

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

1. ROLL CALL

Planning Commissioners

Present:

George Billups
Reese Peck
Jack Fraley
Tony Obadal
Rich Krapf
Chris Henderson
Joe Poole III

Staff Present:

Marvin Sowers, Planning Director
Adam Kinsman, Deputy County Attorney
Jose Ribeiro, Senior Planner
Jason Purse, Senior Planner
Scott Thomas, Environmental Director
Kate Sipes, Senior Planner
Terry Costello, Development Management Assistant

2. PUBLIC COMMENT

Mr. Fraley opened the public comment period.

Mr. Robert Richardson of 2786 Lake Powell Road spoke. He expressed his deep concerns over the ethics issue involving Mr. Henderson and the Board of Supervisors' members who appointed him. He felt that Mr. Henderson, Mr. Goodson, Mr. Kennedy, and Ms. Jones were in violation of the James City County Code of Ethics. He also felt that Mr. Henderson's decision on the Ford's Colony CCRC case was made well in advance of his appointment to this Commission. Mr. Richardson requested that Mr. Henderson step down from his position on the Planning Commission and refrain from any future elected or appointed positions in James City County. He also stated that he can petition to have the Supervisors removed who appointed Mr. Henderson for he clearly believes this appointment is a misuse of office.

Mr. Bill Chenail, who stated he lived at 185 Heritage Point, spoke on behalf of Mr. Henderson. He stated he felt that Mr. Henderson is a high achiever and believes in giving back to the community. He stated that Mr. Henderson recently chaired the most successful capital campaign in the Peninsula YMCA history by raising over \$6.5 million for construction of the R.F. Wilson Family YMCA in Lightfoot. He stated that Mr. Henderson chaired this board the first year of its existence. Mr. Chenail identified several organizations where Mr. Henderson has had leadership positions. These include organizations such as Ford's Colony, a church organization, and the local Republican party. He stated that the County is fortunate to have Mr. Henderson serve on its committees and boards. Mr. Chenail asked Mr. Richardson to cease his endeavor to have Mr. Henderson removed from the Planning Commission. Mr. Chenail felt that Mr. Henderson is the most qualified Planning Commissioner that is currently serving on the Planning Commission. He ended by stating that he applauded Mr. Henderson for serving on the Commission and for serving his community. Mr. Chenail commented on the fact that Mr. Obadal was appointed by Mr. Icenhour after hosting fundraisers for his Board of Supervisors campaign at his home. He commented also on Mr. Poole being appointed to the Commission as a way to gain visibility for future political aspirations. He stated he was giving these examples as ways that this Commission has been political.

Mr. Poole stated that he is not affiliated with any local party nor does he have plans to run for any political office.

Mr. Obadal addressed comments that were made about him. He stated he did not raise money for Supervisor Icenhour nor did he give him any funds. He did make two small contributions during the last election to two candidates for public office, Supervisor Kennedy and Supervisor Jones.

Mr. Henderson addressed Mr. Richardson's concerns. He stated he serves at the will of the Board of Supervisors and will continue to do so until otherwise notified. He stated that the Board has assured him that they have the confidence in him to perform the duties bestowed upon him. Mr. Henderson felt that he had to be more qualified due to his political affiliations. He assured Mr. Richardson that he has the qualifications to make decisions regarding land use. He stated he has no intentions of stepping down and suggests that those who have questions or concerns review his qualifications.

Mr. Fraley stated that he felt that the assertions stated previously do not add any value to the Planning Commission's considerations. He stated he felt that there is a diverse group on the Planning Commission with each individual bringing valuable insight and perspectives to the group. He stated that he felt Mr. Henderson during his tenure on the Commission has been an outstanding Commissioner and brings knowledge of other jurisdictions to the group. Mr. Fraley stated that he believed Mr. Poole to be an advocate for public comment and public input. He further stated that Mr. Obadal brings a legal perspective to the Planning Commission, and encourages citizens to stay involved.

3. MINUTES

A. June 4, 2008 Regular Meeting

Mr. Fraley asked if there were any additions or corrections to the minutes.

Mr. Krapf had an addition to the voting record for the SUP initiating resolution.

Mr. Poole had a correction to the motion made for the Ford's Colony CCRC application.

Mr. Fraley wanted comments added to make clear that the initial public comment period was postponed until Mr. Henderson arrived.

Mr. Poole made a motion to approve the amended minutes.

Mr. Krapf seconded the motion.

In a unanimous voice the minutes were approved as amended (7-0)

4. COMMITTEE AND COMMISSION REPORTS

A. Development Review Committee

Mr. Krapf stated the DRC held a special meeting on June 18, 2008 to address questions raised

at the May 28, 2008 DRC meeting for cases SP-0131-2007 New Cingular Wireless PCS and SP-0127-2007 Verizon Wireless. By a vote of 3-0, Mr. Fraley, Mr. Poole and Mr. Krapf concurred with the Planning Director's determination that the mono-pine style cell towers met the definition of camouflage as described in the ordinance.

