

AT A REGULAR MEETING OF THE PLANNING COMMISSION OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE TWELFTH DAY OF FEBRUARY, NINETEEN HUNDRED AND NINETY ONE, AT 7:30 P.M. IN THE COUNTY GOVERNMENT CENTER BOARDROOM, 101C MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

1. ROLL CALL

Mr. Alexander C. Kuras, Chairman
Mr. Raymond L. Betzner
Mr. A. G. Bradshaw
Mr. Wallace Davis, Jr.
Mr. Martin Garrett
Ms. Victoria Gussman
Mr. John F. Hagee
Mr. Donald C. Hunt
Ms. Judith Knudson
Ms. Carolyn Lowe
Ms. Willafay McKenna

ALSO PRESENT

Mr. O. Marvin Sowers, Jr., Director of Planning
Mr. John T. P. Horne, Manager of Development Management
Mr. Leo P. Rogers, Assistant County Attorney
Mr. Bernard M. Farmer, Director of Code Compliance
Mr. Allen J. Murphy, Jr., Principal Planner
Mr. Donald E. Davis, Principal Planner
Mr. R. Patrick Friel, Senior Planner
Ms. Elizabeth Sullivan, Planner

A moment of silence was observed in memory of Fred Belden who passed away on February 11, 1991.

2. DEVELOPMENT REVIEW COMMITTEE REPORT

Mr. Garrett stated that the Committee felt Case No. S-86-90, Resort Village of Williamsburg, should be reviewed by the full Commission.

Ms. Sullivan made a brief presentation stating that the concerns of staff and surrounding property owners had been addressed. Ms. Sullivan stated that major changes included lower density, a revised road design, centrally located recreational facilities, and a 150 foot greenbelt along Longhill Road and State Route 199 with landscape plans. Also, the Route 199 right-of-way would no longer be part of the plan and the area not included in the calculation of density, and that the site would not be subdivided. Ms. Sullivan stated that the overall plan of development was substantially in accordance with the Comprehensive Plan. She stated that the density had been decreased to the point that the impacts of the project on water and sewer and roads would be no greater than that of a single family development on the site.

Ms. Lowe felt that the residents' main concern, the affect of a timeshare project on their area, had not been addressed.

Mr. Garrett reminded the Commission that under State law timeshares are permitted in residential districts.

Ms. Sullivan stated that she had received no opposition from any citizens neither by mail nor by phone.

A citizen from Windsor Forest stated that the Civic Association had not had an opportunity to review revised plans and requested deferral.

Mr. Garrett stated that timeshares are a cause for "heartburn" as they generally depreciate rather than appreciate in value. However, Mr. Garrett felt that the impact of the proposed development would not be as great as single family dwellings.

Mr. Kuras felt that the development was a plus at this time and would not adversely affect the neighborhood.

Mr. Wallace questioned if VDOT standards for street requirements had been met. Mr. Sowers assured him that the earlier design had been revised to meet VDOT's standards.

Mr. Betzner stated that there is a tendency to treat timeshares as commercial development and not as homes. His decision would be based on the improved landscaping and a favorable impact on the community.

Ms. Knudson referred to the letter from Mr. Forrest Wall, President of the Windsor Forest Association, stating that they received the revised proposal on the evening of February 4 which did not provide adequate time for review. Ms. Knudson concurred with Mr. Wall's request for deferral until the March 12, 1991 Planning Commission meeting.

Ms. Knudson made a motion, seconded by Mr. Davis, to defer Case No. S-86-90. The motion passed 10-1 with Mr. Bradshaw voting nay.

Mr. Betzner suggested a review of the timeshare process that would allow staff to bring timeshares to a public meeting.

Mr. Philip Richardson, owner of the subject property, stated he was anxious to start the project but would accept a deferral and work towards addressing concerns of adjacent property owners.

Mr. Garrett made a motion, seconded by Ms. McKenna, to approve the Development Review Committee Report, with the exception of Case No. S-86-90, Resort Village of Williamsburg. The motion passed unanimously by voice vote.

