

AT A REGULAR MEETING OF THE PLANNING COMMISSION OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE TENTH DAY OF DECEMBER, 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  
Mr. John F. Hagee  
Mr. Donald C. Hunt  
Ms. Judith Knudson  
Ms. Carolyn Lowe

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. Allen J. Murphy, Jr., Principal Planner  
Ms. Elizabeth R. Sullivan, Planner  
Mr. Michael A. Freda, Planner  
Mr. Patrick Friel, Senior Planner

2. MINUTES

Upon a motion by Mr. Kuras, seconded by Ms. McKenna, the November 12, 1991 Minutes were approved, as presented, by voice vote.

3. DEVELOPMENT REVIEW COMMITTEE REPORT

Upon a motion by Mr. Garrett, seconded by Ms. McKenna, the Development Review Committee Report was approved, as presented, by voice vote.

4. CASE NO. Z-6-91. STONEHOUSE, INC.

Mr. Friel presented the staff report (appended) to rezone approximately 14 acres from A-1, General Agricultural to B-1, General Business. Mr. Friel stated that the acreage was inadvertently left out of the original rezoning request, but was included in the application, Master Plan and proffers. Mr. Friel stated that staff recommended approval of the rezoning with the same proffered conditions that were attached to the remainder of the site.

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

Ms. McKenna made a motion, seconded by Mr. Betzner, to accept the staff recommendation of approval. The motion passed: AYE: Kuras, Betzner, Bradshaw, Davis, Garrett, Hagee, Hunt, Knudson, Lowe (10). NAY: (0).

5. CASE NO. SUP-34-91. BILLY S. SCRUGGS

Mr. Michael Freda presented the staff report (appended) for a special use permit for an automobile sales and service center at 7191A Merrimac Trail. Mr. Freda stated that staff recommended approval with the conditions detailed in the staff report.

Mr. Kuras opened the public hearing.

Mr. Scruggs, the applicant, thanked staff for their assistance and stated that the neighbors would experience little or no visual or noise impact.

He requested that condition #2, regarding removal of the existing chain link fence around the car display area, be deleted as he felt security concerns should override aesthetics. He further stated that business is permitted on the subject site but affirmed his intent to be sensitive to neighbors concerns and to resolve any problems.

Mr. Walter Buriak, Davis Drive, questioned the kind of fence that would abut his property to the north. He expressed concerns about the appearance of the existing wooden fence and its ineffectiveness of preventing trespassing, especially by vandals. He asked about proffering a new fence to replace the existing wooden one and requested deferral until the January 14, 1992 meeting. Mr. Buriak again stated his concerns regarding noise, trespassers, and site screening, and stated that the replacement of the existing fence with one similar to that shown in some photos he distributed would change his mind.

Mr. Kuras stated that at the minimum the fence would be filled in along the bottom.

Ms. Thelma McKenney who lives across from the site on Merrimac Trail stated that she was not contacted by Mr. Scruggs; has had three robberies at her home; the police were aware of the traffic during the night at the site; property values would decrease; the ditch in front of her house was constantly blocked which she has to clean; VDOT has put three culverts under her driveway, and she wants a privacy fence to block out the subject property.

Mr. Scruggs stated that he understood he had spoken to all adjacent property owners.

Ms. Laura Milan stated that the existing fence was not good and asked for a security fence.

There being no further speakers the public hearing was closed.

Following discussion regarding the condition of and the responsibility for the fences, Mr. Betzner made a motion to accept the staff recommendation of approval with the stated conditions. The motion died for lack of a second.

Mr. Bradshaw made a motion to amend the staff recommendation by deleting condition #2 and replacing it with a condition requiring adequate landscaping in front of the existing chain link fence, as approved by the DRC.

Ms. McKenna made an amendment to the motion to modify condition #2 to replace the fence along the north property line. The motion failed: NAY: Bradshaw, Davis, Hagee, Betzner, Hunt, Kuras (6). AYE: Garrett, McKenna, Lowe, Knudson (4).

The principal motion passed: AYE: Bradshaw, Garrett, McKenna, Lowe, Davis, Hagee, Betzner, Hunt, Kuras. NAY: Knudson (1).

