

AT A REGULAR MEETING OF THE PLANNING COMMISSION OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE TENTH DAY OF NOVEMBER, NINETEEN HUNDRED AND NINETY TWO AT 7:30 P. M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101C MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

1. ROLL CALL

Mr. Alexander Kuras, Chairman  
Mr. A. G. Bradshaw  
Mr. Martin Garrett  
Ms. Willafay McKenna  
Mr. John Hagee  
Ms. Victoria Gussman  
Mr. Donald Hunt

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. R. Patrick Friel, Senior Planner  
Mr. Trenton L. Funkhouser, Senior Planner  
Mr. David N. Fletcher, Planning Technician  
Mr. Darrell E. Gray, Parks and Recreation Facilities Coordinator

Mr. Kuras extended the thanks of the Planning Commission, staff, and other invited guests to Mr. & Mrs. Bradshaw for hosting the luncheon following the County bus tour on Saturday, November 7, 1992.

2. MINUTES

The Minutes of the October 13, 1992 regular meeting and the October 28, 1992 worksession were approved as presented by unanimous voice vote.

3. DEVELOPMENT REVIEW COMMITTEE REPORT

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

4. CASE NO. SUP-23-92. BUSCH PROPERTIES, INC.

Mr. Hagee stated that he had a conflict of interest and would abstain from participation on this case.

Mr. Friel stated that this case was deferred at the August, September and October Planning Commission meetings at the request of the applicant. Mr. Friel presented the staff report (appended) for a special use permit to allow an 18 hole golf course between Busch Gardens and Magruder Avenue. Mr. Friel stated that staff recommended approval of the special use permit with the conditions stated in the staff report. Mr. Friel reminded the Commissioners that a special use permit (No. SUP-50-89) was granted in February, 1990, but had expired.

Ms. Gussman asked what changes were submitted to the plan after consulting with the Division of Natural Heritage regarding the possible presence of globally rare animal species and rare plant species.

Mr. Friel responded that no specific changes were submitted to the plan; however, the County was informed that marl deposits were located in some of the ravines. This information was reviewed by the County Engineer who determined that the plans adequately addressed this situation.

Mr. Kuras opened the public hearing.

Mr. Joseph Cross, representing Busch Properties, Inc., reminded the Commission that this was the same site, same golf course and same use previously approved for a special use permit which expired in July 1992. Mr. Cross stated that as requested by the County in August, 1992, additional work was performed by the James River Institute for Archaeology. Also, the Williamsburg Environmental Group was hired to assist in the review of the Natural Heritage condition, as suggested by staff. Williamsburg Environmental Group contacted the Virginia Department of Conservation and Recreation's Division of Natural Heritage to determine what rare and endangered species were on the site. A site visit was performed on September 16, 1992, but a report had not yet been received. Mr. Cross asked for approval at this time in order to ensure the opening of the golf course in late spring, 1994.

Mr. Cross stated that Mr. Nicholas Lucchetti, Director of the James River Institute of Archaeology, and individuals from the Williamsburg Environmental Group were present to respond to questions.

Ms. Carolyn Lowe, resident of James City County, was especially concerned that this proposal was within the Grove Creek Natural Area, one of 16 Natural Areas in the County identified as areas of special concern because of the habitat they provide for rare, threatened and endangered species. Ms. Lowe felt the Natural Heritage biologists had not had an opportunity to make specific recommendations with regard to the site plan and possible changes in order to protect the identified natural resources. Ms. Lowe also expressed concern regarding the effects of herbicides, pesticides, fertilizers and sedimentation which could prove harmful to natural communities. Ms. Lowe objected to the removal of condition #10 which she felt would have provided at least minimal protection for rare species and their critical habitat. Ms. Lowe questioned how the applicants proposed to handle runoff to prevent fertilizer and pesticide residues from entering and polluting the stream and wetlands; what type of drainage system would be installed; how much water would be withdrawn from the Rhine River to irrigate the golf course; what would be the potential impact of the withdrawal on the rare plant communities downstream, and would the irrigation water be recycled. Mr. Lowe also questioned whether corridors of natural vegetation would be maintained, both to help deter runoff and to provide byways for the movement and migration of wildlife. Mr. Lowe urged the Commissioners to give special consideration to the potential impacts of any development on the resources that represent the best of this community's natural heritage.