3. POLICY COMMITTEE MINUTES

Ms. McKenna presented this report and made a motion, seconded by Ms. Lowe, to accept the minutes. The motion passed unanimously by voice vote.

4. CASE NO. SUP-49-90. WILLIAMSBURG CROSSING

Mr. Kuras stated that the staff report concurs with the applicant's request for a one month deferral. Mr. Kuras opened the public hearing and continued it until the March 12, 1991 meeting.

5. CASE NO. Z-12-90/SUP-48-90. OLD DOMINION FRENCH WINERY

Mr. Kuras stated that the staff report concurs with the applicant's request for a one month deferral. Mr. Kuras opened the public hearing and continued it until the March 12, 1991 meeting.

6. CASE NO. SUP-45-90. VIRGINIA NATURAL GAS PIPELINE

Mr. Friel presented the staff report (appended) for a conditional special use permit to allow the construction of a 16 inch natural gas transmission main through the County. Mr. Friel reported on information submitted in response to the Commission's recommendation that the proposed pipeline be placed entirely within the existing Virginia Power pipeline easement. Mr. Friel stated the staff recommendation that the Commission, as directed by State Code, Section 15.1-456, make a finding that the proposed natural gas transmission main is consistent with the Comprehensive Plan. Mr. Friel further stated that the Commission, upon making the above finding, approve a conditional special use permit with the conditions in the report.

Mr. R. A. Ware with Virginia Power responded to Ms. Gussman's questions that the time frame for replacement of existing power lines in the easement is in the year 2000.

Mr. Steve Stone, with Virginia Natural Gas, provided background on Virginia Natural Gas and Virginia Power (separate companies) and the pipeline which is expected to be completed in November, 1991. Mr. Stone presented a graph demonstrating gas usage and future needs. Mr. Stone requested an amendment to the Commission's recommendation to the Board using the original proposed route rather than keeping the pipeline in the existing Virginia Power right-of-way.

Mr. Kuras opened the public hearing.

Mr. John Joyce, 101 Warrens Pond Road, Lake Toano, asked if the change in the VNG proposal would change the pipeline route through Lake Toano. He was informed that it would not.

Mr. George Marston stated that the line crosses his property and felt it should be in the existing Virginia Power right-of-way. He also felt that he was not receiving adequate compensation for the taking of his property.

Ms. Elsie Mullen, Centerville Road, questioned why the 10 foot temporary construction easement was previously 25 feet.

Mr. Larry Timko, Barnes Road, Lanexa, stated that the vegetated buffer at the rear of his property would be wiped out and the line would divide his property. He objected to the destruction of 2 acres of his property.

Ms. Irene Lee stated that there are two Virginia Power lines on each side of her house and she could not find out where the gas line will be on her property. Ms. Lee objected to paying taxes on property she could not use and questioned why the line could not go closer to the existing power lines. She stated she felt Virginia Power was squeezing her out.

Ms. Joyce Otey said VNG was threatening to take down pine trees on her property which provide a buffer to the existing Virginia Power right-of-way.

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

Mr. Davis expressed concern regarding the impact on the environment from corrosion of the pipeline.

Ms. Lowe questioned the reestablishment of vegetation on the full length of the temporary easement. Staff stated that the easement would be revegetated in accordance with forestry standards.

Ms. McKenna made a motion, seconded by Mr. Hagee, to accept the staff report.

In discussion on the motion, condition #12 was changed to read ... Virginia Natural Gas shall not object to allowing trails and/or paths to be placed within the 50 foot permanent easement, so that it would not be construed to require Virginia Power to install the trails.

Ms. McKenna suggested that staff consider adding a condition to prevent conflicts with future road improvements.

The motion failed: AYE: Bradshaw, Hagee, Gussman, Betzner, Kuras (5). NAY: Garrett, McKenna, Lowe, Davis, Knudson, Hunt (6).