Mr. Krapf stated at the regularly scheduled meeting on June 25, 2008, case C-0031-2008, Stonehouse Tract 12, a conceptual storm water management plan, was reviewed. The DRC provided feedback and voted 5-0 to accept the conceptual plan and staff comments. Case S-0017-2008 required DRC approval since it proposes a change to the approved master plan and the property is zoned R-4. By a vote of 5-0, the DRC found that the plan does not vary the basic concept or character of the Kingsmill planned community and approved the plan for a lower density use.

Mr. Poole made a motion to approve the minutes.

Mr. Henderson seconded the motion.

In a unanimous voice the minutes were approved (7-0).

B. Policy Committee

Mr. Peck stated that the Policy Committee met on June 5, 2008 to discuss revisions to the Capital Improvements Planning Process. This meeting was adjourned until July 9, 2008 at 7 p.m. to continue the discussions.

C. Comprehensive Plan Update

Mr. Krapf stated the June CPT meetings concentrated on planning for the second round of Community Conversations, analyzing citizen comments from all four conversations, the ranking of hot topics for further discussions, and developing a communications plan for sharing information. Opportunities for outreach in June included a booth at the County Fair, a speaking engagement at Mallard Hill HOA, and a new listening station to be developed this month. Mr. Krapf stated that CPT forums will be held at each of the scheduled meetings in July. These forums provide an opportunity for citizen organizations to make formal Comprehensive Plan presentations to the CPT. Currently all slots are filled for these forums. Information presented during these sessions will be forwarded to the Steering Committee with other CPT materials after the August conversations.

Mr. Fraley mentioned the deadline extension for the Land Use Applications.

Mr. Sowers confirmed and stated that the deadline has been extended until July 15, 2008.

Mr. Poole asked if the deadline was extended due to the number of applications received and asked if that has been done in the past.

Mr. Sowers answered that was correct and it has been extended in the past.

Mr. Pecks asked about the slots available during the CPT forums and if there will be any more available to groups and organizations.

Mr. Krapf answered that the CPT may add some additional slots on an as needed basis.

Organizations who are still interested should still send in their application.

5. INTRODUCTION OF NEW STAFF

Mr. Sowers introduced Mr. Beau Blevins, who has recently been promoted from Zoning Officer to Planner. Mr. Sowers listed his qualifications and his educational background.

6. PLANNING COMMISSION CONSIDERATIONS

A. RIC – Timeline Revision

Mr. Sowers stated the Regional Issues Committee made a recommendation two years ago for James City County, City of Williamsburg, and York County to coordinate their Comprehensive Plans during their next updates. In discussions with the other localities that initiated in the Fall of 2007, it became apparent to the staffs of all three jurisdictions that it would be best to wait until the next update in 2012. This suggestion was brought back before the Regional Issues Committee and the Committee concurred with this recommendation. Mr. Sowers stated there was one additional forum added to the change for 2012. This would give the Planning Commission members an opportunity to discuss the results at the end of the process.

Mr. Peck expressed his concerns over the fact that development has materialized greatly in the three localities. He felt that four years is a long time to wait to coordinate an effort amongst the three localities. He felt that the sooner the County started coordinating regionally the better it will be for all citizens.

Mr. Poole concurred with Mr. Peck on his comments. He applauded this effort to work regionally with the City of Williamsburg and York County.

Mr. Obadal asked which jurisdiction proposed this delay.

Mr. Sowers stated that staff from all three jurisdictions had discussions about revising the schedule and it was a joint proposal that went before the Regional Issues Committee.

Mr. Fraley stated that Mr. Sowers has asked for a statement of support.

Mr. Poole made a motion for a statement of support.

Mr. Krapf seconded the motion.

In a unanimous voice the Commission supported the change (7-0).

7. PUBLIC HEARINGS

A. SUP-0009-2008 Kingsway Church Greenwood Christian Academy Expansion

Mr. Jason Purse stated this application is to allow for the expansion of the existing Greenwood Academy at the King's Way Church. This application seeks to increase the number of students attending the school by 100 (for a total of 300), as well as constructing a new building to house the school. The property is located at 5100 John Tyler Highway and is zoned R-1, Limited

Residential. Mr. Purse stated that VDOT has reviewed the application and concurs with the traffic study and with the proposed right turn lane and two-way left turn lane included, and concurs with the recommended improvements provided by the applicant. He stated the parcel is designated Low Density Residential on the 2003 Comprehensive Plan Land Use Map. Mr. Purse stated that staff believed that this proposal is consistent with the Comprehensive Plan and that the proposed conditions will sufficiently mitigate the impacts created by the development. Staff recommended that the Planning Commission recommend approval to the Board of Supervisors with the attached Special Use Permit conditions.

