

AT A REGULAR MEETING OF THE PLANNING COMMISSION OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE THIRTEENTH DAY OF JUNE, NINETEEN HUNDRED AND EIGHTY-NINE, AT 7:30 P.M. AT THE COUNTY GOVERNMENT CENTER BOARDROOM, 101C MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

1. ROLL CALL

Mr. A.G. Bradshaw  
Mr. Jack D. Edwards  
Mr. Martin Garrett  
Mr. Alexander C. Kuras  
Ms. Carolyn Lowe  
Mr. Robert A. Magoon, Jr.  
Mr. Gary M. Massie  
Ms. Willafay McKenna  
Mr. Wallace Davis, Jr.  
Mr. John H. Hagee  
Mr. Fred Belden, Chairman

ALSO PRESENT

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

2. MINUTES

The Minutes of the May 9, 1989 Planning Commission meeting were accepted as presented.

3. DEVELOPMENT REVIEW COMMITTEE REPORT

Members of this Committee approved Case No. S-58-89 Estate Lots at Jockey's Neck, and Case No. S-61-89, BASF Corporation, which were deferred at the June 7 meeting.

Upon a motion by Mr. Garrett, seconded by Mr. Kuras, the Commission unanimously approved the Development Review Committee Report.

4. CASE NO. SUP-14-89. EWELL HALL TRACT

Mr. Friel presented the staff report (appended) for a special use permit to allow the development of a cemetery on 19.79 acres of land zoned R-3, General Residential, located adjacent to the Williamsburg Memorial Park. Mr. Friel stated that staff recommended approval of Case No. SUP-14-89 with conditions and the amended proffers submitted by the applicant.

Mr. Belden opened the public hearing.

Mr. David Otey, Sr., representing the applicant, concurred with staff's recommendation and conditions in the staff report, and stated he will abide by them. He stated a representative of Langley and McDonald was present to answer any questions.

Mr. Gene Crane, of Williamsburg Memorial Park, was also present during the discussion.

There being no speakers the public hearing was closed.

Following a brief discussion, upon a motion by Mr. Bradshaw, seconded by Ms. McKenna, the Commission by roll call voted 11-0 to recommend approval of Case No. SUP-14-89.

5. CASE NO. Z-8-89. CARTER HILL, INC.

Mr. Friel presented the staff report (appended) to rezone approximately 135 acres from A-2, Limited Agricultural, to R-3, General Residential located at 1890 Jamestown Road. Mr. Friel stated staff recommended approval of Case No. Z-8-89 based on the reasons in the report and the proffers submitted by the applicant.

Mr. Belden opened the public hearing.

Mr. Alvin Anderson, representing the applicant, explained some of the history of the property and the rezoning proposal. He stated the property is surrounded by Powhatan Creek and contains erosion-retarding vegetation, marshes, shoreline, and is a desirable area in which to build high end single family detached residences. Mr. Anderson explained some of the proffers as they relate to site, entrances, turn lanes, greenbelts, wetlands, floodplain and buffers. He explained how this project will be in substantial compliance with the draft Chesapeake Bay regulations. Mr. Anderson stated the DRC will have to approve the time table for development of recreational areas. He also stated that private streets will be requested during the subdivision review process to avoid widening roads near some wetlands.

Mr. Anderson said that Jerry Normann of Smith-Demer-Normann and Chris Dawson, JCC Environmental Engineer, have discussed site specific designs addressing streams, slopes, wetlands and floodplains.

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

Ms. Lowe stated that this site is one of the most sensitive properties in James City County. She expressed her concern that the proposal is different than Chesapeake Bay regulation criteria.

Ms. Lowe also stated that the 100' buffer should be extended to non-tidal wetlands because 50' is not adequate. She stated that 15% are steep slopes, and the proposed 25% gradient for slopes is not adequate.

Ms. Lowe asked how non-tidal wetlands would be developed on the property.

Mr. Anderson said a field survey would be completed to determine non-tidal wetlands and streams before further planning could take place. He also stated that footpaths may require bridging gullies or ravines and would require DRC and Planning Commission approval.

Mr. Garrett agreed with Ms. Lowe's concerns, but stated that it cannot be determined what will happen when the Chesapeake Bay law is passed.

Ms. Lowe stated that JCC should support the spirit and purpose the regulations.

In a roll call vote, with Mr. Edwards, Ms. Lowe, Ms. McKenna and Mr. Davis voting nay, the Commission voted 7-4 to recommend approval of Case No. Z-5-89, with proffers, to the Board of Supervisors.

6. CASE NO. AFD-2-86. CROAKER AGRICULTURAL AND FORESTAL DISTRICT

Mr. Friel presented the staff report (appended) for a request by Mr. Alvin P. Anderson, attorney, on behalf of the Virginia French Winery to remove approximately 421.773 acres of land owned by Hankins Land Trust, I, II, from the Croaker AFD. Mr. Friel stated that a rezoning application for this and two other adjacent properties to R-4, Planned Community, and M-1, Limited Industrial, will be submitted if this property is withdrawn from the AFD. Mr. Friel further stated that staff recommended denial of this request for reasons stated in the report. On May 23, 1989, the Agricultural and Forestal District Advisory Committee recommended approval of this request for withdrawal by a 6-2 vote.