Mr. Kuras requested staff to advise the Board of Supervisors' Chairman that the Commission desires to have him make a presentation at the March 4 Board meeting.

Mr. Bradshaw requested that the staff report to the Board of Supervisors reflect what has been accomplished to resolve conflicts with the property owners, and generally agreed that individuals are treated unfairly while strong homeowner groups are able to accomplish their needs.

7. CASE NO. SUP-55-90. SHELDON LUMBER COMPANY, INC. CONCRETE PLANT

Mr. Friel presented the staff report (appended) for a special use permit to allow a concrete plant and the associated storage of cement and stone used in the manufacture of cement. Mr. Friel stated that staff recommended approval with conditions detailed in the report.

Mr. Kuras opened the public hearing.

Mr. Vernon Geddy, III, representing the applicant, exhibited a site map and aerial photo, which he discussed, and also explained the process of the concrete plant. He stated it is over 600 feet to the Burnt Ordinary Apartments. He further stated that the applicant had no objection to the concrete plant being a no discharge facility.

In response to Ms. Gussman's inquiry, the Commission was informed that there are 71 vehicle trips per day, 1/3 cars and 2/3 truck traffic.

Ms. Susan McCleary, 129 Mirror Lake Drive, spoke on behalf of CARD, Citizens Advocating Responsible Development, an organization which includes residents of Richmond Road, Bush Springs Road, Hunter's Creek and Mirror Lakes. Ms. McCleary cited traffic and the precedent set for future development along Richmond Road as primary concerns, including possibly another similar plant in the area. Several items of concern include the following: 1) the entrance to the planned middle school which is directly opposite Sheldon Lumber Company's entrance, 2) with economic improvement there would be an increase in the volume of concrete produced which in turn would increase the 71 vehicle trips per day and 3) the location of the plant which in addition to setting a precedent is next to residential, low income housing for the elderly. Of further concern is the applicant's refusal to rule out future expansion and the fact it does not conform with the Comp Plan. Ms. McCleary pointed out that the County has two industrial parks, neither of which is at capacity, and a more appropriate location for a concrete plant. Ms. McCleary requested denial of this application.

Mr. Abram Frink, 148 Magruder Avenue, stated his familiarity with cement work, knowledge of Branscome's reliability, and urged approval of this application.

Mr. Michael Hipple, Mirror Lakes, is a contractor and supports the application.

Mr. David Sadler, stated that he bought supplies from another Branscome plant. He felt if this plant was quiet, well run, and if a need existed for concrete, approval should be granted, as trucks would be on the road regardless of where they came from.

Mr. Richard Carter Cowles, stated that he lived in Toano and would be closer to the plant than Mirror Lakes and stated his belief that industry was needed in Toano as a number of jobs had been lost with the closing of Sheldon Lumber Company.

The following citizens also stated their approval of the application:

Mr. George Marston, 7581 Richmond Road; Mr. Matthew Hipple, contractor and Mirror Lakes resident; Mr. Hank, Mirror Lakes; Mr. Buck Stewart, 8205 Richmond Road; Mr. R. M. Hazelwood, Jr.; Mr. David Holly, Cypress Point; Mr. Gene Farley, Chickahominy Haven.

There being no further speakers the public hearing was closed.

In response to Mr. Betzner's inquiry, Mr. Sowers responded that a traffic study indicated that a signal was not needed.

Ms. Gussman stated that she was generally in favor but was concerned about traffic and the site's location in the Reservoir Protection Overlay District (RPOD) and suggested applying for a Virginia Water Abatement Permit from the State Water Control Board. Ms. Gussman also stated that it should be a condition that a new special use permit be required for any expansion to the plant.

Ms. Lowe stated her concern regarding traffic, setting a precedent, and impact on Burnt Ordinary.

Mr. Garrett felt that outside of an industrial park, this was a good location.

Ms. Knudson stated that the use should be in an industrial park.