Mr. Obadal asked when leaving the school, is there a traffic light when crossing to the other side of the road.

Mr. Purse answered currently there is a taper that leads into the site and that there is no signal.

Mr. Obadal asked if there were any safety issues concerning crossing the road without a traffic light.

Mr. Purse stated that given the traffic situation currently at the site, the applicants proposed improvements will actually increase the function of the intersection.

Mr. Obadal asked if there were any plans to have a left turn lane into the site.

Mr. Purse stated that the area will be re-striped and to create a left turn lane to serve the church site, as well as having an additional left turn lane onto Carolina Boulevard. This was a suggestion made by the Virginia Department of Transportation in their review of the application.

Mr. Sowers added that the improvements to the pavement markings that are part of this application will help the traffic situation in that area.

Mr. Obadal expressed concerns if individuals would have to pull up and stop before making the left turn, and that there may be a backup waiting for these individuals to turn.

Mr. Sowers stated that that is the situation out in that area now due to lack of a left turn lane, and that the markings should guide drivers as to where they need to be to make the turns and get turning traffic out of the through lane.

Mr. Chris Johnson, from Kaufman and Canoles, spoke on behalf of the church. He thanked Planning and the Environmental staff for their work on the application.

Mr. Fraley asked Mr. Johnson to comment on the traffic improvements and the impacts from this expansion.

Mr. Johnson stated that the dual left turn lanes would be 200 feet long. This would get drivers out of the flow of traffic. There is also a 150 foot right turn taper which will be extended to be a full 200 foot right turn lane.

Mr. Benjamin Conner, 103 Leon Drive, spoke on behalf of himself and his neighbors. He stated that he and his neighbors vehemently oppose this project. He stated that the adjacent

neighbors to the site all oppose this application. He cited reasons such as noise, and that the area was already noisy. He stated that while they do support neighborhood children, these children in this school are not children who live in the neighborhood. Mr. Conner stated he and his neighbors had concerns as to whether the traffic improvements proposed would remedy the situation there currently. He also stated that the site is already small for the current use, so adding more school children would elevate the situation. He expressed concerns about future growth of the school beyond this application. Mr. Conner cited Providence Classical School which has more space, a blacktop, and a substantial field, and they have fewer students. Mr. Conner stated that Kingsway Church and School have been good neighbors. He also stated that the Church is not malicious, but that they feel it is not conscientious toward the adjacent property owners.

Mr. Henderson asked Mr. Conner to identify on the map the property owners that were present, which Mr. Conner did.

Mr. L.R. Iverson, 111 Leon Drive, spoke on this case. He stated that he felt the property was not large enough for the proposed use. He also expressed concerns about the traffic situation and the increased amount due to more students.

Mr. Fraley closed the public hearing.

Mr. Obadal made a motion to approve the application. He felt that the school is important to the Community. He understood the neighbor's concerns but felt that the additional 100 children would not make that great of an impact. Mr. Obadal stated he felt the traffic concerns were addressed and the improvements will accommodate the new population entering the church and the school.

Mr. Billups seconded the motion.

Mr. Poole stated he saw merit in the co-location of educational facilities and houses of worship in the County. He did feel that given the zoning of R-1 and the parcel size, that he felt that he could not support this application. He stated that when reviewing public facilities, mitigating off-site impacts are a priority. Mr. Poole stated he was not sure that the off-site impacts can be appreciably mitigated and expressed his concerns over the increased traffic. He felt that with regards to traffic and the nearby police and fire departments, that there was a lot of traffic in a short span of road. Mr. Poole stated he cannot support this application at this time.

Mr. Henderson asked about emergency access and the requirements for access.

Mr. Purse stated that the police and fire department did not have any issues with this application.

Mr. Krapf stated that R-1 states that low density residential areas should have the characteristics of a quiet neighborhood. He further stated the Comprehensive Plan states that low density residential areas are an appropriate use of this site which would include churches and schools. He identified the positive components, such as the traffic improvements, pervious cover, and low intensity utility usage. Mr. Krapf did state he also feels that the existing zoning calls for a low density residential, and that the size of the building is significantly larger than those in the surrounding neighborhood. He cannot support this application at this time.

Mr. Peck expressed the same concerns as Mr. Poole and Mr. Krapf. He had concerns with the size of the parcel with the use requested.

Mr. Billups stated the only concern he had was the size of the school compared to the size of the parcel. He believed that by increasing the number of children to 300 will create some problems. He applauds the effort of having a K-12 curriculum. Mr. Billups also expressed his concerns over the traffic and the citizens' concerns about noise.

