

A REGULAR MEETING OF THE PLANNING COMMISSION OF THE COUNTY OF JAMES CITY, VIRGINIA, WAS HELD ON THE SEVENTH DAY OF OCTOBER, TWO-THOUSAND AND NINE, 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:

Deborah Kratter
George Billups
Joe Poole III
Reese Peck
Rich Krapf
Jack Fraley
Chris Henderson

Staff Present:

Steven Hicks, Development Manager
Allen Murphy, Director of Planning/Assistant
Development Manager
Adam Kinsman, Deputy County Attorney
Tammy Rosario, Principal Planner
Leanne Reidenbach, Senior Planner
Jason Purse, Senior Planner
Ellen Cook, Senior Planner II
Sarah Propst, Planner
Terry Costello, Development Management Asst.

2. PUBLIC COMMENTS

Mr. Rich Krapf opened the public comment period.

Mr. Robert Duckett with the Peninsula Housing and Builders Association (PHBA) spoke. He outlined that PHBA members were concerned that the recommendations in the Comprehensive Plan draft to lower density in the rural residential areas and maintain low-to-moderate density levels in the Primary Service Area (PSA) will not accomplish the goals of directing growth to certain areas inside the PSA. He stated that in further discussions with members, they feel that the proposed conditions will make it difficult for average individuals on average incomes to live in James City County. Mr. Duckett urged the Commissioners to address these and encouraged them to make changes to the Comprehensive Plan draft.

Mr. Steve Romine, an attorney with LeClairRyan, spoke on behalf of Verizon Wireless. He stated that he had sent some correspondence to the Steering Committee registering objections to specific language that was in the draft Comprehensive Plan that dictated technology solutions with respect to wireless communication facilities in the Community Character section. He stated that some language in the current draft is problematic for the same reasons that he stated to the Steering Committee. Mr. Romine stated he feels that the County's current policy adequately serves the community's interest. The policy protects the general welfare, preserves the County's aesthetic and historic quality, while allowing flexibility for the wireless companies to serve the community. He stated that the County's current policy to effectively hide new facilities and to reduce their incompatibility with and impact on adjacent development has been successful. Mr. Romine stated that they feel that the current Comprehensive Plan allows companies to deploy new technologies and in doing so provide the best solution. He stated that he specifically takes issue with the phrase "appropriately regulating wireless communication technology to preserve existing community character" on page 98 of the draft plan. He stated that a technology

preference would raise significant legal concerns. Mr. Romine stated that a specific preference is not simply one of placement of facilities, instead utilizing a specific technology to provide wireless service is a choice that carries with it significant engineering tradeoffs. He stated that a preference for a new technology steps outside the boundaries of traditional local zoning authority. This narrow field is wholly governed by the federal government. He stated that wireless phone service is a communication service and as such has always been subject to exclusive federal regulation. Mr. Romine stated that the Federal Communications Commission (FCC) has asserted federal primacy over the areas of technical standards in competitive market structures for cellular service. He stated the FCC has stated that state and local government entities can not have any role in adoption of technical standards for cellular service. He stated the FCC asserts exclusive jurisdiction over the technical aspects of cellular service is consistent with the Supreme Court's long standing recognition. Mr. Romine stated that any preference for a certain technology would exceed the bounds of permissible regulation of aesthetics and community character under the County's traditional zoning authority. He did not feel that the Planning Commission and the Board of Supervisors should adopt a potentially unlawful preference that could be subject to challenges.

Mr. Krapf closed the public comment period.

Mr. Fraley requested to make a comment. He thanked Mr. Duckett and Mr. Romine for their comments. He stated that with respect to housing, there are 15 action items listed in the draft Comprehensive Plan. He stated that the Steering Committee did consult with the County Attorney's office and the language concerning wireless facilities is lawful.

3. MINUTES – SEPTEMBER 9, 2009

Mr. Chris Henderson moved for approval of the minutes with a second from Mr. Joe Poole.

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

4. COMMITTEE AND COMMISSION REPORTS

A. Development Review Committee (DRC)

Mr. Poole stated that the DRC met on September 30, 2009 to discuss three cases. The first case was SP-0071-2009, Warhill Community Gymnasium. The facility is proposed to be 32,000 square feet. The DRC unanimously recommended preliminary approval subject to agency comments that were attached to staff's report. He stated the DRC added their expectation that the exterior building elevations would be presented to the DRC once they are completed. The second case was SP-0074-2009, Sidewalk Waiver Request for Nick's Lawn Care at 8231 Richmond Road. Following some discussion, the DRC approved the modification request by a vote of 4-1, to provide an eight foot wide pedestrian trail along the property's frontage. Mr. Poole stated the third case was SP-0064-2008, Autumn West Townhomes. After a lengthy discussion, the DRC unanimously deferred action on this by-right residential site plan until October 28th. He stated the applicant was encouraged to arrange a separate meeting with

adjacent residents before the October 28th meeting. Mr. Poole stated that staff and the applicant were encouraged to provide graphics that could be easily viewed by all attendees.

