

AT A REGULAR MEETING OF THE PLANNING COMMISSION OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE ELEVENTH DAY OF JULY, NINETEEN HUNDRED 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. 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 June 13, 1989 Planning Commission meeting were accepted as presented. The Minutes of the May 19, 1989 Planning Commission special meeting were accepted as presented with the addition of one item. Mr. Bradshaw was present for this meeting and the roll call list will be changed to reflect this fact.

3. DEVELOPMENT REVIEW COMMITTEE REPORT

Upon a motion by Mr. Belden, seconded by Ms. McKenna, the Commission unanimously approved the Development Review Committee Report.

Mr. Kuras requested that the DRC minutes reflect the Committee's concern with increased traffic due to the increased size of the office building compared to the original plan.

4. CASE NO. Z-12-89. L.A.&G. CORPORATION

Mr. Friel presented the staff report (appended) to rezone approximately 39 acres from A-1, General Agricultural, to B-1, General Business, located approximately 2,200 feet northwest of

the intersection of Route 60 and Route 614. Mr. Friel stated that staff recommended approval of this application.

Mr. Belden opened the public hearing.

Mr. Stephen D. Harris, representing Mr. Galanos, gave a brief history of the property's background and stated that the applicant came before the Planning Commission recently with a rezoning application for timeshares. He stated that Mr. Galanos does not have specific plans for the property, but that it would be tourist-commercial related. Mr. Harris stated that drainage, access, and erosion are items that would be addressed at the site plan stage. He also stated that they are in agreement with the staff's recommendation, and that the rezoning application is consistent with the Comprehensive Plan.

Ms. Lowe stated that this property has severe erosion problems.

Mr. Harris stated that the erosion problem is a problem with an old drainage easement on the property in favor of VDOT. He stated that the Outlet Mall drainage easement flows toward the applicant's property as does drainage from McDonalds and the Outlet Inn. Mr. Harris stated the applicant has a suit pending regarding drainage problems against the Outlet Mall, McDonalds and Outlet Inn.

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

Mr. Garrett stated that the Commission had been reluctant to rezone property without an idea of what is going to go there.

Ms. Lowe agreed with Mr. Garrett, and said that the process gives James City County control of what is being developed.

Mr. Massie stated the B-1 zoning line bisects the property and the Commission is becoming more aggressive in its development review process. Mr. Massie stated he supports the rezoning request.

Mr. Garrett stated that the only thing the Commission knows is that this property will be in conformance with B-1. He stated that asking for a conceptual plan along with a rezoning application is not new.

Mr. Massie said that maybe the Zoning Ordinance should inform applicants that a conceptual plan is needed for consideration of rezoning applications. Mr. Massie asked about a previous rezoning case in the area, Berkeley Commons, and if they had such a plan.

Mr. Belden stated that the applicant had proffers.

Mr. Garrett stated that the Commission is being asked to approve a blank check to develop the area.

Mr. Kuras said that B-1 zoning may attract business to the area, and supports Mr. Garrett's idea.

Mr. Magoon stated he is concerned with the number of times an applicant may have to come before the Commission to get something done with his property. He stated the review process should control the property uses.

Mr. Kuras stated he is concerned that not all B-1 uses are appropriate for this site.

Mr. Magoon stated he is concerned with the Commission's signals regarding this property.

Mr. Bradshaw agreed that there are adequate controls in the review process to address drainage problems. He stated that he liked the applicant's previous rezoning request, and he supports the rezoning request due to the location of the property and staff's position of approval.

Ms. McKenna asked for clarification of the B-1 uses.

Mr. Sowers read a list of B-1 uses permitted by right.

Ms. Lowe stated that in her 1-1/2 years on the Commission, she could not recall a rezoning request without a conceptual plan.

Mr. Bradshaw made a motion to accept staff's recommendation of approval. Mr. Massie seconded the motion.

In a roll call vote, with Mr. Bradshaw, Mr. Massie and Mr. Magoon voting aye, the Commission voted 7-3 to recommend denial of Case No. Z-12-89 to the Board of Supervisors.

##### 5. COMPREHENSIVE SIDEWALK PLAN

Mr. Bass gave a brief presentation of the proposed Comprehensive Sidewalk Plan and issues discussed at the worksession.

Mr. Belden opened the public hearing. There being no speakers he closed the public hearing.