Mr. Alvin Anderson stated he based "good and reasonable cause" for withdrawal of this property from a planning perspective - the Comprehensive Plan envisions commercial development at this location; from a fiscal perspective - the

County tax-base benefits; and from a practical perspective - no use can occur until water and sewer are available on this site.

Mr. Robert Solomon, adjacent property owner, stated that his 50 acres are used for agricultural purposes, and objects to a commercial use on the subject property.

Mr. Sowers stated that the proposed development was for a major commercial use while this interchange was not designated for major commercial use. The proposed residences and commercial uses along Croaker Road would be located in the AFD but the winery would not. He also stated that the withdrawal would accelerate development because it would allow the rezoning application to proceed.

Mr. Garrett stated that a withdrawal under these circumstances would defeat the purpose of the program, and made a motion to accept the staff's recommendation of denial.

Mr. Massie asked that the Commission look at the request from a landowner's perspective stating that if a landowner could not withdraw from an AFD then they would not join.

Mr. Kuras stated that he felt 4 years was not a long period of time to be committed to an AFD and that the request should be denied.

Mr. Bradshaw felt that a landowner should be permitted to withdraw from an AFD.

Ms. McKenna requested an amendment to the motion, which was accepted by Mr. Garrett, to recommend denial of the proposal without considering the staff reasons.

Following discussion, the Commission agreed to the recommendation of denial for reasons 1, 2, 3, 4 and 6 contained in the staff report.

In a roll call vote, the Commission approved the motion for denial. The vote was 8-3 with Messrs. Bradshaw, Massie and Magoon voting nay.

7. CASE NO. Z-7-89. GOVERNOR'S LAND

Mr. Murphy presented the staff report (appended) to rezone approximately 1,444 acres from A-1, General Agricultural to R-4, Residential Planned Community located on the south side of John Tyler Highway approximately one mile west of Greensprings Road. Mr. Murphy stated that staff recommended denial of Case No. Z-7-89 for the reasons outlined in the report.

Mr. Hagee asked the number of single family units allowed under the present zoning.

Mr. Murphy stated that approximately 400 units would be allowed.

Mr. Massie questioned the density and number of units allowed by SUP for the area.

Mr. Murphy stated that the proposed density could probably be met through SUP.

Mr. Garrett questioned the use of "urban type" of development as opposed to "suburban".

Mr. Murphy stated that the proposed development is outside the PSA area as shown on the Comprehensive Plan.

Mr. Belden opened the public hearing.

Mr. Robert Emmett said that in meetings with Planning Commission members, staff, and adjacent property owners that their position is in two parts. He explained that the proposed plan is in accordance with the Comprehensive Plan. The land should have been in the PSA because the property paid for the right to sewer service. Mr. Emmett disagrees with the staff report and states that the proposal is precisely what the County ordered in the A-1 struggles. He explained that Governor's Land is ultra low density high end development designed to fulfill hopes of JCC.

Mr. Emmett stated the project is a model of public/private cooperation and told who was involved in the project. He explained the trail network from Greensprings to Governor's Land. He stated the trail topography survey was performed to address concerns of Chesapeake Bay regulations and conforms to the proposed 100' buffer.

Mr. Emmett stated there is sufficient capacity in existing sewer lines for support of the project and that it can fit within existing infrastructure.

Mr. Emmett stated that the Virginia Department of Transportation concurred with the proffers, and that the proposal adheres to the greenbelt policy.

Mr. Emmett stated the proposal has a heavy emphasis on environmental planning and will promote efficient use of land and all costs will be shouldered by the project.

He stated that the current proposal is in accordance with A-1 and presents solutions to traffic problems.

Mr. Emmett said the project has 750 prepaid sewer taps available.

Ms. Lowe asked about recreational amenities for the community and the trail network specifically.

Mr. Emmett said it is their intent that the trail network be open to the public and that access to the river should be unimpeded.

Ms. Lowe stated that this property is the last piece of shoreline in James City County and expressed concerns about public access to the water.

Mr. Edwards also expressed his concerns about public access to the river.

Mr. Emmett said public access to the trail network is through a conservation easement from Greensprings to Governor's Land.

Ms. Lowe said this area is a nature lover's paradise and should be enjoyed by the community.

Mr. Edwards asked about problems anticipated in taking homes to obtain right-of-way for four lanes on Route 5.

Mr. Emmett said a study will be done lot by lot of what would have to be taken, and VDOT does have right of eminent domain to enlarge the road.

Ms. Lowe had questions regarding the 100 year floodplain and how it is treated in the proposal.

Mr. Emmett said a study was conducted by Espey Houston and there are no extreme slopes on the property in excess of 15%.

Ms. Lowe asked about shoreline erosion and whether emphasis would be on structural or non-structural means.

Mr. Emmett explained that Espey Houston determined that Barretts Point is a concern because it has the highest erosion potential and would be non-structural.

Mr. Edwards asked for clarification of the applicant's position on the Comprehensive Plan.