Mr. Henderson moved for approval of the DRC action report with a second from Ms. Deborah Kratter.

In a unanimous voice vote, the DRC action report was approved (7-0).

B. Policy Committee

Mr. Henderson stated that the Policy Committee did not meet in September.

C. Other Reports

There were no other reports.

5. PUBLIC HEARINGS

A. SUP-0014-2009 Chickahominy Riverfront Park

Ms. Leanne Reidenbach stated that Mr. Aaron Small of AES Consulting Engineers has applied on behalf of James City County Parks and Recreation, for a Special Use Permit to make improvements to existing facilities at Chickahominy Riverfront Park and to master plan the entire park property for community recreation. The property is located at 1350 John Tyler Highway, is zoned PL, Public Land, and is designated Park, Public, or Semi-Public Open Space on the Comprehensive Plan. This special use permit was previously presented at the September 9th Planning Commission public hearing and was deferred. Based on discussion at that meeting, staff has amended conditions #3 and #7 regarding tree clearing to include review by the Director of Planning and the Development Review Committee. Staff has also mailed adjacent property owner notifications to the corrected addresses and has not received comments back from any of the recipients. Staff finds this proposal, with conditions, to be consistent with surrounding land uses and the Comprehensive Plan. Staff recommends that the Planning Commission recommend approval of this special use permit with the attached conditions to the Board of Supervisors

Mr. Poole thanked the applicant and staff for incorporating the changes to conditions #3 and #7.

Mr. Krapf asked if there were any public comments.

There being none, he closed the public hearing.

Mr. Fraley moved for approval with the amended conditions, with a second from Mr. Reese Peck.

Mr. Henderson stated he continues to be concerned over the lack of public utilities to this site. He is concerned with the liability that the County will be undertaking as proprietor of the

temporary structures that will be located at the site. He feels that the County is called to a higher standard with regards to public utilities and he cannot support the plan as presented.

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

B. SUP-0019-2009 Treasure Island Road Wireless Communication Facility

Mr. Fraley stated that he serves on the Board of Zoning Appeals (BZA) and there are some outstanding issues between the Board and AT&T. He stated that Mr. Adam Kinsman, Deputy County Attorney, has advised him that under the law he has no restrictions from hearing this case. Mr. Fraley has chosen personally to recuse himself from this case.

Ms. Sarah Propst stated that Ms. Lisa Murphy of LeClairRyan has applied for a special use permit to allow a 124 foot wireless communications facility to be built on a parcel zoned R-8, rural residential. The site is 0.83 acres out of a 457.8 acre parcel and is located at 1700 Treasure Island Road. It is shown as Rural Lands in the Comprehensive Plan. The surrounding 450 acre parcel is utilized as a farm and is in the Gospel Spreading Farm Agricultural and Forestal District (AFD-0012-1986). The adopted conditions for the AFD designation allow the placement of a wireless communications facility. The conditions with this application also include the maintenance of a 100 foot buffer of mature trees surrounding the tower site.

She stated that staff believed that this is an appropriate location for a wireless communications facility. Due to the topography and vegetation, the tower will not be visible from the nearby Vineyards neighborhood and has a very limited visual impact on the Colonial Parkway. Additionally, the construction of a wireless communications facility on this site will not impact the current use of the property as a farm. All agencies have reviewed this application and have offered no objections. Staff finds this proposal to be in accordance with the Zoning Ordinance and the Comprehensive Plan. She stated that staff recommends that the Planning Commission recommend approval of this application to the Board of Supervisors for the construction of a wireless communications facility at 1700 Treasure Island Road.

Mr. Poole asked if the Colonial National Historic Park has been consulted.

Ms. Propst answered that a representative of the National Park Service was present tonight and they are in agreement with the location of the tower.

Mr. Poole asked if the color of the tower was to be an unpainted galvanized finish.

Ms. Propst answered that this determination would be at the discretion of the Planning Director at the time the site plan is approved.

Ms. Kratter asked if there were any comments from adjacent property owners or others from the neighboring subdivisions.

Ms. Propst stated she was not contacted by anyone who was opposed to it. There was

one telephone complaint from an individual living on the property.

Mr. George Billups asked if the ownership issue of the land was resolved.

Ms. Propst answered that in 2007 there was a court decision that determined ownership of the property to be James City County Bible and Agricultural Training School. This land is sometimes referred to as the Gospel Spreading Farm.

Mr. Billups asked if there was approval for this application from the Board of Directors of the James City County Bible and Agricultural Training School.

Ms. Propst stated that they have approved it and they are the applicants.

Mr. Billups asked if the members of the Board of Directors were on file.

Ms. Propst stated that she did not have the names with her.