6. CASE NO. Z-4-91. FREDERICK AND MARY HIRSH

Ms. Elizabeth Sullivan presented the staff report (appended) for an application to rezone approximately 3 acres from A-1, General Agricultural, to B-1, General Business, located west of Richmond Road's intersection with Barhamsville Road and Rochambeau Drive at Anderson's Corner. Ms. Sullivan stated that the proffers contained several technical problems which would require revision prior to the Board of Supervisors' consideration. Ms. Sullivan further stated that staff recommended denial of this application for the reasons stated in the report.

Mr. Kuras opened the public hearing.

Mr. Hirsh presented a history of the property. Mr. Hirsh stated that he was unaware of major problems with the proffers. Mr. Hirsh further discussed sites near his location, and the fact that there were no trucks involved, only vans delivering supplies.

Mr. Garrett made a motion, seconded by Mr. Betzner, to accept the staff recommendation of denial.

Mr. Kuras stated that the application does not meet the requirements of the Comprehensive Plan.

Ms. Lowe stated that the County should avoid spot zoning.

Mr. Bradshaw felt the applicant had made every effort to meet the requirements of the County and the presence of existing commercial uses at Anderson's Corner, the four lane nature of Richmond Road and protection provided by the proffers make him feel the case should be approved.

Ms. McKenna, Mr. Hunt and Mr. Hagee agreed with Mr. Bradshaw. Mr. Hagee further stated that he did not feel an approval would set a precedent and objected to depriving the applicant of a way of living.

Mr. Sowers stated that strip development begins with the approval of just this type of development and that it would set a precedent for future uses.

Ms. Knudson stated she felt it was the beginning of strip development.

On a roll call the vote was: AYE: Garrett, Lowe, Knudson, Betzner, Kuras (5).  
NAY: Bradshaw, McKenna, Davis, Hagee, Hunt (5).

7. CASE NO. SUP-20-91. WILLIAM C. BRANCH

Mr. Friel presented the staff report (appended) for a special use permit to allow a residential on-site wastewater treatment system with off-site effluent disposal located at 5019 River Road. Mr. Friel stated that staff recommended denial of this application for reasons stated in the staff report.

Mr. Kuras opened the public hearing.

Mr. Mike Rogers of Rickmond Engineering presented a history of his company's involvement in this situation.

In response to a statement by Mr. Mike Rogers that a special use permit was not requested at this time, Mr. Leo Rogers, Assistant County Attorney, stated that the County requires a special use permit for this facility's location and operation. He further stated that the applicant is requesting the County to certify to the State that the location and operation is in conformance with County requirements, but before that can be done, a special use permit must be approved.

Mr. David Hertzler, 101 Mattaponi Trail, stated that the disposable system would be the system of the future and felt it should not be necessary to apply for a special use permit.

There being no further speakers the public hearing was closed.

Mr. Garrett made a motion, seconded by Ms. McKenna, to recommend approval of the staff report for denial. The motion passed: AYE: Bradshaw, Garrett, McKenna, Lowe, Davis, Hagee, Knudson, Betzner, Kuras (9). NAY: Hunt (1).

8. CASE NO. SUP-26-91. JACK L. MASSIE CONTRACTOR, INC.

Mr. Friel presented the staff report (appended) for a special use permit to allow a mineral resource management area (borrow pit) on 219 acres zoned A-1, General Agricultural, located at 5781 Centerville Road. Mr. Friel stated that staff recommended denial of this application for reasons stated in the staff report.

The Commission discussed the applicability of this use at this location, as well as truck traffic, whether Centerville Road is primarily a residential and rural collector road, the proposed entrance and traffic management, and procedure for expansion.

Mr. Horne stated that from a land use point of view this was a different type of use than was currently currently operating on the site, and was much more extensive in area and life span.

Mr. Kuras opened the public hearing.