Mr. Garrett made a motion, seconded by Ms. McKenna, to approve the staff recommendation, with conditions, on Case No. SUP-55-90, and added conditions to 1) apply for a Virginia Water Abatement Permit from the State Water Control Board and 2) prohibit any flags or signs on the proposed silos. The motion passed: AYE: Bradshaw, Garrett, McKenna, Hagee, Gussman, Betzner, Hunt, Kuras (9). NAY: Lowe, Knudson (2).

8. CASE NO. SUP-56-90. C&P TELEPHONE, FIBER OPTICS RECEIVER STATION

Ms. Sullivan presented the staff report (appended) for a special use permit to allow a telephone switching station in the A-1, General Agricultural District. Ms. Sullivan stated that staff recommended approval with conditions detailed in the report.

Mr. Kuras opened the public hearing.

Mr. Vernon Geddy stated that a C&P representative was present to answer questions.

Ms. McKenna made a motion, seconded by Mr. Betzner, to accept the staff recommendation. The motion passed: AYE: Bradshaw, Garrett, McKenna, Lowe, Davis, Hagee, Gussman, Knudson, Betzner, Hunt, Kuras (11). NAY: (0).

9. CASE NO. AFD-5-86. BARNES SWAMP AGRICULTURAL AND FORESTAL DISTRICT (PENLAND ADDITION)

Mr. Friel presented the staff report (appended) for the addition of 60.7 acres to the previously approved Barnes Swamp Agricultural and Forestal District. Mr. Friel stated that staff recommended approval with conditions detailed in the report.

Mr. Kuras opened the public hearing. There being no speakers the public hearing was closed.

Mr. Bradshaw made a motion, seconded by Ms. McKenna, to accept the staff recommendation. The motion passed: AYE: Bradshaw, Garrett, McKenna, Lowe, Davis, Hagee, Gussman, Knudson, Betzner, Hunt, Kuras (11). NAY: (0).

10. POLICY COMMITTEE RECOMMENDATION/CAPITAL IMPROVEMENT PROGRAM - FY92-96

Mr. Davis presented the staff report (appended). Mr. Davis asked that under JCSA High Priority Projects #38, Ware Creek (Water Supply/Reservoir), "to complete" be deleted and that it read ... A total of \$6.1 million is needed over the next five years for the project. Mr. Davis stated that the Policy Committee voted in favor of forwarding a favorable recommendation to the Commission and the Board of the summary and ranking of CIP projects. Mr. Davis further stated that the Policy Committee recommended that the Commission strongly encourage that the Board not decrease the existing balances of either the Environmental Protection Fund or the Housing Development Fund and to continue to provide adequate funding for the projects. The Policy Committee also recommended that the Commission delete the Cooley Field Press Box renovation project.

Mr. Kuras opened the public hearing. There being no speakers the public hearing was closed.

Mr. Hagee stated his preference that #23, Headstart Classrooms, be raised to a higher priority.

The Commission agreed that expanding the capacity of this program should be a high priority in either the CIP or operating budget.

Ms. McKenna pointed out that the intent was for an improved facility, not to increase the program.

Ms. Knudson raised the question of whether the issuance of bonds was an option for funding the proposed new library.

Mr. Garrett made a motion, seconded by Ms. McKenna, to accept the staff recommendation. The motion passed: AYE: Bradshaw, Garrett, McKenna, Lowe, Davis, Hagee, Gussman, Knudson, Betzner, Hunt, Kuras (11). NAY: (0).

11. CASE NO. ZO-1-91. ZONING ORDINANCE AMENDMENT/GROUP HOME DEFINITION

Mr. Murphy presented the staff report (appended) for an amendment based on new legislation requiring the County to add group homes (with eight or less residents) as permitted uses in each zoning district that generally permitted single family homes.

Mr. Murphy stated that staff is still working on addressing issues raised internally and, therefore, recommended that the Commission defer this matter for one month and continue the public hearing.

Mr. Kuras opened the public hearing and continued it until the March 12, 1991 meeting.