Mr. Fraley stated that in this case the zoning and the Comprehensive Plan designation are different. He also stated that in most cases he has an opinion on a particular case before the presentation but keeps an open mind for comments by Commissioners and the public. He stated he was not sure if the landscaping proposed would mitigate the noise concerns. Mr. Fraley stated it might be beneficial to search for another location for the school to expand. He stated the Church does fine work but with the comments that have been made tonight, he will not be able to support this application.

In a roll call vote the motion was denied. (2-5) AYE: Henderson, Obadal; NAY: Poole, Billups, Krapf, Peck, Fraley.

B. SUP-0012-2008 Liberty Ridge Clubhouse and Pool Facility

Mr. Jose Ribeiro stated that Mr. Dean Vincent on behalf of JCC, LLC. has applied for a special use permit to allow the construction of clubhouse and a swimming pool on a 3.03 acre parcel inside the proposed Liberty Ridge Subdivision. He stated Liberty Ridge is zoned A-1 and it is designated as rural lands according to the 2003 Comprehensive Plan. All agencies have reviewed and expressed no objection to this application. Staff finds that the proposed recreational use is an acceptable accessory use to a residential development. Staff also finds it to be consistent with the Comprehensive Plan. Mr. Ribeiro stated staff recommends the Planning Commission recommend approval to the Board of Supervisors.

Mr. Dean Vincent spoke as a representative of East West Partners of Virginia, which is involved with this project. He spoke about the projects that this company has been involved in. He stated that the DRC asked the applicant to set aside two parcels for open space. At that time it had not yet been determined where the clubhouse would be located. He stated that at this time the location has been established, and that they are willing to give up one lot for open space. Mr. Vincent stated that this is in addition to the two lots agreed upon. He stated that the plan before the Commission has 1000 square feet on the main floor and 600 feet below. Mr. Vincent stated they are looking at increasing that to 1500 feet on the first floor. He spoke about the parking and how they took effort as to not overbuild for parking. He stated that their goal is to preserve trees and to minimize clearing. Mr. Vincent asked for some flexibility with regards to their conceptual plan. They are still in the process of determining what will be at the site through focus groups. He spoke concerning the lighting condition, being the lots are three acre lots. Mr. Vincent stated they are proponents of dark sky initiatives, and trying to minimize clearing, but there is a need for security also.

Mr. Krapf asked about the note on the master plan. He asked that the note concerning LID measures be a binding condition to the special use permit.

Mr. Vincent stated he would agree to make it a binding condition.

Mr. Krapf asked about the flexibility requested from Mr. Vincent concerning lighting.

Mr. Fraley stated that he would ask Mr. Vincent if the conditions to the special use permit are agreeable.

Mr. Vincent stated that he would accept the conditions but had some concerns with the wording of "bound by" found in SUP Condition No. 1 on the Master Plan.

Mr. Fraley stated that in the past development has not always proceeded in the manor that was presented to the Planning Commission. He stated that the Commission has been advised to incorporate concerns with stronger wording to make sure that what is built is what was on the plans.

Mr. Sowers stated that since this project is internal to a neighborhood, staff would have no objections to deleting the wording "bound by" from SUP Condition No. 1.

The Planning Commission had no objections.

Mr. Fraley asked about Mr. Vincent's concerns about the lighting.

Mr. Vincent stated he had concerns with the 0.1 foot candle at the property line. He stated that they would want some spill over from the parking area to the right of way. He suggested .01 foot candles for adjoining adjacent lots.

Mr. Sowers stated that this is a valid point especially for the larger lots in the neighborhood. He stated staff will need to work with the applicant on a lighting plan, particularly in the entrance area of the clubhouse and areas along the street where residents may park.

Mr. Obadal cited Section 24-58 of the Zoning Ordinance which states for recreational facilities, the applicant shall justify the parking spaces provided and the rationale should cite commonly adopted national park and recreational standards. He stated the Ordinance also states the applicant should provide information on peak parking demands. Mr. Obadal questioned how many people they anticipated at the pool and clubhouse and what kind of meetings might be held there.

Mr. Vincent answered that he was aware of the section of the Ordinance. He stated that the proposed clubhouse facility is for internal use for the residents of Liberty Ridge. He stated that most of the studies that he was aware of are not as specific when it comes to an internal clubhouse in a community that prohibits external membership. He answered as far as meetings held the clubhouse would be rented out to owners within the development.

Mr. Obadal asked if the homeowner's association would use the clubhouse for meetings.

Mr. Vincent stated that it was not the intent to build the facility to house the entire association's membership.

Mr. Obadal asked if they would be willing to consider using pervious concrete for the project.