Mr. Alvin Anderson, representing the applicant, compared this special use permit to the permit for the airport which, he said, became a valid nonconforming use. Mr. Anderson discussed the history of nonconforming uses and made a slide presentation. Mr. Anderson asked the Commission to weigh the benefits; i.e., enhanced safety, new entrance road, new buffers, limit of number of cells to be mined, archaeological study on cells, acquisition of right-of-way for four lane Centerville Road, and the economic benefit to James City County. He disagreed with the County's position regarding

life span of the existing use, stating the application was State approved for considerably more area.

Mr. Elvin Jones, 6068 Centerville Road, expressed concern about safety on Centerville Road but felt that the proposed new entrance would make conditions safer. Mr. Jones also felt the proposed buffers would be an asset and that Mr. Massie should be allowed to construct the new entrance.

There being no further speakers the public hearing was closed.

A discussion followed regarding the life span of the existing borrow pit.

Ms. McKenna made a motion, seconded by Mr. Bradshaw, to approve the application.

Mr. Garrett requested deferral in order to address the life span of the existing borrow pit.

Ms. McKenna amended her motion to defer for 30 days.

Mr. Horne stated that staff did not believe a definitive answer on its life span could be reached in 30 days.

The motion passed: AYE: Bradshaw, Garrett, McKenna, Lowe, Davis, Hagee, Knudson, Betzner, Hunt, Kuras (10). NAY: (0).

9. CASE NO. AFD-7-86. MILL CREEK AGRICULTURAL AND FORESTAL DISTRICT SLATER WITHDRAWAL

Mr. Friel presented the staff report (appended) to remove approximately 3 acres from the Mill Creek Agricultural and Forestal District located on Barnes Road. Mr. Friel stated that staff recommends denial of this application for reasons stated in the staff report. Mr. Friel further stated that the AFD Advisory Committee recommended (6-1) approval of this application on November 26, 1991.

Mr. Kuras opened the public hearing.

Mr. Albert Slater, applicant, stated that he did not feel he was developing on his property piecemeal. He stated that the County had previously told him he could build a residence but when he applied was told he could not. It is his intent to rent to his child. He further stated that he should have left three acres out of the AFD when it was renewed in 1990.

There being no further speakers the public hearing was closed.

Ms. Lowe stated that she voted against the application at the AFD Advisory Committee meeting as she felt it was not consistent with the requirements of the district to remove small parcels of land.

Mr. Hunt agreed with Ms. Lowe but felt since it was for a family member it should be an exception.

Mr. Hagee reminded the Commission of previous requests for withdrawals and questioned if it would be possible to permit a release of 10% of the land.

Mr. Friel responded that there were specific conditions governing each AFD.

Mr. Kuras felt an AFD should not be a holding zone for tax benefits while small parcels are permitted to be removed.

Mr. Horne explained the withdrawal criteria adopted by the Board of Supervisors and recommended they be considered by the Commission also.

Ms. Lowe made a motion, seconded by Mr. Garrett, to recommend denial of this application. On a roll call the vote was: AYE: Garrett, Lowe, Davis, Knudson, Kuras (5). NAY: Bradshaw, McKenna, Hagee, Betzner, Hunt (5).

#### 10. CASE NO. ZO-10-91. ZONING ORDINANCE AMENDMENT/SITE PLANS

Mr. Horne presented the staff report (appended) for a revised development procedure for selected economic development projects. Mr. Horne stated that staff recommended approval of the ordinance amendment.

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 of approval. The motion passed: AYE: Kuras, Betzner, Bradshaw, Davis, Garrett, Hagee, Hunt, Knudson, Lowe (10).

#### 11. 1992 COMMISSION CALENDAR

Mr. Sowers presented the proposed 1992 Planning Commission meeting calendar. He stated that there was a conflict with the Board of Supervisors for the Tuesday, September 8, 1992 meeting. Upon a voice vote, the Commissioners agreed to change the date to Tuesday, September 15, 1992 by voice vote.

12. PLANNING DIRECTOR'S REPORT


Mr. Sowers presented the Planning Director's Report.

13. ADJOURNMENT

There being no further business, the December 10, 1991 Planning Commission meeting was adjourned at 11:35 p.m.

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Alexander C. Kuras, Chairman



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O. Marvin Sowers, Jr., Secretary

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