Mr. Kinsman clarified the court decision regarding ownership. He stated that Judge Powell of the Circuit Court confirmed that the property was owned by the James City County Bible and Agricultural Training School. Judge Powell also confirmed that Mr. Howard Smith had a life interest in the property and he could remain on the property for the remainder of his life. Mr. Kinsman stated that the application was signed by a representative of the School, and by signing it he has asserted he has the right to sign it.

Mr. Krapf opened the public hearing.

Ms. Lisa Murphy of LeClairRyan spoke on behalf of the applicant, New Cingular Wireless PCS, trading as AT&T. She stated that statistics show that 20% of individuals have only wireless phones in their home. The type and quality of reception that will be received is part of the decision making process in deciding whether to go completely wireless or not. She stated there is an increasing need to have service where the users are. Ms. Murphy displayed where the service and coverage is currently and where current antennas are located. She stated that the Colonial Parkway was included in this, and the challenge has been to provide service while attempting not to have the tower visible from the Parkway. She stated that AT&T involved the National Park Service from the beginning of the project. Ms. Murphy stated that there were several balloon tests performed over the course of the project. She displayed the signal propagation with the proposed site. She displayed the pictures showing the results of the balloon tests. Ms. Murphy stated that the National Park Service has requested that the pole be a galvanized finish. She stated that because of the amount of bikers that travel the parkway, the Historic Triangle Bicycle Advisory Committee was notified. They had no problems with the location of the tower.

Ms. Murphy distributed information to the Commissioners concerning the court order that determined ownership of the property. She stated that the decision was that the rightful owner of the property is the James City County Bible and Agricultural Training School. The court went on to enjoin the Smiths from representing to anyone that they have a right to the title

or interest as an owner of the property. Ms. Murphy stated the Gospel Spreading Church and Judge Powell of the Circuit Court gave Mr. Smith the ability to live on the property until his death or relocation to another property.

Ms. Murphy stated that the property will be leased by AT&T from the Gospel Spreading Church and none of the property will be removed from the Agricultural and Forestal District. She displayed examples of what a "slick stick" tower would look like. She requested that the Planning Commission recommend approval of the application to the Board of Supervisors.

Mr. Henderson asked if Treasure Island Road was a public right-of-way.

Ms. Murphy was unsure. She stated that Treasure Island Road does not have access to Colonial Parkway.

Mr. Henderson asked if there were other property owners on Treasure Island Road other than the Gospel Spreading Church.

Ms. Murphy was not aware of any.

Mr. Poole appreciated the request for a galvanized finished pole.

Mr. Howard Smith, 101 Dogwood Drive, stated he has been connected with the farm on the property for several years. He gave a history of the farm that is on the site and the property itself. He stated that this farm is known as the oldest laboring farm and is the last existing dairy farm in James City County. Mr. Smith expressed his concern over a major storm changing the tree line and making the tower more visible. He stated that there are four families that live on the property.

Mr. M. D. Smith spoke concerning the application. He gave a history of the property and he stated he is the one who operates the farm and is caretaker of the property. He stated he has been on the property since 1943. Mr. Smith read various passages from the Bible that he believed restricted the ability to sell the property.

Mr. Karl Jones spoke and stated he was a member of the Gospel Spreading Church. He stated he currently resides in Hampton. He came to the meeting tonight to obtain some information regarding the special use permit. Mr. Jones stated he would like to see what outcome is determined to ensure that the church members benefit from the decisions. He felt that most church members were not aware of the proposed tower.

Mr. James Stokes, treasurer of the James City County Bible and Agricultural School, spoke concerning the application. He stated this application is not dealing with a sale, but a lease over a period of time. He stated that the Church operates a camp during the summer for children. A concern is the lack of telephone service at the site. Mr. Stokes stated that each week there are 60 – 75 children attending this summer camp. He stated this is a safety issue with children there and no phone service. He stated that during the day these children are taken on hikes away from the building and if there was an emergency there could be a problem contacting help. Mr. Stokes

stated that he is willing to share information with anyone that is interested.

Ms. Griffin-Allmond spoke and stated she was a resident of the farm. She asked that the Planning Commission defer their decision until this request is communicated to the congregation of the Church of God.

Ms. Valerie Jones spoke and stated she was a member of the Gospel Spreading Church. Her concern was that this request was not communicated to the members of her congregation.

Mr. Anthony Smith spoke and stated he was a member of the Church of God and also works on the farm. He stated that the Church of God purchased the farm many years ago. He expressed his concern over the fact that this application was not communicated to the members of the Church of God. Mr. Smith expressed his concern over the health concerns of living near the tower.

Mr. Krapf closed the public hearing.

Mr. Henderson expressed his concerns about proper notice to impacted property owners and occupants. He stated he would be surprised that AT&T would not identify property owners and engage in some dialogue concerning the application.

Ms. Murphy answered that part of the challenge was that the individuals who spoke were from the church that sued for ownership of the property involved in the case. She stated that the County notified adjacent property owners but was unsure about what notification the owner made with those living on the property.