Dr. Donna Ware, a professional botanist and resident of the County, spoke on the need to protect the Grove Creek ravine system stating that if an adequate forest buffer is not left between the clearance for the golf course and the steep ravine slopes the unique character of this entire water shed would be lost. Dr. Ware stated that this area has been a major research focus for her in recent years and she has presented papers on studies at state and regional meetings as well as coauthoring with Stewart Ware a publication in a scientific journal about the remarkable flora at Grove Creek. Dr. Ware discussed the forest formation which is codominated by American Beech and Sugar Maple trees which were determined to be exceptional by the Division of Natural Heritage.

Dr. Ware further stated that reasons for protection of the Grove Creek ravine are the exemplary quality of the forest, the rare plant and animal species, and the mountain element present in the ravines, and that this is the best example of this species mix in the state. The ravines in Grove Creek are refuges for these mountain plants. Dr. Ware urged that the Commission require that an undisturbed strip of forest buffer be left between the ravines and the development. Dr. Ware further stated that if appropriate buffers are provided that both protection of natural resources and development of the golf course can successfully occur within reasonable proximity of one another.

Mr. Timothy O'Connell, a representative from the Department of Conservation and Recreation, Division of Natural Heritage, spoke on his concerns regarding Grove Creek Natural Area which contains several rare plant species and a natural community site (marl ravine forest). For this reason, he said, he would request the opportunity to work with the developer and consultant on this project. Mr. O'Connell also stated that areas of concern include retention basins, and golf cart paths and fairways that cross ravines. These are areas, he said, where he would like to have continued input to ensure protection of resources identified in the Grove Creek Natural Area.

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

Mr. Garrett questioned the proximity of the golf course to the ravines.

Mr. Michael Kelly, Vice President of The Williamsburg Environmental Group, stated that he had walked the area on September 16 and that there are three crossings of the ravines and some have extensive wetlands. The crossings are perpendicular to the ravines in three locations. Mr. Kelly felt that with the minimum encroachment and with care in the construction of the golf course, impacts on the ravines would be minimized. Mr. Kelly further stated that a meeting with the Corps of Engineers is scheduled for November 13 regarding wetland impacts for which a permit is not required because there is no filling in of wetlands. Mr. Kelly felt the Chesapeake Bay Preservation Act required adequate buffers. Mr. Kelly further stated that he appreciated meeting on the site with the Natural Heritage group and gave them an opportunity to comment but that this was the first he had seen of their letters with the comments. He said he would like to work further with them.

Ms. McKenna questioned the buffer areas that had been allocated.

Mr. Kelly stated that buffers would be provided in accordance with the Chesapeake Bay Preservation Ordinance.

Mr. Kelly stated that Busch understands that there are sensitive areas in the ravines but that it is very difficult to construct an 18 hole golf course on a site with numerous ravines without minimally encroaching on some of the areas.

Mr. Friel stated that condition #10, which was removed from this staff report, could again be included as a condition. This would permit a more thorough review of the Division of Natural Heritage's position on the issue and allow it to be more thoroughly analyzed by the County Engineer.

Ms. Gussman made a motion, seconded by Mr. Bradshaw, to recommend approval of Case No. SUP-23-92 with the addition of condition #10. The motion passed: AYE: Kuras, Bradshaw, Garrett, McKenna, Gussman, Donald Hunt (6). NAY (0). ABSTAIN: Hagee (1).

Mr. Bradshaw commented that it was disturbing that the applicant did not receive information from the Division of Natural Heritage much sooner.

5. CASE NO. SUP-25-92. MERSHON PROPERTIES

Mr. Fletcher presented the staff report (appended) for a special use permit to allow a 250 foot tall communications tower in the M-1, Limited Industrial District, at 4039 Ironbound Road. Mr. Fletcher stated that staff recommended denial of this application for reasons stated in the staff report.

