mr. Geddy said that was correct. He also stated that this section of New Town has always been designated as a Commercial Corridor.

Ms. Hughes asked what LID measures have been denied by state and federal agencies.

Ms. Susan Guthrie with Williamsburg Environmental Group stated that a lot of avoidance and minimization efforts have taken place on the entire site. She also explained that the Fish and Wildlife Services preferred buffers and open space to some LID measures.

Ms. Hughes stated that the concern is a lack of water infiltration.

Ms. Guthrie said the issues she was referring to were not storm water related.

Ms. Hughes said that the Commission's request was to increase LID measures around the parking lots and impermeable surfaces.

Mr. Geddy stated the applicant has made a commitment to increase LID measures in those areas.

Ms. Hughes stated that she wanted to make the distinction between the areas where it has been hard to implement LID measures and other areas where it is necessary and appropriate.

Ms. Guthrie stated that the additional buffers and increasing impervious surfaces will help with water quality.

Ms. Hughes stated that the Army Corp of Engineers recommended the planting of native grasses and planting between the parking lots and the existing buffers.

Ms. Guthrie said the 50 ft buffers would be completely natural and that the secondary tier of buffers will have natural grasses planted.

Ms. Hughes stated that the areas where the applicant was having problems implementing LID measures are not the areas where the Commission had asked for increased measures.

Mr. Cook stated that the Environmental Division would be looking for the LID measures to be located in the parking areas, and not necessarily along the wetlands and in the buffers.

Mr. Geddy said he understood what Mr. Cook wanted.

Ms. Hughes asked if the applicant saw a problem with it.

Ms. Guthrie said she did not see a problem.

Hearing no other requests to speak the public hearing was closed.

Ms. Jones thanked Mr. Fraley, the applicant, Staff, and Carroll Collins for their work on the traffic study. She stated that given the approval of the New Town Design Board, the positive fiscal impacts, and consistency with the Comprehensive Plan she was inclined to support proposal.

Mr. Fraley complimented DRW Consultants and the applicant for their work on the traffic study. He stated that he would support the project.

Mr. Obadal motioned to recommend approval of the application.

Ms. Jones seconded the motion.

Mr. Kinsman confirmed that the motion included the additional proffer regarding increased LID measures.

In a unanimous roll call vote the application was recommended for approval with the understanding a proffer will be provided regarding increases LID measures (7-0). AYE: Hunt, Obadal, Jones, Hughes, Kennedy, Billups, Fraley (7); NAY (0).

F. SUP-1-06 Centerville Road Tower Relocation

Mr. Matthew Smolnik presented the staff report stating that Mr. John Abernathy has applied for a Special Use Permit on the parcels located at 4338 and 4346 Centerville Road, which are currently zoned A-1, General Agriculture in order to relocate the existing 400 foot tall WMBG radio tower on Monticello Avenue. The properties are also known as parcels (1-31) and (1-32) on the JCC Tax Map (36-2). The parcels are designated Low Density Residential by the James City County Comprehensive Plan. Recommended uses for Low Density Residential land include very limited commercial establishments, churches, single family homes, duplexes, and cluster housing with a recommended gross density of 1 unit per acre up to 4 units per acre in developments that offer particular public benefits. Mr. Smolnik stated that the Commission voted to defer the case that it's last meeting due to a lack of information regarding the broadcast footprint and the issue of the conservation easement on the property. He said that since that meeting the County Attorney and applicant's attorney have agreed that the attached condition prohibiting subdivision of the parcel will protect the land from any additional development beyond the scope of this application. The applicant has also submitted information regarding the broadcast footprint for WMBG and surrounding radio stations.

Mr. Fraley opened the public hearing.

Mr. Geddy represented the applicant stated that the applicant has provided the technical information staff had requested. He also stated that Section 9 of New Town cannot be built with the tower in its current location. He said it is impossible for an AM station to meet the standards staff is applying.

Mr. Fraley opened the public hearing.

Ms. Hughes asked what was keeping the applicant from getting the conservation easement.

Mr. Geddy stated that the applicant does not own the property yet.

Mr. Obadal asked how many acres would be involved in the conservation easement.

Mr. Geddy stated that he thought it would be written so that it applies to the entire 40 acres.

Mr. Obadal asked why the applicant has to prove that no other site was suitable.

Mr. Smolnik explained the process used for wireless communications facilities applications.