Mr. Kinsman stated that the court order was the result of legal action taken when Mr. Smith was building a house on the property and the County was asked to determine who was allowed to obtain a building permit. Judge Powell of the Circuit Court ruled that there is one owner of the Gospel Spreading Farm and that is the James City County Bible and Agricultural Training School. As a result of the court order, Mr. Smith is allowed to remain in the existing house for the remainder of his life. He stated that legal notices are sent to the owners of record. But the owner of record for this property is the applicant so he was unsure as to whether a notice would actually be mailed.

Mr. Krapf stated that there was a sign placed on the property and an advertisement was made in the local newspaper.

Mr. Kinsman stated that the sign is not required by the Code of Virginia, but the County goes beyond what is required to give ample notice. The advertisement in the newspaper is run twice for two successive weeks.

Mr. Billups expressed his concern over the property being a part of history in the County. He spoke about the court decision and how things may have been framed a certain way. He was concerned that this may be viewed as a takeover. He stated that this farm was a part of Afro-American history. Mr. Billups stated that individuals have a right to be involved in the process

that affects their lives and expressed his concerns over the lack of communication to the residents of the property. He stated that the County may have some liability with regards to this application. He suggested deferring the case to allow for more discussion among those most affected.

Ms. Kratter asked the applicant if he would consider having a discussion with those who spoke today and others who might be affected. She mentioned a case that the DRC had heard that month where the applicant agreed to a deferral so as to meet with concerned citizens and adjacent property owners.

Mr. Stokes stated that the Board of Directors would consider it. He did state that there have been several balloon tests done and that many of the residents were present at that time. Mr. Stokes stated that this is not a black and white issue and that some of the residents who spoke tonight are not members of the church involved. He stated that the Board of Directors has protected that land. There has been an ongoing issue with regards to land ownership. Mr. Stokes stated they will meet with anyone interested, but they would like to move forward.

Mr. Kinsman stated that the Planning Commission is a body in charge of making land use decisions. This is not a race issue nor is it an ownership issue. The ownership issue is settled and the County cannot question the court's ruling. He stated the Commission should be looking at the James City County Code and the Wireless Communications Ordinance to determine whether or not this application meets those ordinances. The decision should be based solely upon this.

Mr. Poole stated that he appreciated the comments made by the Commission, the applicant, and the public present. He is prepared to support the application, but would have no objections if the applicant wanted to defer it. He was unsure as to whether the reasons suggested for the deferral are similar to a case mentioned earlier where the applicant agreed to defer the case to meet with citizens and nearby owners. Mr. Poole stated that this application deals with a large parcel of land owned by the same entity and ownership has been determined. He stated he is sensitive to the history of this site but the pictures indicated that there were power lines and utility lines around that serve the property. He felt that in this case, the applicant has made a good faith effort to be mindful of the historic value of the property. Mr. Poole is not convinced that there is an issue with the notification of adjacent property owners. He does, however, respect the issue concerning those who are living on the property.

Mr. Billups stated that he would just request that the individuals on the property be given some consideration. He was referring to the use of land in his previous comments, not the ownership. Ownership of the land has been established.

Mr. Krapf clarified that the issue before the Commission is the special use permit application for a wireless communications tower. The issue of ownership has been determined by a court order. He stated the Commission needs to treat this case like every other case. There is an applicant who is the legal owner of the property making a request for a special use permit that is in accordance with County ordinances, the Comprehensive Plan, and other related materials. Mr. Krapf appreciated Mr. Stokes' flexibility in meeting with those interested, but he

does support this request.

Mr. Peck asked Ms. Murphy if they were willing to meet with interested parties regarding the case.

Ms. Murphy stated that they would be more than willing to meet with anyone interested. She felt that what was stated earlier this evening had to do with internal/external ownership disputes. She stated the applicant had a balloon test on March 20, 2009 and there was an advertised test conducted on September 14, 2009. Ms. Murphy stated there was a community meeting on September 24, 2009 that was also advertised, but no citizens attended.

Mr. Peck asked if the Commission approved the application would the applicant be willing to meet with concerned citizens for informational purposes only.

Ms. Murphy answered yes.

Mr. Poole moved for approval of the application with the acknowledgement that Mr. Stokes would meet before the Board of Supervisor's meeting, with interested parties for informational purposes.

Mr. Krapf seconded the motion.

Ms. Kratter moved to amend the motion to make the public meeting a condition of recommending approval of the application.

Mr. Kinsman stated that this could not be a condition of the special use permit since it is not a land use condition. It could be part of the motion as a condition to the Commission's recommendation for approval.

Ms. Kratter stated that it should be a condition of the Commission's recommendation.

In a roll call vote, the application was approved (5-1). (AYE: Kratter, Henderson, Poole, Peck, Krapf. NAY: Billups, and Mr. Fraley recused himself)

6. PLANNING COMMISSION CONSIDERATIONS

A. 2009 Comprehensive Plan – Historic Past, Sustainable Future

Mr. Krapf thanked staff for incorporating all of the changes from the September 30, 2009 work session in to a final draft for tonight's meeting. For tonight's meeting he would like to address those items that the Commission agreed to follow up on from their last meeting, and then discuss new items that have surfaced since the September 30, 2009 meeting.