Mr. Hagee asked for an explanation regarding the statement in the staff report that the Planning Commission was not required to make a determination regarding the height and setback requirements; yet, these requirements were emphasized in the staff report.

Mr. Fletcher explained that the comments regarding the yard and height waivers were included to make the Commission aware of all of the land use factors. Although the Commission is not required to make a determination on these waivers, they are significant enough factors to deserve mention and consideration.

Mr. Hagee stated that while he does not disagree that the tower could be a safety issue, he does not agree that it is incompatible with the surrounding area as it is zoned M-1 and there are six other towers in the area.

Mr. Fletcher responded that the surrounding towers are substantially smaller than this tower and the visibility intrusion would be much greater as this tower is closer to the road than the other towers.

A discussion followed regarding the type of lighting for the tower. Mr. Fletcher stated that the FAA is flexible with requirements. Red beacon lights can be used at night and white strobe lights during the day, or red beacon lights can be used at all hours of the day.

Mr. Garrett felt that aesthetics were important because a tower of this height would require a light and would be visible to the residential areas.

Mr. Kuras opened the public hearing.

Mr. Vernon Geddy, III, attorney for the applicant, introduced Rich Costello, AES, consulting engineers, and representatives from Centel Cellular. Mr. Geddy stated that this request is based upon Centel Cellular's determination of a deficiency in cellular coverage in the Route 5 corridor, particularly the Five Forks area. Mr. Geddy further stated that Centel has determined that a 240 foot tower would meet their needs on this site rather than the 250 foot tower requested. Mr. Geddy stated that if this tower was denied the applicant would then need to find another site and install a new tower to serve the Route 5 area. Mr. Geddy felt the replacement of an existing tower with one 60 feet taller would be preferable. Mr. Geddy also felt that the tower was consistent with zoning and the surrounding development and pointed out that there were six other towers in the area. Mr. Geddy felt that towers should be clustered in one small area rather than spread out in residential and agricultural areas. Regarding safety, Mr. Geddy pointed out that these towers were designed not to collapse but to fold in on themselves.

Mr. Geddy stated that this proposal does not increase the number of towers in the County, it is consistent with zoning and the Comprehensive Plan designation for the site, it is clearly consistent with the surrounding development, consistent with the resolution on communication towers and poses no safety threat to residences in the location of this site. Mr. Geddy stated that Centel applied to FAA for dual lighting. It would involve no paint on the tower, but a red beacon light on the top of the tower at night and white strobe light during the day. Mr. Geddy urged the Commission to recommend approval of the application to the Board of Supervisors.

At Mr. Hagee's request, Mr. Geddy again reviewed the safety issue demonstrating on a drawing where the break would occur.

Mr. Rich Costello also discussed the tower structure stating that if it became overstressed it would fall on itself rather than collapse.

In response to Ms. Gussman's inquiry regarding a truck hitting the base of the tower, Mr. Costello responded that a truck could not creash through the 4x4x4 concrete base constructed at each leg of the tower.

Mr. Sowers stated that while the safety issue is important the Commission should focus on the Comprehensive Plan and visual issues. The area is a mixed use area on the edge of a residential area and that this tower would be substantially more visible than the one it is replacing to surrounding residential areas and other uses within the mixed use area. Mr. Sowers stated that this decision may influence future cases in regard to what kind of visual impact the County wants mixed uses to have, particularly on adjacent residential areas. Mr. Sowers emphasized that the other towers are set back further off the road and are considerably smaller.

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

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

Mr. Hagee asked for discussion.

Ms. McKenna felt that the policy discussed in the past took into account to a great extent the aesthetics; that considerable time was devoted to consideration of the area in which the towers would be placed; and, that the area should support a total fall over of the tower. Ms. McKenna stated that in the past the Commission discussed whether it would be wise for the County to have a tower park with towers all in one area but were opposed to the idea. Ms. McKenna pointed out that this particular area was changing rapidly and developing fairly attractively. Ms. McKenna felt that the site could accommodate the other towers but this tower would make a substantial difference in the appearance of the entire tract.

