

AT A REGULAR MEETING OF THE PLANNING COMMISSION OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE FOURTEENTH DAY OF JANUARY, NINETEEN HUNDRED AND NINETY TWO 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. 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. Allen J. Murphy, Jr., Principal Planner
Mr. Donald E. Davis, Principal Planner
Mr. R. Patrick Friel, Senior Planner
Mr. Michael A. Freda, Planner
Mr. Jeffrey J. Mihelich, Planner
Mr. David N. Fletcher, Planning Technician
Mr. Trenton L. Funkhouser, Planner
Mr. Wayland Bass, Civil Engineer, Development Management

Mr. Kuras informed the Commission that the Board of Supervisors had elected not to have a representative serve on the Planning Commission.

2. MINUTES

Ms. McKenna asked that it be recorded that she was present at the December Planning Commission meeting. Also, Ms. McKenna stated that she felt it was the sense of the Commission that they asked staff for direction on conditions to be placed on Case No. SUP-26-91 (Jack L. Massie Contractor, Inc.) and for a recommendation on the remaining life span of the existing borrow pit. With these changes, Mr. Kuras made a motion, seconded by Ms. McKenna, to approve the December 10, 1991 Minutes.

3. COMMITTEE REPORTS

There was no Development Review Committee meeting in December.

4. CASE NO. Z-5-91. AMERICAN RETIREMENT CORPORATION

At the applicant's request and staff's concurrence, the public hearing on this application was continued to the June 9, 1992 meeting.

5. CASE NO. SUP-38-91 AND CASE NO. SUP-39-91. HENRY S. BRANSCOME, INC. BORROW PIT

At the applicant's request the public hearings on these applications were continued to the February 11, 1992 meeting.

6. CASE NO. SUP-26-91. JACK L. MASSIE CONTRACTOR, INC. (DEFERRED AT DECEMBER 10, 1991 MEETING).

Mr. Friel presented the staff report (appended) and stated that conditions had been developed for this case as directed by the Commission at the December meeting. Mr. Friel pointed out condition #15 which states that the permit shall expire 7 years from the date of issuance. He stated that the Comprehensive Plan attempts to create a land use pattern that does not unnecessarily mix residential and industrial traffic. Mr. Friel further stated that the conditions did not alter staff's basic land use concerns and that staff continued to recommend denial of this application for reasons stated in the December 10, 1991 staff report to the Commission.

Mr. Alvin Anderson, representing the applicant, spoke briefly on behalf of the application and stated objection to condition #15. Mr. Anderson stated that with a \$50,000 improvement to the entrance of the site, the borrow pit would need to be useful for more than 7 years to be cost effective.

In response to Ms. Lowe's inquiry regarding monitoring procedures and inert materials, Mr. Friel stated that the State Bureau of Mines, Minerals and Energy inspects regularly, and that the Division of Code Compliance responds on a complaint basis as well as periodically performing inspections. Mr. Horne acknowledged that effective monitoring would be difficult.

Mr. Anderson stated that the State Bureau of Mines, Minerals and Energy inspects every two months without notice.

Mr. Paul Small, AES, stated that the State considers pavement to be inert material.

In response to Mr. Betzner's inquiry regarding condition #15, Mr. Friel stated that the seven year expiration date was based upon upgrading of Centerville Road and the future planned uses in the area which are residential, agricultural and forestal. Mr. Friel further stated that staff felt condition #15 was necessary because of changing conditions in the area and the possibility of new technology and environmental regulations coming into effect that could affect this project.

Ms. Lowe stated agreement with traffic being a burden and questioned the borrow pit's incompatibility with the area's land uses. Ms. Lowe further stated that the Natural Areas Inventory lists 25 significant areas, this location being in the middle of three of the most valuable of the identified areas: Powhatan, Yarmouth and Gordon Creeks.

Mr. Garrett stated that he did not feel that staff had addressed the question he raised at the December meeting regarding how many years of operation could occur under existing ordinances.