There was some discussion as to whether specific language regarding the population targets was approved. Ms. Kratter thought that the language concerning the targets would be reviewed tonight. The language can be found on page 169 of the draft plan.

The next topic was the implementation priorities. Mr. Krapf stated there was a request to discuss how the low, medium, and high ratings were decided upon.

Mr. Jason Purse stated that staff tried to identify items that were already in the County's work program, such as the Zoning Ordinance amendment process that is planned after the Comprehensive Plan is adopted. Those items that staff knew they would do were labeled as high priority. Mr. Purse said that other departments were contacted to determine what was in their particular work programs and what they considered high priorities. Then the Steering Committee's suggestions were taken into consideration, along with those suggestions from the Planning Commission and the Board of Supervisors. He stated that County Administration was consulted as to the items that they knew would be on the work program. Mr. Purse stated that some of the items that needed additional research or funding were identified as a lower priority. Items that were more long term goals were listed as a lower priority.

Mr. Fraley suggested moving some items to the category of high priority under the Environmental section. For instance, Action 1.1.2 is stated as "promote the use of better site design and low impact development and effective BMPs." This item has a lot of history behind it with public committees that worked on that principle. He felt this should be a high priority.

Mr. Fraley suggested Action 1.1.2.5, Action 1.1.2.6, and Action 1.1.2.8 all be changed to a high priority status. Mr. Fraley also believed that the items involved in the protection of trees should continue to be a high priority.

The Commission agreed to the changes.

Mr. Allen Murphy stated that the overarching goal would be to move better site design items to a higher priority. With these changes, it is suggested that some actions would be at a higher priority than other actions under that particular strategy.

Mr. Fraley stated that in his opinion that would be correct. He asked if this would be an issue.

Mr. Murphy answered no, as long as it was understood that some have a higher priority than others even though the overarching strategy was to promote better site design.

Ms. Kratter stated that she was not sure if having certain items as a lower priority due to budgetary concerns was an appropriate measure to group the items. She stated that there may be items that are very important, but due to budgetary constraints are not able to be done. These items should still be categorized as a high priority.

Mr. Purse stated that items that would require attention, time, and/or funds were not marked as a lower priority across the board. It was not staff's intent to base priorities on funds available.

Mr. Krapf asked Ms. Kratter to initiate the discussion on the executive summary. She

stated that she sent the Commissioners and staff her suggestions for revisions and additions. She felt that the executive summary is important because it helps to set the tone for the entire document. She added Mr. Krapf's comments to her suggestions. Ms. Kratter did not receive any other additional comments from staff or other Commissioners.

Mr. Krapf had a question concerning Ms. Kratter's insertion under the heading "Snapshot: Where We Have Been and Where We Are Today." The insertion was "recognizes that although fast paced growth has provided new options in employment, services, and housing; citizen input indicates that a large majority want future growth to be limited in order to protect the unique character of the County." He questioned the word "limited." He would be more comfortable with "manage growth" as oppose to "limit growth."

Ms. Kratter stated that the majority of citizens participating in this process have stated that limiting growth is what they would like to see.

Mr. Henderson stated that the way he reviewed the results of the citizen surveys was that there was approximately 32% - 34% of the population that strongly agreed with the statement that James City County was growing too fast. The balance either moderately agreed or disagreed with that idea. Mr. Henderson did not feel that 34% was a majority. He stated that he objects to the inclusion of that language in the executive summary. He also felt that a majority of changes in the executive summary have the tone of controlling or limiting growth. Mr. Henderson does not believe the majority of citizens are in agreement with this as the numbers show in the surveys that were taken. Based on this, he is unsure whether he could support the changes proposed by Ms. Kratter.

Ms. Kratter quoted that the draft stated "that these comments are reinforced by the results of the Virginia Tech survey which indicated that 83% of the respondents agreed that the development of the land in the County was happening too quickly. This is a 5% increase over the last survey performed in 2001." She felt that this indicated that a majority of the citizens did not want business as usual. Ms. Kratter felt that since surveys were conducted to ask people their opinions, then the draft document needed to reflect these opinions. She believes that the changes she has proposed reflect the input from the citizens so that they feel they have been heard.

Mr. Fraley stated that he is in agreement with the changes so long as the survey is reflected accurately. He stated the survey results were that 58% strongly agreed and 25% somewhat agreed that the development was happening too quickly. He would not group both categories as one and state 83%.

Ms. Kratter stated she would have no objection to this if it was broken down into categories every place that mentioned survey percentages. In other discussions that have taken place, the Commission has taken the liberty of combining these areas.

Mr. Fraley asked if there were any other percentages cited in the executive summary.

Ms. Reidenbach did not believe there were.