Mr. Obadal stated that the applicant was being asked to prove a negative.

Mr. Smolnik stated that that is how it has been done in the past.

Mr. Sowers explained that the process is to ensure the applicant has gone through an adequate due diligence process. He also explained that this was an unusual situation and suggested that the Commission weigh the policy criteria given the uniqueness of the tower.

Mr. Obadal asked if staff had received any objections.

Mr. Sowers said he was not aware of any.

Mr. Smolnik stated that all adjacent property owners and Springhill and Ford's Colony Homeowners' Associations had been notified and no objections have been raised.

Mr. Kennedy said there was one speaker at the last meeting.

Mr. Obadal said the speaker had a question but did not object to the proposal.

Mr. Sowers said the speaker had questions about interference which are addressed in a condition.

Mr. Hunt stated that this process is for examining sites for cell phone towers. He said this is a different situation. He said the applicant was taking one down and replacing it with another.

Mr. Fraley stated that the proposal moves the tower from a place where other towers exist.

Mr. Obadal said those towers were on the other side of the road.

Mr. Fraley said they were close and this proposal would move the tower to a site where there are no other towers.

Mr. Obadal said that if the tower was painted as it is now then only red lights would have to be used making the tower hardly noticeable.

Mr. Smolnik stated that was a special use condition that limits the color of the tower to a light blue or gray which would be even less visible.

Mr. Obadal and Mr. Smolnik discussed the corresponding light colors required with each of the paint color choices.

Mr. Billups asked how much of the current site could be developed without moving the tower.

Mr. Geddy answered approximately 38 acres. He explained that although the tower uses only 10 acres it located on the Williamsburg Community Hospital's property.

Mr. Billups stated the tower would be locating from a 10 acre parcel to a 40 acre parcel. He said he did not see a gain and that the new location would be visible from 3 corridors.

Mr. Geddy stated the tower will be equally inconspicuous in the new location. He said moving it from its current location permits a commercial development that will generate 1 million dollars a year in tax revenue to the County and prevents residential development on the new site.

Ms. Jones asked the distance from the closest residents in the current location.

Mr. Geddy indicated the distance on a location map.

Ms. Jones stated her concerns about the affect of the tower on the people who will live behind it.

Mr. Geddy said a condition had been added to address that issue. He also stated that the applicants have cell phones, telephones, and clock radio in the building at the base of the tower and have no interference.

Mr. Obadal asked how the sale of the hospital property would be affected.

Mr. Geddy said the proceeds from the sale will be distributed to the Williamsburg Community Health Foundation.

Mr. Obadal asked if the \$300,000 transfer to the Williamsburg Community Health Foundation would be affected if the tower is not moved.

Mr. Geddy answered absolutely.

Mr. Obadal confirmed that the proposal allows the County to preserve 40 acres, gain the value of New Town development, and provides \$300,000 for health grants.

Mr. Obadal stated that he could not see the other towers from this towers current location.

Mr. Fraley said he could see it. He said the current location affects 3 corridors and the new location affects only 2. He also said there are other towers in the current location.

Mr. Hunt stated that the other towers are shorter.

Mr. Fraley opened the public hearing.

Mr. Obadal stated the he had already summarized the benefits for the County.

Mr. Fraley asked Mr. Obadal's opinion of the special use conditions.

Mr. Obadal said he was only concerned about the white strobe lights.

Mr. Smolnik stated that the white strobe lights would only be used during the day if the tower is not painted red and white with 3 red beacons at night regardless of the paint color.

Mr. Obadal asked if the applicant was comfortable with the proposed conditions.

Mr. Geddy said they could live with them.

Ms. Hughes asked if there was a guarantee that the parcel would be placed into a conservation easement.

Mr. Kinsman said there was no guarantee. He also stated that Mr. Geddy had given his word and that they will work out the specific language.

Mr. Geddy stated that an attached condition precludes development.

Ms. Hughes said it does not preclude disturbance of the environmentally sensitive area.

Mr. Fraley stated a condition could be attached to the recommendation.

Mr. Sowers stated that that was possible but that there are some restrictions.

Mr. Kinsman stated that it is possible for the applicant to submit evidence of an agreement between the current landowner and the Williamsburg Land Conservancy based on approval by the Board of Supervisors.

Mr. Greg Granger the tower owner said he would provide such evidence.