Mr. Emmett said that if A-1 has meaning than this project is entirely consistent with the Plan.

Mr. John Angles introduced Mr. Robert Clifford, of the First Colony Civic Association, to the Planning Commission.

Mr. Robert Clifford of 109 Shellbank Drive in First Colony asked the Planning Commission to defer action on this case for preservation of this unique area as a historic area or nature center. He gave a brief history of this property, and stated that it is the last remaining undeveloped property along the James. Mr. Clifford says the area is a refuge for wildlife and migratory birds. Mr. Clifford suggested acquiring the parcel with public funds for a nature park or obtaining private funds to preserve its wild state.

Mr. John Angles of Falling Creek Circle, said the proposal was beautiful and first class. He asked why it was being proposed, if there is a demand for this development. He sees no hurry to develop this property. Mr. Angles supported Mr. Clifford's request for deferral of action on this case.

Mr. Brad Olson stated he did not have any specific objections to Governor's Land, and quoted from a Daily Press article. He stated that very little discussion of overall traffic, density, school effect, pollution, etc. was done. He asked the Commission to deny this request based on "slice at a time" way of planning rather than overall growth management.

Ms. Judy Knudson stated the proposal was everything the Growth Commission asked for. She stated the update of the Comprehensive Plan is coming, and asked if the Comprehensive Plan was built around developments in place, or developments around the Plan. She had questions of access to the proposed nature trail, parking, etc. She said the development would make JCC look like a country club community.

Mr. Howard McDermitt said JCC should take a second look and see where it is going; JCC is not prepared for this type of development. He expressed his concerns about a total 850 homes in Greensprings and Governor's Land and services to this area such as fire, police, water and sewer connection. He stated that development is coming too fast for municipal services.

There being no further speakers, Mr. Belden closed the public hearing.

Mr. Sowers stated that growth management is a critical issue to James City County, but that Virginia localities have limited tools for dealing with growth. He stated the Comp Plan is the strongest tool, and consistency in its application is critical to maintain its effectiveness. Mr. Sowers said this proposal does not fit the rural residential/agricultural designation for this area in the Plan and is outside the PSA. Mr. Sowers said this case is one of the most important ever before the Commission. He

stated the Comp Plan gives due consideration to community wide needs and issues and balances them with services, roads, utilities, etc. He explained that individual land use decisions cannot fully consider these items, and can result in growth related problems.

Mr. Sowers stated that property owners have to be able to depend on the Plan for protection, and that the development community also need predictability.

Mr. Sowers stated that along the PSA boundary, there are a number of vacant properties, and it is important to apply consistent standards in the evaluation of development requests, and to not set a broad precedent. He stated that staff feels the approval of this request would set such a precedent. He stated that guarantee of Rt. 5 improvements is not certain with this proposal. He stated that land use decisions should not be based on number of sewer taps purchased, otherwise, the Plan is rendered ineffective.

Ms. McKenna said there has been a subtle change in the land use map and Comp Plan and that its a natural progression of what has happened along Rt. 5. Ms. McKenna said when we look at the Comp Plan we must look at trends.

Mr. Kuras stated the proposal is good. He said the proposal is consistent with the goals of the Comp Plan. The concentration of homes per acre is not excessive and the amenities included make it very attractive. Mr. Kuras stated a master plan cannot be changed and under it you get better use of the land. He stated there should be bonus points for amenities such as greenbelts and buffers.

Ms. Lowe stated the proposal is unique and if we do not act this very sensitive and beautiful property could be developed more poorly. It could become sprawling suburbia with none of the very good things offered by the applicant.

Mr. Magoon stated the project is one of high standards and establishes a new benchmark for other developers. He stated it is the best development available for the property. He also said with prepaid sewer taps he does not consider the property to be outside the PSA.

Mr. Murphy said utility policy should not guide land use policy and guarantee of sewer does not go along with guarantee to develop. He does not see the overwhelming need to develop this property prior to update of the Comp Plan. He stated that staff has received inquiries from developers on other projects outside the PSA.



Mr. Garrett made a motion to approve the proposal and deny staff recommendation.

Mr. Edwards stated that there are two issues: Is this a good plan, and if the Commission approves this project will it be more difficult to turn down other projects less meritorious than this?

Ms. McKenna explained the Lerner case in Loudon County. She stated it is wrong to throw out a plan that meets fiscal needs and can benefit the County.

On a roll call vote, with Mr. Edwards voting nay, the Commission voted 10-1 to recommend approval of the rezoning request.

8. PLANNING DIRECTOR'S REPORT


Mr. Sowers presented his Director's report (appended) and informed the Commission of a worksession at 6:30 p.m. prior to their next meeting on July 11, 1989 to discuss sidewalks.


9. MATTERS OF SPECIAL PRIVILEGE

Ms. McKenna, Chairperson of the Policy Committee, reminded members of the Policy Committee meeting on June 21 at 4:00 p.m.

10. ADJOURNMENT

There being no further business the June 13, 1989 Planning Commission meeting was adjourned at 11:15 p.m.

  
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Fred Belden  
Chairman

  
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Q. Marvin Sowers, Jr.  
Secretary

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