Mr. Fraley felt that the breakdown could be included in the executive summary only without going back and changing all the numbers throughout the document.

Ms. Reidenbach stated that there was one other citation of the Virginia Tech Survey, where it was mentioned whether the County was a good or excellent place to live.

Mr. Fraley suggested to adding the “strongly agreed or somewhat agreed” to the language quoting the 83%.

The Commission and staff agreed on this.

Mr. Krapf suggested removing the word “large” from “large majority.”

The Commission and staff agreed.

Ms. Tammy Rosario stated that this was an example, and there were a few others, where the discussions have strayed from sticking to the exact survey wording and proceeded to a next level of broadly connecting what the survey said with a particular direction in the document. She stated staff felt some discomfort with this. Staff took a more conservative approach of reporting the survey results more literally. She stated that if the Commission felt that something needed to be added with regard to the survey, staff could propose something.

Ms. Reidenbach added that there was more detail concerning the citizen surveys after the executive summary.

Mr. Poole stated that he appreciated the comments and suggestions from the Commissioners and staff. He still feels that this plan is a guide, not an ordinance. The details should be left to the Zoning Ordinance update and the public hearing cases that are heard by the Commission. There could be a lot of time spent rewriting this plan. He feels uncomfortable getting into the level of detail that is taking place at the moment. Mr. Poole would be in agreement to accept the draft plan as presented with no more edits.

Ms. Kratter stated that these changes were given to the Commissioners and staff prior to tonight’s meeting. She stated the understanding was that the executive summary was going to be a collaborative effort between her, Mr. Fraley, and staff. For a variety of reasons, it was not completed as such. She felt it was crucial to have some of the changes added; otherwise, there was no point to having all of the citizen participation. She felt it was important to have something that holds everyone accountable for listening and understanding; otherwise, the document may not be very useful.

Mr. Fraley stated caution should be taken when making changes due to the fact that the document could be changed constantly to suit any particular person’s wording preferences and viewpoints.

Mr. Krapf felt that the action items were the translation of the survey results. Each

Commissioner at some point would need to agree that they could support the Comprehensive Plan and were in general agreement with its content. It was suggested to accept the executive summary in the draft as presented by staff. Five Commissioners were in agreement.

Mr. Krapf stated that Mr. Peck had a suggestion of listing a top five or top ten of “super priorities” that would be highlighted. He previously asked Commissioners for their input and was given a few suggestions. Mr. Krapf did not submit any because he felt there were so many good action items, and to highlight a few would take away from the rest. He felt that every year the Board of Supervisors determines what projects are priorities. Mr. Krapf asked Commissioners if there was a consensus to have a top five or top ten list of priorities.

Mr. Fraley stated he only responded because Mr. Krapf asked him for input.

Mr. Krapf asked the Commissioners if they wanted to add a top five or top ten priority listing. Two out of seven Commissioners agreed, but since the majority did not want to add this, it was determined to not include the list in the draft.

Ms. Kratter then discussed the changes that she had sent out to Commissioners and staff. She stated her changes were to make the County more responsive to its citizens. She felt there were some areas where something was stated incorrectly or was not clear enough. She stated the first one was in the vision statement under the heading “Sustainable Future.” She wanted it clarified that “to sustain” is not the same thing as “to survive.” Ms. Kratter wanted to emphasize after the first sentence because she felt that there should be more than “leaving the County in good shape.” Sustain means that the County will be strengthened and preserved for that which is most special. The Commission and staff were in agreement.

Mr. Poole stated he did not receive some of this information until today. He encouraged fellow Commissioners to use the County email addresses since some of this was sent to his home email address and he could not retrieve some of it. He expressed his views about getting too detailed and having more and more revisions to the draft.

Ms. Kratter suggested taking what staff had added to the executive summary regarding the definition of “consider,” redefining it and moving it to page 9 of the Planning Process.

Mr. Purse stated that staff felt that this text was better in the Implementation Guide along with the schedule. The Planning Process concerns the process of developing a comprehensive plan and the approval process, not so much of what happens after it is approved.

Mr. Krapf suggested adding it to the Implementation Guide also since it discusses a reporting mechanism through the annual report on the status of the action items.

Mr. Purse stated that Ms. Kratter’s suggestions concerning the definition of “consider” were in the Implementation Guide text already, but that staff could insert additional wording. It was added to page 197 of the document.

Ms. Kratter was in agreement with this.

Ms. Kratter wanted to review the exact language that would be adopted for the determination of the population level. She felt that this should be called out and also added to the discussion of Demographics on page 12. She suggested the wording to be “indeed for the first time the plan includes a new strategy and calls for a determination of the population level and rate of growth that will ensure a high quality of life and protect and preserve our unique character and natural resources and a review of all legislative actions and policies with a view to controlling the amount and pace of development consistent with that vision.” She stated she refined some language that had been approved by the Planning Commission earlier.