12. CASE NO. ZO-2-91. ZONING ORDINANCE AMENDMENT/CIVIL PENALTIES

Mr. Farmer presented the staff report (appended) for an amendment to the Zoning Ordinance designating violations subject to civil penalties. Mr. Farmer stated that staff recommended approval of the amendment to the Board of Supervisors.

Mr. Kuras opened the public hearing.

Mr. McCarty of Rolling Woods objected to receiving a citation, paying a fine, then hiring a lawyer to establish innocence. He objected to the portion of the ordinance regarding giving notice prior to enforcement and stated adequate notice should be given before action on violations.

In response to questions from Ms. McKenna, it was agreed that language should be clarified to require notice prior to enforcement activities.

There being no further speakers the public hearing was closed.

Mr. Betzner made a motion, seconded by Ms McKenna, to recommend approval of Case No. ZO-2-91 to the Board of Supervisors. The motion passed: AYE: Bradshaw, Garrett, McKenna, Lowe, Davis, Hagee, Gussman, Knudson, Betzner, Hunt, Kuras (11). NAY: (0).

13. CASE NO. ZO-3-91. ZONING ORDINANCE AMENDMENT/MEDICAL WASTE INCINERATION FACILITIES

Mr. Murphy presented the staff report (appended) for an amendment to allow a facility to incinerate biologically contaminated medical waste. Mr. Murphy stated that staff recommended approval of Case No. ZO-3-91 to the Board of Supervisors.

Ms. Lowe felt that because of the controversial nature of such a facility, at this time, it would not be advisable to approve the amendment.

Mr. Kuras opened the public hearing.

Mr. David Jennings with Bionetics Disposal requested that the definition be expanded to include special wastes, including classified documents and foreign waste from ships.

There being no further speakers the public hearing was closed.

Mr. Garrett made a motion, seconded by Ms. McKenna, to recommend denial of Case No. ZO-3-91 to the Board of Supervisors. The motion passed: Bradshaw, Garrett, McKenna, Lowe, Davis, Hagee, Gussman, Knudson, Betzner, Hunt, Kuras (11). NAY: (0).

14. COMMISSION CONSIDERATIONS

a. Gary M. Massie Resolution of Appreciation. The Commission by voice vote unanimously approved a Resolution of Appreciation for Gary Massie to be presented to him at the March 12, 1991 meeting.

b. Leadership Committee Report. Mr. Kuras announced that Mr. Davis would serve on the Policy Committee and Mr. Hunt would serve on the Development Review Committee.

Mr. Kuras discussed the possibility of a volunteer to serve as an alternate member of the Policy and Development Review Committees. This would allow the Committee to have a quorum in the event a regular member is absent. The Commission requested that this issue be deferred until the April 9, 1991 meeting.

Mr. Kuras raised the possibility of having three Commissioners and a staff person study areas of concern in depth and then brought before the Commission. The Commission agreed with this proposal.

Mr. Kuras thanked Leo Rogers for the material he submitted to the Commission on Roberts Rules of Order.

Mr. Kuras raised the question of having election of officers in February after new members begin their terms in January. The Commission agreed to this proposal.

Mr. Kuras announced that two proposals had been received for the Award of Excellence.

15. PLANNING DIRECTOR'S REPORT

Mr. Sowers presented the staff report (appended).

16. SETTING OF FUTURE MEETING DATES

On Tuesday, February 26, at 3:30 p.m., Mr. Tom Tingle will present a program on affordable housing.

17. MATTERS OF SPECIAL PRIVILEGE


Ms. Gussman informed the Commission that a variance case had been brought before the Board of Zoning Appeals regarding the placement of a sign atop a silo at the Branscome Concrete Plant on Route 143. Ms. Gussman felt it important for the Commission to convey their opposition to signs/flags atop buildings. The Commission requested the Chairman to send a letter to the Board of Zoning Appeals opposing the variance.

18. ADJOURNMENT

There being no further business, the February 12, 1991 Planning Commission meeting adjourned at 10:50 p.m.



Alexander C. Kuras, Chairman



O. Marvin Sowers, Jr., Secretary