Mr. Hagee stated that the tower resolution does not address the size of the property on which a tower would be placed, but if it is to be a consideration then more specific parameters should be set based on the height of the tower at issue. Mr. Hagee stated that the need for towers is now part of our everyday existence and the County needs to be more open as to where they are located.

Mr. Hunt stated that he agreed with Mr. Hagee's comments.

Mr. Kuras stated that he felt there was not a major structural design problem but that the issue was one of aesthetics. Mr. Kuras felt the tower was too close to Ironbound Road.

Mr. Garrett stated that his concern was not a safety issue but aesthetics.

Ms. Gussman stated that she too would prefer that the tower be further back from Ironbound Road but she would also prefer that the tower be located where there are existing towers on the site. Also, replacing an existing tower would be preferable to placing a new tower in the country side where none exist.

Mr. Bradshaw stated that he would prefer not to have towers in the country side where none exist.

Mr. Sowers stated that only one site had been presented by the applicant and that there was no documentation provided that other M-1 zoned sites had been considered which might have less visual impact. Mr. Sowers stated that other sites further off Tewning Road could also be available and that other options not presented tonight may also be available.

On a roll call vote for a recommendation of denial of Case No. SUP-25-92 the motion failed: AYE: Garrett, McKenna, Kuras (3). NAY: Bradshaw, Hagee, Gussman, Hunt (4).

Mr. Gussman made a motion, seconded by Mr. Hagee, to recommend approval of Case No. SUP-25-92 to the Board of Supervisors with the addition of two conditions: 1) that a red light be atop the tower at night and 2) that safety documentation be presented to staff for review prior to the Board meeting.

Mr. Fletcher pointed out that there are standard conditions which would be applied to a tower application which relate to the red beacon lighting and the safety information being provided by the FAA before the Board meeting.

Mr. Sowers suggested that another condition be added that the Development Review Committee retain the ability at the site plan stage to review and approve a buffer along Ironbound Road to establish some sort of evergreen overstory to block some of the visibility of the tower.

Ms. Gussman motioned that a condition be added that the site plan be reviewed by the Development Review Committee. Mr. Hagee agreed to the added condition.

In response to an inquiry by Ms. McKenna, Mr. Fletcher stated that the FAA had not responded to the County's inquiry regarding whether the tower needed painting but if it did it would be high visibility orange and white.

In response to an inquiry by Ms. McKenna, Mr. Sowers responded that if this application is approved the applicant's request for a height waiver would go to the Board.

On a roll call vote for a recommendation of approval of the application with the added three conditions the motion passed: AYE: Bradshaw, Hagee, Gussman, Hunt (4). NAY: Garrett, McKenna, Kuras (3).

#### 6. CASE NO. Z-3-92. WILLIAMSBURG DEVELOPMENTS, INC.

Ms. Gussman stated that she had a conflict of interest and would abstain from participation on both Case No. Z-3-92 and Case No. Z-4-92. James River Commerce Center.

Mr. Friel presented the staff report (appended) to rezone approximately 65.6 acres from R-8, Rural Residential to PUD-R, Planned Unit Development-Residential, for a three lot subdivision. Mr. Friel stated that staff recommended approval of Case No. Z-3-92.

In a discussion that followed regarding archaeological conditions, Mr. Norman Mason informed the Commission that there are four graves but they are not part of the project and will not be disturbed by the proposal.

Mr. Kuras opened the public hearing.

Mr. Alvin Anderson, the applicant on behalf of Williamsburg Development, Inc., presented a brief history of the property and the proposal.

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

Ms. McKenna made a motion, seconded by Mr. Bradshaw, to recommend approval of Case No. Z-3-92. On a roll call vote the motion passed: AYE: Bradshaw, Garrett, McKenna, Hagee, Hunt, Kuras (6). NAY: (0). ABSTAIN (1) Gussman

7. CASE NO. Z-4-92. JAMES RIVER COMMERCE CENTER

Mr. Funkhouser stated that the applicant requested a deferral until the December 8, 1992 meeting.

Mr. Kuras opened the public hearing. The Planning Commission concurred with the staff's recommendation to continue the public hearing at the December 8, 1992 meeting.