Mr. Fraley stated that the approved language was in Land Use Action 1.5.3 on page 169 of the draft plan. He stated that a motion was made to approve this language at the previous public hearing.

Ms. Kratter wanted to clarify this language.

Mr. Krapf stated that Ms. Kratter’s suggestion is to take this language and move it into the Demographics section. She thought it was important to highlight in this section since it was the first time that the Comprehensive Plan has this item. She would also like to clarify the language in Land Use (Action 1.5.3).

Ms. Rosario stated that in addition to being in the Land Use section, it is also highlighted in the Executive Summary per the direction of the Planning Commission at the last meeting. If it were added to the Demographics section, it would change the character of that section from a presentation of facts to having the element of goals, strategies, and actions.

Mr. Krapf asked Commissioners if they would like to add this wording suggested by Ms. Kratter to the Demographics section. Only one Commissioner voted yes; therefore, it will not be added to the Demographics section.

Ms. Kratter suggested changing the wording on page 27 in the Economic Development section from “beer” to “brewing.” The Commission agreed to the change.

Ms. Kratter suggested changing the wording earlier in the paragraph from “economic sustainability is the creation of,” to “economic sustainability requires an adaptive.” The Commission agreed to the change.

Ms. Kratter spoke on some changes in the Housing section. On page 43 she suggested changing the wording of “role of housing in a sustainable community” to “sustainable housing in a community.” The Commission and staff agreed to the change.

Ms. Kratter pointed out that for Action 1.3.1, it says that a review and a revision will be “done” as opposed to “considered.” She also pointed out where it was stated that a fast track system would be “developed” as opposed to “considered.” She stated that these items will increase density and asked the Commission if the wording should be changed. Ms. Kratter suggested changing the wording to “reviewing and assessing the feasibility.”

Mr. Fraley stated that this action item was to promote and support affordable and workforce housing. He suggested changing it to “review and consider.”

The Commission and staff agreed to the change.

Ms. Kratter stated the same would be true of Action 1.3.12, where it would read to “consider a fast track system” as opposed to “develop a fast track system.”

The Commission and staff agreed to the changes.

Mr. Fraley stated that the Steering Committee and the citizen groups went through the language very carefully when developing these action items.

Mr. Peck stated that affordable housing is a real need in the County. He stated his view was that this language was to encourage affordable housing. There are costs to affordable housing. He is comfortable with leaving the language as is.

Mr. Billups expressed the importance of developing a fast track program to develop affordable and workforce housing in the County. He asked whether the Board of Supervisors has adopted anything regarding workforce housing.

Mr. Kinsman answered that he was unaware of any specific document regarding workforce housing.

The Commission agreed to leave the language as is for Action 1.3.12.

Ms. Kratter suggested changing the word “attain” to “obtain” for Action 1.3.8. The Commission and staff agreed to the change.

Mr. Kratter suggested a change of wording on the statement in the Community Sustainability Spotlight on page 75 to “maintain healthy ecological processes.” She would like to clarify that in the next few sentences the thought is to survive or maintain the environment. She believes that the County would probably want to do more to preserve and enhance the environment.

Mr. Fraley stated his concerns over the statement that the “citizens desire more than basic environment survivability.” He does not believe this came from citizen comment. He believes that this statement reads negatively. He agrees with upgrading some of the definitions. He suggested “County residents expect that the environment will be preserved and enhanced as a valuable asset.”

Ms. Rosario stated that it may be out of place to discuss citizen commentary in the sustainability spotlight. It is not consistent with other spotlights.

Ms. Kratter suggested the statement “sustainability would require that the environment be preserved and enhanced as a valuable asset.”

The Commission and staff agreed.

Mr. Henderson stated that there will be more stormwater regulations being implemented. There may be issues when discussing enhancing as opposed to preserving. He believed the term “enhance” was too broad.

Mr. Peck suggested “preserve and protect.”

The Commission agreed to Mr. Peck’s suggestion.

Mr. Krapf expressed his concerns about the level of detail in going through these changes in the draft.

Ms. Kratter asked about the comments expressed earlier from the wireless carriers concerning encouraging certain technology.

Mr. Kinsman stated that there were no issues encouraging certain technology as long as preferences are not specified.

Ms. Kratter expressed some concern over the language in Action 1.7.1 on page 193 under Community Character concerning wireless communications.

Mr. Fraley stated that the County Attorney had reviewed the language and what is proposed is as specific as the County can be.

Ms. Kratter agreed with this.

Ms. Kratter suggested changing the language in Action 1.5.1 on page 101 in the Community Character section.

Mr. Fraley was not comfortable with the change suggested. He would like the language to remain since there was a lengthy discussion between staff and the Steering Committee on this topic.

Mr. Poole again expressed his concerns about rewriting the plan and how detailed the changes are. He respects his fellow Commissioners opinions but does not feel that this is a constructive use of their time.

Mr. Krapf asked the Commissioners if there were any other edits. There were none.