Upon a motion by Mr. Bradshaw and seconded by Mr. Massie, the Commission approved the Comprehensive Sidewalk Plan.

6. CASE NO. SUP-16-89. GEORGE WHITE ESTATE TOWER

Mr. Friel presented the staff report (appended) for a special use permit to allow a 500-foot communications tower on 14.228 acres of land zoned A-1, General Agricultural located at 2531 Little Creek Dam Road. Mr. Friel stated that staff recommended approval of Case-No. SUP-16-89 with conditions as stated in the staff report.

Mr. Belden opened the public hearing.

Mr. J.A. Daniels stated that he owns the Pates Neck area which is very scenic and that putting in a tower will destroy the scenic view. He is concerned that birds and ducks flying to the reservoir will hit the tower and guy wires. He is also concerned about low flying planes over the area and the potential for crashes and fires if a plane hits the tower.

In response to a question, Mr. Sowers said that the towers at Berkeley School and New Quarter Industrial Park are 450', and the tower at Owens-Illinois is 400'.

Mr. Friel said the tower will have to be approved by the Federal Aviation Administration also.

Mr. John W. Harris, applicant, stated the purpose of the tower is to install a paging system to serve the area from Richmond to Norfolk. He said the tower will have permits as required by the FCC. He stated towers are necessary for emergency and public safety agencies to communicate, and tower space will be available to businesses. He stated a communication tower can serve thousands of customers; anyone with two-way radio communications can be a customer. He stated they tried to select rural areas that cover a certain geographical area. He stated that frequencies used by antennas on the tower will be approved by the FCC and used by government, private and business agencies. He also stated an interest in developing the remainder of the site.

Mr. Harris stated that a 20x40 foot building will be erected on the site for associated electrical equipment as required by the tower.

Mr. Edwards asked the applicant if he was in competition with others to provide this service.

Mr. Harris said that they will rent antenna space to be used for cellular phones and two-way radios. Mr. Harris said a similar site in Virginia Beach serves 30,000 people by three paging companies.

Mr. Edwards asked if there is a gap in communications service between Richmond and Norfolk that would be served by this tower.

Mr. Harris said there is a gap in service and this tower will serve all who are FCC compatible. He stated that individual towers are getting rare.

Mr. Garrett asked if someone else could come in and build another tower.

Mr. Edwards said that there is probably as much competition as the system will allow.

Mr. Mike Lattimer of 2301 Little Creek Dam Road, stated his house is under the proposed tower. Mr. Lattimer stated that 80' trees will not screen a 500' tower. He stated the tower at Berkeley School has many antennas on it and is ugly. In the same area as the Berkeley tower is a Virginia Power tower, a radio station tower, Stadium Oil Sales tower, and that is a business area. He stated that the Owens-Illinois tower is in an industrial area. He stated a concern about wetlands and tidal areas being disturbed and the number of trees that will be removed. He said there are still problems in the area due to the reservoir and its silting problems. He is very concerned with birds and ducks flying into the guy wires and towers as Mr. Daniels previously stated. He is also concerned about low flying planes in an area with such a high tower. Mr. Lattimer is concerned with the value of his property. He asked for information on the type of lighting that will be required by this tower and stated that he hoped that red beams could be used instead of strobes. He stated the area should be left rural and scenic.

Mr. Harris said that the FAA has certain lighting requirements that must be met and that red beams could be used if the tower is orange and white. He stated that they would not remove any more trees than necessary to build the tower.

Mr. Garrett asked why an industrial area was not selected as a tower site.

Mr. Harris said this site seemed the best area because of a ridge on the property that could be utilized.

Mr. Lattimer said there are higher and more level areas on the site and that the tower could be moved and still have the same clearances and setbacks. He said there is a one lane dirt road leading to the site. He asked what kinds of improvements will be made to the road and if the tower will interfere with his right to use the road.

Mr. Belden said that the applicant would have to submit a site plan for review and Mr. Lattimer could review the site plan. The site plan would have to address access and screening issues.

Mr. Belden closed the public hearing.

Mr. Magoon said that he is a cellular phone user and is concerned with the number of towers that could eventually be placed in the County. He stated that vertical objects are very difficult to screen effectively. He suggested that the Commission defer action on this special use permit request for 30 days in order for the Commission to become better educated on communication towers and their potential impact on the County. He stated that he is not opposed to the project, but wants to get a better understanding of what is proposed and anticipated tower demand for additional towers.