Mr. Vincent answered that once the project is approved, it is their goal is to work within the

topography. Their goal is to save trees, possibly use pervious concrete around the pool, and possibly use that material for the parking lot as well.

Mr. Obadal asked if the applicant was willing to include language with specific LID measures, such as including pervious concrete where feasible.

Mr. Vincent stated he is willing to work with the request, but wanted to be cautious about agreeing to something that might not be able to be done once the project is started. He wanted to avoid coming back to the Commission with a revised plan. He would request that if any conflicts were present between him and staff that he would have some recourse for another party to decide.

Mr. Obadal stated he would like pervious concrete used where feasible and for the Planning Director and the applicant to have some discretion as to what it feasible and what might not be.

Mr. Fraley stated that it would be up for discussion as to whether the Planning Commission would leave the discretion of what LID measures will be used up to the applicant.

Mr. Fraley closed the public hearing.

Mr. Fraley spoke on the history of Liberty Ridge. He stated Mr. Vincent went above and beyond what was required in regard to buffers, density, and recreational amenities.

Mr. Henderson stated his only concern with the application was with the parking. He cited his experience in Ford's Colony where the amenity is used on a regular and high level. He stated because the Liberty Ridge Development has three acre lots, most residents would be driving to the facility. His suggestion was be to plan for maximum use with regard to parking rather than minimal use.

Mr. Poole commended the applicant on a quality design and appreciated the applicant's flexibility and staff's flexibility in adjusting conditions for Condition #1 and Condition regarding the master plan and lighting. He supports this application.

Mr. Billups asked if collecting the groundwater from the facility has been taken into consideration.

Mr. Vincent stated the application provides for collecting stormwater onsite to reuse for irrigation.

Mr. Billups asked about runoff and if there were any other properties that might be affected by runoff.

Mr. Vincent answered that immediately adjacent to this is a BMP that will address the runoff. He stated the goal was to design the project so that as much of the stormwater as possible is diverted back into the ground.

It was agreed upon by all of the Planning Commissioners to leave the wording of the master plan not as is which states LID measures will be used whenever feasible without being specific regarding pervious concrete.

Mr. Henderson made a motion to approve the Special Use Permit with revised wording to Condition #1 and #3 as discussed by the Commission.

Mr. Krapf seconded the motion.

In a roll call vote the motion was approved. (7-0) AYE: Poole, Henderson, Billups, Krapf, Peck, Obadal, Fraley.

C. SUP-0007-2008 David Nice Contractor's Office and Shed

Mr. Jason Purse stated that this application is for a Special Use Permit to allow for a contractor's office, workshop, and storage shed on an A-1 property outside of the PSA. The property is located at 4700 Fenton Mill Road, and is approximately 80 acres in size. The site is designated Rural Lands in the Comprehensive Plan, which generally calls for agricultural and forestall related uses, and specifies that commercial undertakings should be of a very low intensity. He stated that the project, if approved, will consist of a 6,000 square foot office/workshop building, a 4,000 square foot three sided storage shed, and a parking area. Mr. German stated that staff finds the proposal to be generally inconsistent with the Comprehensive Plan, as it features a somewhat intensive land use that is incompatible with those found in the surrounding area. However, the project proposes extensive buffers and landscaping to help to mitigate audio and visual impacts on neighboring properties and uses. Mr. German stated staff recommends that the Planning Commission recommend approval of this application to the Board of Supervisors with the conditions outlined in the staff report.

Mr. Billups asked what was the amount of land that was disturbed since it was mentioned that it exceeded the limits of the grading permit.

Mr. Purse stated the grading permit was for 12,500 square feet. He stated that 2.4 acres were cleared.

Mr. Fraley opened the public hearing.

Mr. Tim Trant, who was representing the applicant, spoke on the history of the business. He stated that Mr. David Nice is a life resident of the area and started this business here and has several employees. He spoke about his influence and reputation in the area. Mr. Trant stated that in rural developments that these types of facilities (contractor's offices and sheds) exist. He felt that this use is more appropriate due to the location, adjacent uses to the property, and location within a mixed use district. He also felt that this use will be more compatible with the surrounding area than a residential use, for example. Mr. Trant stated that the applicant endorses all of the conditions proposed. He did however, want to make note that these conditions are unique to this facility in that what is proposed is exactly what will be built.

Mr. Henderson asked if this would be the primary location for the business.

Mr. Trant answered that the primary location is in Croaker proper. The location in this application would be primarily used for the development aspect of his business, the site work part of the business, and the storage of those types of equipment that are used in this aspect of his business.