Mr. Henderson had a question concerning the insertion on page 25 of the percent of revenue derived from non-residential sources. He thought there was a companion chart to go with this information and asked if it was going to be included in the final text.

Ms. Rosario stated it is included in the technical report.

Mr. Henderson suggested moving the chart from the technical to the final text document. He felt it would clarify the information stated.

Ms. Rosario stated staff is comfortable with the material itself since there was extensive work done in developing it; however, it was included in the technical report with the other detailed information in a similar manner to what has been done for the other sections. She stated staff's preference would be to leave the chart in the technical report, and make a reference to the chart's location in the final text.

Mr. Krapf asked for a vote to include the chart and footnotes on page 25 concerning the revenue from non-residential sources. Only three Commissioners voted yes; therefore, the chart and footnotes will not be included on page 25 but remain in the technical report, with an added reference in the final text.

Mr. Henderson moved for approval of the 2009 Comprehensive Plan with a second from Mr. Poole. An errata sheet will be presented along with a copy of the draft.

Ms. Kratter asked for assurance that the Board would receive a clean draft that incorporated all agreed upon changes.

Mr. Murphy stated that the Board of Supervisors will receive the amended draft, but an errata sheet is done for audit purposes.

Mr. Poole asked if this draft expands the primary service area (PSA).

Ms. Rosario answered that the Hill Pleasant Farm area proposed to be designated as Economic Opportunity (EO) will ultimately add acreage to the PSA, but that would be done only after a satisfactory master plan was developed for the property at a later time. There is the expectation of this area will be added, but it is not actually added in this Plan. Therefore, this draft does not expand the PSA.

Mr. Poole appreciated the work of staff, the Community Participation Team, the Steering Committee, the Planning Commission, and citizens involved in the process, for their work and dedication. He views the plan as a strategic plan, with the real decision making involving sustainability and quality of life dependent on the decisions of the public hearing cases that come before the Commission and the Board of Supervisors. He believes this plan limits growth in the outlying areas. Mr. Poole stated he is not comfortable with the population cap because he believes it may inadvertently create some growth that might not be desired. He feels this plan addresses commercial growth in encouraging reuse and re-energizing commercial areas instead of placing new commercial growth further out. He believes this is an important part of sustainability and community character. Mr. Poole feels that the development of a master plan is key to the development of the new Economic Opportunity area. He does not support the annual amendment process. He does not feel that the County can move forward if there is an opportunity to amend the plan annually.

Mr. Fraley stated that overall he believed that the PSA contracted slightly with all of the land use applications.

Ms. Rosario stated that was correct, the overall the area was reduced slightly with the approval of the Hazelwood Holdings application.

Mr. Fraley clarified that the amendment process does not necessarily mean amendments would be done every year. It permits someone to apply for an amendment. Mr. Fraley thanked staff for all of their hard work and dedication. He appreciated their responsiveness and the quality of work that was presented.

Ms. Kratter stated that she continues to be disappointed that not enough was included in the plan to require accountability by appointed and elected officials. Despite this, she will support moving this plan to the Board of Supervisors.

Mr. Henderson felt that this plan is a citizens' plan. Overall, he feels that it is a plan worthy of James City County and will serve the County well going forward. He feels that the annual amendment process will serve the County well also. There is still a lot of work to do regarding limiting growth in the rural lands. Mr. Henderson felt that the plan does a good job encouraging business growth and is prepared to support the plan.

Mr. Peck felt that this plan was a clear statement to the citizens that the officials have listened and heard their concerns. There were institutional reforms set up in the plan along with a list of priorities to be undertaken. For the first time, there is a monitoring and reporting process. He believes that these are fundamental changes. Mr. Peck thanked staff for working with the Commission because he realizes it was a give and take and educational process. He strongly supports the plan.

Mr. Billups thanked staff for all of their work that was done and the work still left to do. He appreciated Mr. Fraley's work as the Chairman of the Steering Committee and his involvement in the Community Participation Team.

Mr. Krapf thanked staff and his fellow Commissioners for their work.

In a roll call vote, the draft Comprehensive Plan was approved (7-0). (AYE: Fraley, Kratter, Henderson, Billups, Poole, Peck, Krapf.)

7. PLANNING DIRECTOR'S REPORT

Mr. Murphy had no comments.

8. COMMISSION DISCUSSIONS AND REQUESTS

The Planning Commission representative for the Board of Supervisor's meetings in October is Mr. Krapf.

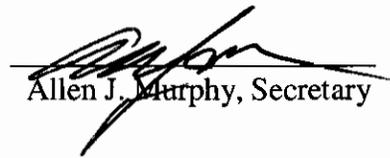
Mr. Poole asked if staff would like the binders returned that have been given to the Commissioners. Staff will contact the Commissioners and let them know.

9. ADJOURNMENT

Mr. Henderson moved for adjournment with a second from Mr. Peck.

The meeting was adjourned at 10:00 p.m.


Rich Krapf, Chairman


Allen J. Murphy, Secretary