Mr. Horne stated that at the December meeting he had pointed out that there was a disagreement between staff and the applicant as to the rights of the nonconforming use on the site. Mr. Horne stated that staff said at that meeting that they did not believe a resolution on its life span could be reached before the next meeting, and may require litigation.

Mr. Sowers stated that the minutes indicate that the Commission was informed of this at the December meeting. He stated that under the Comprehensive Plan, residential traffic will predominate unless the County consciously approves uses such as this which generate industrial traffic.

Mr. Kuras stated that he supports the proposal because residential development would generate more traffic, the site is centrally located and the neighbors support it.

Mr. Garrett stated his support of the application for the following reasons: (1) If the Massie borrow pit is not allowed to operate, it would create a monopoly with only one operation of its kind in the County; (2) if the Massie operation is closed, the remaining dirt-fill operation would use part of Route 5 and all of Centerville Road for transportation to the upper portions of the County, obviously increasing traffic problems; and (3) he was not convinced by staff that the existing operation is limited to five years but can continue for over 30 years. In that case, Mr. Garrett felt that the County would be better served by enhancing traffic safety that would come about from the installation of turn lanes. But, he said, for economic reasons, the construction of turn lanes do not appear feasible to the applicant unless a special use permit is granted for the entire parcel under question, not just the 39 acres.

Ms. Gussman stated she felt the Comprehensive Plan issues were debatable, and she stated her approval of the application except for condition #15. If approved, Ms. Gussman suggested that staff look at the National Areas Inventory and include conditions, if necessary.

Ms. McKenna made a motion, seconded by Mr. Hunt, to recommend approval of the staff recommendation except to delete condition #15.

Ms. Lowe felt the conditions should address review of impact on resources.

The motion passed: AYE: Bradshaw, Garrett, McKenna, Davis, Hagee, Gussman, Betzner, Hunt, Kuras (9). NAY: Lowe (1).

7. CASE NO. SUP-41-91. WILLIAMSBURG FARMS

Mr. Fletcher presented the staff report (appended) for a special use permit to extend the time limit on previously issued SUP-41-87 (March 7, 1988) for an inn and a restaurant on Lake Powell Road. Mr. Fletcher stated that staff recommended approval of this application with the conditions detailed in the staff report.

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

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

8. CASE NO. SUP-37-91. RITE WAY TAXI, INC.

Mr. Freda presented the staff report (appended) for a special use permit to allow a taxi business to be located at the existing Merrimac Center Retail Stores. Mr. Freda stated that staff recommended approval of this application with the conditions detailed in the staff report.

Mr. Kuras opened the public hearing.

Ms. Ruth Lambert, the applicant on behalf of Mr. David L. Hertzler, spoke briefly regarding this application and asking for its approval.

There being no further speakers the public hearing was closed.

Ms. McKenna, in reference to condition #2, questioned why the number of taxi cab vehicles was limited to eight. Mr. Freda responded that the limitation was based upon the number of taxi cabs that staff felt could be accommodated on this site. Mr. Sowers stated that with this use and others already on the site, the site's ability to accommodate parking under the County's ordinances has almost been reached.

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

9. CASE NO. SUP-40-91. JCSA COMMUNICATIONS TOWER

Mr. Fletcher presented the staff report (appended) for a special use permit for the placement of a 100 foot tall communications tower on property located at 107 Tewning Road. Mr. Fletcher stated that staff recommended approval of the application with the conditions detailed in the staff report.

In response to Mr. Bradshaw's inquiry as to whether rental space was available, he was informed that the County felt it would be better served by its own tower.

Ms. Gussman stated that the Planning Commission had adopted a resolution regarding location of towers because of concerns regarding their proliferation and visual impact.

Mr. Sowers stated that the Commission's resolution addresses tower design; it does not specifically address proliferation.