Mr. Doug Gephardt spoke on behalf of the Economic Development Authority. He stated that David Nice Builder has been a significant contributor to the local economy for over thirty years and

employs over 175 people. He spoke on the growth of this business and felt that it was a vital part of the County and should be nurtured whenever possible. Mr. Gephardt stated that even though the zoning was A-1, this application proposed a low intensity use, and is limited to a small section of the parcel. He stated that facilitating the proposed expansion is consistent with the Business Climate Task Force stated goal of retaining valued existing businesses.

Mr. Bill Apperson, of 4900 Fenton Mill Road, spoke. He stated that his family owned a tree farm on the adjacent property. He spoke of his relationship with Mr. Nice and his contributions to the County. He stated that he felt that Mr. Nice would abide by all of the conditions in the proposal and encouraged the Planning Commission to recommend approval.

Mr. Fraley closed the public hearing.

Mr. Krapf stated he felt that this business is the type that the Business Climate Task Force is trying to encourage expanding in the County. He believes the location is appropriate for this type of business. He also felt that the berming that will be done screens it from Fenton Mill Road but also screens it from the traffic on Interstate 64. Mr. Krapf supports this application.

Mr. Henderson made a motion to approve the application.

Mr. Krapf seconded the motion.

Mr. Poole commented that the history of the applicant in the area is very admirable, and the conditions provide for many enhancements of the property. He supports the application.

Mr. Billups stated he felt that this use was appropriate for the area.

Mr. Obadal stated he visited the site and he too felt this was an appropriate use. He also supports this application.

Mr. Fraley stated he also visited the site and visited Mr. Nice. He stated he felt the landscaping plan is very attractive. He stated that Mr. Nice has agreed to all conditions set forth by Planning.

Mr. Henderson asked if conditions can be applied to part of a parcel or would the conditions apply to the parcel in its entirety.

Mr. Kinsman stated that the application was specific as to location so that the conditions could be applied to a portion of the parcel.

Mr. Sowers stated that there is a condition in the application to subdivide the parcel and once subdivided the conditions will only apply to that portion of the property.

In a roll call vote the motion was approved. (7-0) AYE: Poole, Henderson, Billups, Krapf, Peck, Obadal, Fraley.

D. ZO-0002-2008 Special Use Permit Use List Amendments

Mr. Purse stated that in accordance with the Business Climate Task Force report, staff has begun investigating possible ordinance amendments to certain specially permitted uses in various zoning districts. Staff compiled a list of specially-permitted uses (SUPs) that have similar impacts in these districts. Staff felt that moving those uses from SUPs to permitted uses will not have additional adverse effects on similarly zoned properties across the County. Mr. Purse stated that staff worked with the office of Economic Development as well as the Environmental Division in determining the suitability of these amendments. Staff recommended that the Planning Commission recommend approval of these amendments to the Board of Supervisors. He also stated that the Policy Committee voted 5-0 to recommend approval of the amendments as well.

Mr. Fraley opened the public hearing.

There being no comments, Mr. Fraley closed the public hearing.

Mr. Fraley suggested that each district be examined individually.

Mr. Fraley suggested starting with the M-1 and M-2 Districts.

Mr. Sowers mentioned that the Planning Commission had a work session on this topic earlier in the day.

Mr. Fraley stated that at this work session there was an update given on the recommendations of the Business Climate Task Force. The changes proposed with this application came out of the Task Force's recommendations.

Mr. Fraley initiated a discussion on the M-1 District.

Mr. Poole stated that he supported lifting the SUP requirements in the M-1 and M-2 Districts as proposed by staff. He stated that as a community, they recognize the placement, the benefits, and the activities associated with those uses in these zoning districts.

Mr. Krapf also stated he supported the changes to the M-1 and M-2 Districts. He stated the key for him was the impact on nearby residential developments. Uses in M-1 and M-2 are not compatible with residential developments but there is no concern in relation to that. In his opinion these are very segregated areas that are designated for this type of use and making these revisions would make the process become more efficient.

Mr. Henderson asked if there was a map that displayed the areas that are currently zoned M-1 and M-2 for those viewing the meeting.

Mr. Purse stated he did not have a zoning map that could be displayed but there was one that was made available during the work session that was held earlier.

Mr. Henderson asked Mr. Purse to characterize in general those areas in order of magnitude of what is being discussed.

Mr. Purse stated that the majority of the M-2 Zoning District is in the southern portion of the County. There are two industrial parks in this area as well as the Brewery. There are also some M-1 areas in this portion of the County. He stated there are some industrial parks in the

northern end of the County, such as Hankins Industrial Park, which is zoned M-2. He stated there is also some M-1 zoned property in the Lightfoot area around the Pottery.

Mr. Billups stated he would recommend this move forward to the Board of Supervisors.