8. RECREATION MASTER PLAN UPDATE

Mr. Darrell E. Gray, Facilities Coordinator for Parks and Recreation, presented the staff report (appended). Mr. Gray informed the Commission that the first draft of the plan will be presented to the Parks and Recreation Commission on November 19 at 7 p.m. in the auditorium of the Human Services Building. The draft and any changes will be presented to the public for comment on December 3 at 7 p.m. at Lafayette High School. Mr. Gray encouraged the Commission to attend the meetings.

Mr. Kuras stated his concern regarding the assigning of points and the prioritization of needs which were tallied from votes cast by 41 meeting attendees. Mr. Kuras felt that 41 attendees was a very small sampling compared to a 38000 population.

Mr. Gray stated that various means were considered for gathering information for this Parks and Recreation Master Plan. Even though there were only 41 participants at the second public meeting, at a previous meeting there were 20 different participants.

Mr. Kuras was concerned that there were too few respondents (73) to the questionnaire.

Mr. Gray felt that a very good foundation exists based on the Comprehensive Plan and the information gathered at two public meetings as well as surveys and from surveys performed by the Virginia Outdoor Plan which mirrors information presented in the Comp Plan process.

Mr. Kuras suggested that private homeowner type subdivision facilities be considered in the plan.

Mr. Garrett asked if in the hierarchy in the numbering system had consideration been given to how much existing facilities are used; i.e., the tennis courts at the Recreation Center which are ranked #2.

Mr. Gray responded that Parks and Recreation actively proposes soccer, softball and baseball and that standards are developed based on current needs as well as projected needs based on growth of James City and York Counties and the City of Williamsburg. Also, regarding tennis courts and other issues, samples of attendance are currently being performed at some of the parks as a needs analysis. Basically, what is applied are standards from Virginia Outdoor Plan which are minimum guidelines based on what is happening in other localities. Mr. Gray said that he received a letter from a resident in Norge with 23-24 signatures requesting tennis facilities in their area.

9. R-1, LIMITED RESIDENTIAL DISTRICT/GOLF COURSES

Mr. Friel presented the staff report (appended) stating that staff was directed to look at the issue of permitting "golf courses and country clubs" in the R-1, Limited Residential District. Mr. Friel stated that staff recommended that the Planning Commission indicate their desire to this change and staff would prepare an ordinance amendment for the December 8, 1992 meeting. Mr. Friel further stated that staff recommends that the Planning Commission direct staff to remove golf courses and country clubs as a generally permitted use from the R-2, R-5 and R-6 zoning district and require the issuance of a special use permit in those districts.

Ms. Gussman suggested that the Commission ask the staff to prepare an amendment to the Zoning Ordinance for the December meeting. The Commission unanimously agreed.

10. PLANNING DIRECTOR'S REPORT

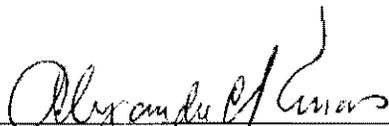
Mr. Sowers informed the Commission that on November 16 at 3 p.m. the Board of Supervisors will hold a work session on the draft legislative program. The Planning Commission is invited to attend. Also Senator Norment and Delegate Grayson have been invited to attend.

Mr. Sowers stated that the Regional Issues Committee had been authorized by the Board of Supervisors of James City and York Counties and Williamsburg City Council to begin work on a bikeways plan. The plan will be coordinated with Darrell Gray of Parks and Recreation. A kickoff meeting to receive citizen input will be held on November 23 at 7:30 p.m. in City Council Chambers and a second meeting in York County Public Library on November 30 at 7:30 p.m.

Mr. Sowers summarized some of the materials in the reading file including a new archaeological condition policy and asked that any questions be referred to Pat Friel or Liz Friel. Following brief discussion, the Commission was in agreement that the Policy Committee review time share units and the archaeological condition policy.

11. ADJOURNMENT

There being no further business, the November 10, 1992 Planning Commission meeting adjourned at 9:25 p.m.

  
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Alexander C. Kuras, Chairman

  
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O. Marvin Sowers, Jr., Secretary