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

Ms. Lowe felt the County should have looked into other towers in the area.

Mr. Larry Foster, the applicant on behalf of the James City Service Authority, stated that space was available on another tower but that they have already purchased the tower.

Ms. Gussman felt if the private sector was expected to seek rental space on existing towers, the same should be expected of the County.

Mr. Kuras stated that the number of antennas on the tower should not be limited so others could use it too.

Mr. Sowers stated that these issues were discussed when the Commission adopted their resolution, but were not included in the resolution itself, and staff relied on the content of the adopted resolution in making their recommendation.

Ms. McKenna made a motion, seconded by Mr. Garrett, to recommend denial of this application to the Board of Supervisors.

Ms. McKenna suggested that because proliferation of towers was not desirable, the issue should be brought back to the Policy Committee.

Mr. Betzner stated that he would vote for the application because proliferation of towers was not included in the Commission's resolution but would support going back and studying the Commission's policy.

Mr. Foster stated that he would investigate further.

Mr. Hagee made a motion to recommend deferral. The Service Authority was requested to investigate whether the antenna could be placed on an existing tower and whether the tower could be returned to the supplier.

The motion passed by unanimous voice vote.

10. CASE NO. SUP-42-91. WILLIAMSBURG/JAMES CITY COUNTY GROVE ELEMENTARY SCHOOL

Ms. Gussman declared abstention based on conflict of interest.

Mr. Fletcher presented the staff report (appended) for a special use permit to allow for the development of an elementary school, preschool facility, and related community recreation facilities located on Pocahontas Trail. Mr. Fletcher stated that staff recommended approval of the applications with the conditions detailed in the staff report.

Mr. Davis questioned moving the curbing on Route 60, street lighting on Ferrell Drive, runoff, and the speed limit between Tarleton Bivouac and the 7-Eleven.

Mr. Fletcher responded that at the time of review for the special use permit application, VDOT had no comments on the proposed site. However, Mr. Fletcher said, even though these concerns were not proposed as part of the plan they will be brought to the attention of VDOT during the site plan review stage.

Mr. Bradshaw questioned why there was no lighting as this would limit the use of the recreation field.

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's recommendation of approval. The motion passed: AYE: Bradshaw, Garrett, McKenna, Lowe, Davis, Hagee, Betzner, Hunt, Kuras (9). NAY: (0). ABSTAIN: Gussman (1).

11. CASE NO. Z-7-91. JAMES CITY COUNTY AFFORDABLE HOUSING SUBDIVISION

Mr. Mihelich presented the staff report (appended) to rezone approximately 28.33 acres from A-1, General Agricultural, to R-3, General Residential, in order to develop a clustered affordable housing subdivision. Mr. Mihelich stated that staff recommended approval with the conditions detailed in the staff report.

Mr. Garrett questioned what would prevent a homeowner from reselling for a profit.

Mr. Rick Hanson, the applicant on behalf of the James City County Department of Community Services, responded that there have not been problems in the past and that there are provisions in the deeds and within the Virginia Housing Development Authority Home Mortgage Loan Program that create strict eligibility guidelines.

Mr. Garrett stated that if we limit the resale price, maintenance will be discouraged and property will depreciate.

Mr. Kuras opened the public hearing.

Mr. Steve Garrett, 3368 Chickahominy Road, expressed his opposition to "government housing" and what it would look like in five years, and questioned who would maintain the property.

Mr. Kuras explained that the subdivision was not government housing but privately owned homes and as such would be maintained by the homeowner.

Mr. Sowers stated that when this program was being introduced Community Services had made a good presentation to the Board of Supervisors that looked at issues raised by Mr. Steve Garrett, and that this information should be shared with him.