Mr. Obadal expressed his concerns about abandoning individual choices with respect to the uses listed in the report. He thought it was important to determine in each case whether the use meets the requirements of 24-410 of the Zoning Ordinance. He gave an example of having a child care center next to something involving the manufacture of cans and metal products if these changes are approved. He is hesitant to abandon the legislative role in the special use permit process. Mr. Obadal believes that the public can make a judgment through the electoral process.

Mr. Peck asked Mr. Purse to give some examples of uses that currently exist in the M-1 and M-2 Districts.

Mr. Purse stated that some uses are manufacture, compounding, assembly, treatment of products made from previously prepared paper, plastic, metal, textiles, tobacco, wood, paint, fiberglass, glass, rubber, leather, cellophane, canvas, etc. He stated that manufacturing of, and or assembly of sheet metal products, and a number of other uses similar to these are currently permitted.

Mr. Peck asked if these uses currently have to go through the legislative process.

Mr. Purse stated no.

Mr. Obadal stated he did not want to add to the problem.

Mr. Fraley stated that these uses are not compatible with residential development for the purposes of the Ordinances. He stated there is not an impact on residential development in these districts. These areas are not adjacent to residential areas so he does not foresee a manufacturing plant being placed next to a residential development on purpose. Mr. Fraley stated these zoning districts are primarily in industrial areas and in industrial parks. He is supportive of the changes for M-1 and M-2 Districts.

Mr. Billups stated that there are some residential areas surrounding these business districts. In most cases, the residential development preceded the business use. He stated he believes there may be a possibility in these areas where a business will be near a residential development.

Mr. Purse stated that in the Landscape Ordinance there is a requirement of transitional screening between different zoning districts. Such requirements are a greater width of landscape area, along with a greater percentage of open space to be dedicated to landscaping.

Mr. Obadal discussed the uses that often go along a marina, such as boat rentals and restaurants. He stated this could affect the residential property that is close to this area. He has concerns with the uses in marinas and with the use involving the manufacture of metals and cans. Mr. Obadal expressed his concerns with the noise levels that might be generated by these uses.

Mr. Fraley wanted to begin with M-2 District.

Mr. Peck made a motion to approve the changes to the M-2 District.

Mr. Krapf seconded the motion.

Mr. Obadal asked if there was any noise that is emitted from electrical generation facilities.

Mr. Purse stated that the size capacity that is associated with this use is one that would only be necessary in an industrial park. He stated residential uses would not require anything of this size. He stated there are transitional screenings between the zoning districts.

Mr. Sowers stated that the only business that has required an electrical generation system special use permit has been the Brewery. It was a unique situation where a special use permit had to be obtained with conditions attached to this permit.

In a roll call vote the motion was approved. (7-0) AYE: Poole, Henderson, Billups, Krapf, Peck, Obadal, Fraley.

Mr. Fraley then wanted to address the M-1 District.

Mr. Obadal asked for a map of what property is zoned M-1, M-2, LB, and B-1 property in the County.

Mr. Sowers stated that he does not believe there is any property that is zoned M-1 along any body of water that could accommodate a marina. In order to establish one, it would require a rezoning application.

Mr. Purse agreed.

Mr. Krapf made a motion to approve the changes to the M-1 District.

Mr. Peck seconded the motion.

Mr. Obadal made a motion to amend the original motion made by Mr. Krapf to eliminate the manufacture of cans and other metal products, and commercial docks and marinas.

Mr. Billups seconded Mr. Obadal's motion.

In a roll call vote the motion to amend failed. (1-6) AYE: Obadal; NAY: Poole, Henderson, Billups, Krapf, Peck, Fraley.

Mr. Sowers clarified that the motion on the floor now is Mr. Krapf's original motion to approve the M-1 amendments as presented.

In a roll call vote the motion was approved. (6-1) AYE: Poole, Henderson, Billups, Krapf, Peck, Fraley; NAY: Obadal.

Mr. Fraley initiated the discussion on the B-1 District.

Mr. Poole stated he is not comfortable with lifting special use permit conditions in this District until the Comprehensive Plan update is complete. He would be open to revisit it after the

Comprehensive Plan process is completed.

Mr. Krapf agreed with Mr. Poole. He gave a recent example of a B-1 use, the Honda Expansion application. He stated that the property is zoned B-1, but the case was withdrawn primarily because of the opposition of the residents adjacent to the business. Mr. Krapf stated for example if these changes to B-1 were approved, a microbrewery could be established by-right adjacent to a residential area. He felt this would be better addressed during the Comprehensive Plan process. This would give an opportunity for citizens in residential areas that are most closely affected to have a discussion as to what impact the use could have to their property. He cannot support these changes.

Mr. Purse noted that automobile service stations are currently listed as a permitted use but under the special use permit commercial requirements service stations do require a special use permit. This change is more of an administrative change to clarify for business owners. He stated staff would like to consider this change separate from the others.