Mr. Kuras agreed that the tower is too close to Mr. Lattimer's property, and suggested that another area on the property may be more suitable and should be evaluated.

Mr. Belden asked if the County has a communications expert.

Mr. Sowers said that staff has a person knowledgeable with regard to the County's equipment, and they could talk with other jurisdictions to see how they have handled communication towers.

Mr. Massie said there were a number of questions to be answered regarding this proposal. He stated he is not sure he wants a tower on this site, and he would be willing to defer action for 30 days.

Ms. Lowe said this is the wrong type of development for this property and is concerned that the tower is incompatible with the area.

Ms. Lowe made a motion to deny, which died for a lack of a second.

Upon a motion by Mr. Kuras, seconded by Ms. McKenna, the Commission deferred action on Case No. SUP-16-89 for 30 days.

7. CASE NO. SUP-17-89. C. LEWIS WALTRIP II

Mr. Friel presented the staff report (appended) for a special use permit application to allow development of a children's day care center on 5.7 acres of land zoned A-2, General Agricultural located at 4300 John Tyler Highway. Mr. Friel stated that staff recommended approval of Case No. SUP-17-89.

Mr. Belden opened the public hearing.

Mr. Alvin P. Anderson, representing the applicant, stated the day care center is a licensed child care facility. He gave a brief physical history of the property. He also stated that clearing and grading was done; a 100' right turn lane and 150' right turn taper had been provided; a 145' scenic easement dedicated and CE-7 permit from VDOT had been obtained. Mr. Anderson stated that a petition signed by local residents had been filed with the Planning Department in support of this special use permit application. He stated that no day care facility is in the area to provide services to residents of the Rt. 5 area. He spoke of a Virginia Gazette article outlining the need of licensed day care facilities for the area. Mr. Anderson stated that state licensing of day care facilities mandates the number of children, building square footage, number of staff, etc.

Mr. Kuras had questions regarding the number of trees in the scenic easement.

Mr. Murphy stated that landscaping review will be done at the Development Review Committee stage.

Mr. Edwards stated that landscaping will have to be extensive because when Rt. 5 is widened, the 145' scenic easement would be narrowed.

Mr. Anderson stated that he supports the staff recommendation and will abide by conditions as stated in the staff report.

Ms. Lowe asked how a regrading permit was issued for an area inside the floodplain.

Mr. Friel stated that the Zoning Administrator was more concerned with structures in the floodway, not minor regrading.

Mr. Phillip Crow, 2831 Ironbound Road, spoke in support of the application. He stated that he has three children at Kindercare in Norge, and would like to see a day care center closer to his home.

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

Ms. McKenna stated that she liked the plan and the location. She also agreed with Ms. Lowe's concerns regarding the floodplain.

Mr. Kuras stated the day care center will be a good buffer between the residential and commercial areas. He also stated

that if the plan is laid out well he was not very worried about the floodway.

Upon a motion by Mr. Kuras and seconded by Ms. McKenna, the Commission by roll call voted 11-0 to recommend approval of Case No. SUP-17-89 to the Board of Supervisors.

8. PLANNING DIRECTOR'S REPORT

Mr. Sowers presented his Director's Report (appended). He reminded the Commission of a public hearing on the James River Crossing EIS on July 18, 1989 at 7:00 p.m. at Rawls Byrd School. He stated a plan review will be held July 12 from 4-8 p.m. at the same location.

9. MATTERS OF SPECIAL PRIVILEGE

Mr. Belden stated that the Commission should tour the site for Case No. Z-13-89 Five Forks Association. The Commission set a special meeting on Friday, July 28, 1989 at 3:30 p.m. at the Five Forks Shopping Center to tour the site of Case No. Z-13-89 and Z-14-89.

It was noted that the Planning Commission Policy Committee would conduct a meeting on July 26, 1989 at 4:00 p.m. in Conference Room E to discuss a proposed methodology to update the Comprehensive Plan. The Commission set that date as a special meeting to allow all interested members to attend the Policy Committee meeting.

10. ADJOURNMENT

There being no further business the July 11, 1989 Planning Commission meeting was adjourned at 9:30 p.m.

  
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Fred Belden  
Chairman

  
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O. Martin Sowers, Jr.  
Secretary

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