Ms. Jones stated that the easement is an important aspect of the case.

Mr. Fraley asked if the applicant had any suggestions on the wording of a condition.

Mr. Geddy said they could provide the affidavit Mr. Kinsman spoke of but that he did not think a condition requiring the applicant to give away land would be valid.

Mr. Granger stated that any condition should be broad enough to allow the land to be transferred to the Williamsburg Land Conservancy or an equivalent organization.

Mr. Kinsman stated that the proposed condition prohibiting subdivision of the parcel would restrict any additional uses or development on the parcel. He suggested taking Mr. Geddy at his word concerning the conservation easement.

Mr. Hunt motioned to recommend approval of the application and proposed conditions listed in the staff report.

Mr. Kennedy seconded the motion.

In a roll call vote the application and attached conditions were recommended for approval (6-1).
AYE: Hunt, Obadal, Jones, Hughes, Kennedy, Fraley (6); NAY: Billups (1).

E. ZO-1-06 Zoning Ordinance Amendment – Athletic Field Lighting

Mr. Smolnik presented the staff report stating the request for an ordinance to amend and reordain Chapter 24, Zoning, of the Code of the County of James City Virginia, by amending Article V, Districts, Division 2. General Agriculture District, A-1, Sections 24-218, Height Limits; Article V, Districts, Division 3. Limited Residential District, R-1, Sections 24-240, Height Limits; Article V, Districts, Division 4. General Residential District, R-2, Sections 24-261, Height Limits; Article V, Districts, Division 5. Residential Planned Community District, R-4, Sections 24-293, Height Limits; Article V, Districts, Division 6. Multi Family Residential District, R-5, Sections 24-314(j), Structure Height; Article V, Districts, Division 7. Low-Density Residential District, R-6, Sections 24-335, Height Limits; Article V, Districts, Division 8. Rural Residential District, R-8, Sections 24-354, Height Limits; Article V, Districts, Division 9. Limited Business District, LB, Sections 24-375, Height Limits and Height Limitation Waivers; Article V, Districts, Division 10. General Business District, B-1, Sections 24-397, Height Limits and Height Limitation Waivers; Article V, Districts, Division 11. Limited Business/Industrial District, M-1, Sections 24-419, Height Limits and Height Limitation Waivers; Article V, Districts, Division 12. General Industrial District, M-2, Sections 24-444, Height Limits and Height Limitation Waivers; Article V, Districts, Division 13. Research and Technology District, RT, Sections 24-473, Height Limits and Height Limitation Waivers; Article V, Districts, Division 14. Planned Unit Development District, PUD, Sections 24-496 Height and Spacing of Structures; and Article V, Districts, Division 15. Mixed Use, MU, Sections 24-525, Height of Structures to permit athletic field lights with an approved height waiver from the Board of Supervisors.

Mr. Fraley opened the public hearing.

Mr. Kennedy asked if the applicant, Mr. Farmer, had any comments.

Mr. Farmer introduced a lighting manufacturer and supplier. He offered to answer any questions as well as show a video or PowerPoint if the Commission desired.

Mr. Fraley asked if the Commission wanted to see the presentation.

The Commissioners declined.

Ms. Jones motioned to recommend approval.

Ms. Hughes seconded the motion.

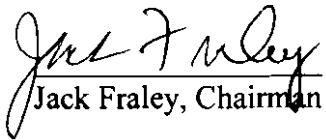
In a unanimous roll call vote the application was recommended for approval (7-0).

Mr. Marvin Sowers presented the report stating that the Planning Commission had requested a training session with the JCSA (James City Service Authority). Mr. Sowers asked if Commissioner's preferred to set a date now or discuss their availability via email.

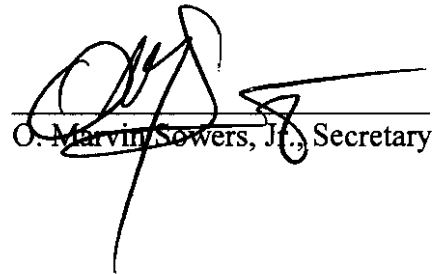
Mr. Fraley asked Mr. Sowers to email the possible dates and reminded members that attendance was voluntary.

6. ADJOURNMENT

There being no further business, the Planning Commission meeting was adjourned at 12:03 a.m.



Jack Fraley, Chairman



O. Marvin Sowers, Jr., Secretary