Mr. Sowers suggested taking a separate vote on the automobile service stations.

Mr. Henderson stated that this change would make it more restrictive than what is currently in the Ordinance.

Mr. Peck stated that a lot of discussion has gone into these changes that are proposed tonight. They were also recommended by the Business Climate Task Force and discussed by the Policy Committee. He can understand some of the issues. He believes that there is a public responsibility since a lot of time and public debate has gone into this over the last two years. Mr. Peck stated there is a public perception, and the Board of Supervisors has validated it, as to the system needing to be improved. He has concerns about delaying the changes proposed. If this is to be delayed, he would like to request that the public be made aware how it will be addressed and the time frame that this will occur.

Mr. Henderson stated he supports the initiative in its entirety. He viewed this as a simple, noncontroversial first step in making our Ordinance more uniform with regard to the business districts.

Mr. Fraley agreed with comments from the Commissioners. He stated that the Policy Committee recommended these changes 5-0. He appreciated the comments from his colleagues and it has made him take more time to consider these changes in a more deliberate manner. Mr. Fraley stated that LB and B-1 District are different from the industrial districts in that they do impact residential developments. He believes that surrounding residents should be involved in these two districts since these cases will directly impact them and their property. He believes that these changes would be better addressed through the Comprehensive Plan process. Mr. Fraley stated it would be his expectation that after adoption of the Comprehensive Plan, that citizen committees would be formed to review Ordinances and make recommendations for changes, and asked Mr. Sowers for comments.

Mr. Sowers stated staff will bring forward this as a work program proposal since the Division's work program is driven by the Board of Supervisors with input from the Planning Commission.

Mr. Peck made a motion to adopt the B-1 change regarding automobile service stations only.

Mr. Poole seconded the motion.

In a roll call vote the motion was approved. (7-0) AYE: Poole, Henderson, Billups, Krapf, Peck, Obadal, Fraley.

Mr. Billups made a motion to not recommend the remaining changes proposed to the B-1 District until after the Comprehensive Plan update process.

Mr. Obadal seconded the motion.

In a roll call vote the motion was approved. (6-1) AYE: Poole, Billups, Krapf, Peck, Obadal, Fraley; NAY: Henderson.

Mr. Billups made a motion to not recommend the changes proposed to the LB District until after the Comprehensive Plan update process.

Mr. Poole seconded the motion.

Mr. Poole stated that he was not attempting to be anti-business. He had concerns particularly in limited business, where there are some parcels very close to some residential areas. He believes in these circumstances a special use permit process is important in mitigating effects on residential areas. Mr. Poole mentioned that residents have expressed concerns about maintaining the quality of life in this community.

Mr. Billups stated the issue is public participation in the process. This is why he would rather address these issues after the Comprehensive Plan update.

Mr. Peck stated that while he does support the process, the public is not aware of the uses that are currently allowed in these districts. He does not want the perception to be that a special use permit is going to be required for most uses.

Mr. Krapf stated that rather than moving this forward, more time is needed to hear from residents that might be affected by these changes.

Mr. Obadal agreed.

In a roll call vote the motion was approved. (6-1) AYE: Poole, Billups, Krapf, Peck, Obadal, Fraley; NAY: Henderson.

8. PLANNING DIRECTOR'S REPORT

Mr. Sowers had one addition to the report in the Commissioner's packet, that there was a Policy Committee scheduled for July 9, 2008 to discuss the Capital Improvements Program.

Mr. Billups asked if all of the Commissioners have been the Commissioners training program offered by the Citizen's Planning and Education Association of Virginia.

Mr. Sowers answered there are some that still need to attend and there is a session in Fall 2008 and those notices should be going out at the end of the summer.

9. COMMISSION DISCUSSION AND REQUESTS

Mr. Henderson mentioned the announcement of Mr. Sower's retirement. He thanked him for his distinguished service to the community and he wished him the best in his retirement and thanked him for his service.

All of the Commissioners agreed.

Mr. Fraley stated he has worked with Mr. Sowers for five years and has found him to be very professional, knowledgeable and responsive to any discussions and questions. He stated he will miss his guidance, wisdom and knowledge of planning.

Mr. Fraley stated that he will be the representative to the Board of Supervisor's meetings in July and Mr. Billups attend the August meeting.

Mr. Peck mentioned working the CPT booth at the County Fair and recommended that Commissioners attend. He felt this is a good forum to listen and discuss issues with citizens.

Mr. Fraley stated he has been active and interested in new technologies with regard to cell phone towers. He believes James City County should explore alternative technology.

Mr. Poole made a motion to adjourn the meeting.

Mr. Krapf seconded the motion.

The meeting was adjourned at 10:25 p.m.


Jack Fraley, Chairman

O. Marvin Sowers Jr., Secretary