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

12. CASE NO. ZO-11-91. ZONING ORDINANCE AMENDMENT/RESIDENTIAL CLUSTER ORDINANCE

Mr. Mihelich presented the staff report (appended), described the work of the subcommittee, participation by the development community, and the outcome of the Residential Cluster Ordinance, and presented a slide presentation contrasting a traditional subdivision with a cluster subdivision. Mr. Mihelich stated that the Zoning Ordinance amendment was unanimously approved by the subcommittee and staff recommended approval.

Mr. Kuras opened the public hearing.

Mr. Norman Mason of Langley & McDonald complimented the subcommittee on an excellent ordinance. Mr. Mason urged that the Commission not require adherence to rigid VDOT standards for public roadways by providing for private roads in larger developments which are maintained by a homeowners association.

Mr. David Kleppinger, a local planning consultant whose slides were used in the presentation, stated that the new term is "open space" rather than cluster. Mr. Kleppinger urged the Commission to recommend approval of the ordinance amendment.

Mr. Kuras asked Mr. Paul Small if he wished to comment; he declined.

There being no further speakers the public hearing was closed.

Ms. McKenna made a motion, seconded by Mr. Betzner, to recommend adoption of the Residential Cluster ordinance amendment.

Mr. Hagee stated that 50% open space seems like a lot, especially on sites without much developable area, and suggested putting a cap on the amount of open space on such sites. He added that this is not as much of a problem since the ordinance is an option.

Ms. McKenna stated that the subcommittee had looked very closely at this question and felt this requirement was necessary to ensure true clusters and protect the environment.

Mr. Hagee made a motion that the required amount of open space should not exceed 50% of the developable area. The motion died for lack of a second.

The original motion to approve the ordinance as presented passed: AYE: Bradshaw, Garrett, McKenna, Lowe, Davis, Gussman, Betzner, Hunt, Kuras (9). NAY: Hagee (1).

13. CASE NO. ZO-12-91. ZONING ORDINANCE AMENDMENT/R-1, R-2 AND R-3.

Mr. Friel presented the staff report (appended) of the major changes to be recommended by the Residential Districts Subcommittee. Mr. Friel stated that on December 17, 1991 the subcommittee unanimously recommended that the Planning Commission approve the amendments to the R-1, R-2 and R-3 regulations, and that the zoning map be changed by designating existing R-3 areas R-2.

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

Mr. Hagee stated that the ordinance reduces density from 3.5 to 2 units per acre in existing R-3, and that in order to gain back this density, development under the cluster ordinance is necessary which requires 50% open space.

Mr. Friel stated that the densities in R-2 and R-3 are inconsistent with the Comprehensive Plan, with most of these areas designated Low Density Residential at 2 units per acre for standard development, and up to 4 units per acre for cluster development. He stated that the January 21, 1992 subcommittee meeting was changed to January 27 at 4 p.m. in the boardroom.

Mr. Kuras recommended maintaining setbacks at 35 feet for streets with over 1000 vehicles per day, and allowing small clusters with up to 25 lots by right in R-1.

Following further discussion, Ms. McKenna made a motion, seconded by Ms. Lowe to recommend approval. The motion passed: AYE: Bradshaw, Garrett, McKenna, Lowe, Davis, Gussman, Betzner, Hunt, Kuras (9). NAY: Hagee (1).

14. PLANNING DIRECTOR REPORT

Mr. Sowers presented this report and reminded the Commission that election of officers will be held at the February meeting.

15. MATTERS OF SPECIAL PRIVILEGE

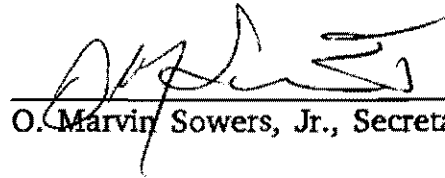
Mr. Kuras reminded the Commission that Arbor Day will be held on February 13, 1992.

16. ADJOURNMENT

There being no further business the January 14, 1992 Planning Commission meeting adjourned at 10:20 p. m.



Alexander C. Kuras, Chairman



O. Marvin Sowers, Jr., Secretary