

AT A REGULAR MEETING OF THE PLANNING COMMISSION OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE EIGHTH DAY OF NOVEMBER, NINETEEN HUNDRED AND NINETY-FOUR, 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 C. Kuras, Chairman
Mr. A. G. Bradshaw
Mr. Martin Garrett
Mr. John F. Hagee
Mr. Raymond L. Betzner
Mr. Donald C. Hunt
Mr. Jay H. Everson
Ms. Willafay McKenna

ALSO PRESENT

Mr. O. Marvin Sowers, Jr., Director of Planning
Mr. John T. P. Horne, Manager of Development Management
Mr. Larry Foster, General Manager, James City Service Authority
Mr. Gary A. Pleskac, Planner
Mr. Mark J. Bittner, Planner
Mr. Matthew W. Maxwell, Planner
Mr. Trenton Funkhouser, Sr. Planner
Mr. Darrell Gray, Facilities Coordinator (Recreation Center)

2. MINUTES

Upon a motion by Ms. McKenna, seconded by Mr. Garrett, the Minutes of the October 11, 1994 Planning Commission meeting were approved by unanimous voice vote.

3. DEVELOPMENT REVIEW COMMITTEE REPORT

Mr. Hagee stated that he had a conflict of interest regarding Case No. SP-111-94, Wareham's Pond Road Extension in Kingsmill.

Upon a motion by Mr. Garrett, seconded by Ms. McKenna, the Development Review Committee Report was approved by voice vote, with Mr. Hagee abstaining on Case No. SP-111-94.

4. WATER SUPPLY PRESENTATION

Mr. Larry Foster, in this presentation made at the Planning Commission's invitation, basically discussed the following:

- The County's dependency upon ground water.
- The acquisition of withdrawal permits for additional ground water in the range of 1.5 to 2 million gallons per day.
- The need for an expanded water supply to meet the demands of growth in 4-5 years.
- Acquisition of a surface water reservoir to be constructed and filled in approximately 10 years.
- The formation of the Hampton Roads Water Efficiency Team to educate the public on the importance of, and how to, conserve water.
- Water blending in order to maximize water supply and make the system more efficient.

A brief discussion followed, including the availability of water for the next 10 years, no evidence of salt water intrusion, and the impact of proposed development on water availability.

5. CASE NO. Z-9-94. WHITE FARM

Mr. Pleskac presented the staff report (appended) to rezone approximately 72 acres from R-8, Rural Residential, to R-2, General Residential, in order to construct 144 single family detached homes on Greensprings Road. Mr. Pleskac stated that staff concurs with the applicant's request to defer this case until the December 13 meeting in order to address staff concerns.

Mr. Kuras opened the public hearing. There being no speakers, with the Commission's concurrence, the public hearing was continued to the December 13, 1994 meeting.

6. CASE NO. SUP-26-94. KINGSMILL RESORT GROUND MOUNTED ANTENNA

Mr. Hagee stated that he had a conflict of interest on this case.

Mr. Pleskac presented the staff report (appended) for a special use permit to install a 1.8 meter diameter satellite dish antenna and ground mount at the Kingsmill Resort Center at 1010 Kingsmill Road. Mr. Pleskac stated that staff recommended approval, with the conditions detailed in the staff report.

Mr. Ed Warren, the applicant, stated that the tower would be off white in color and well camouflaged by shrubs and trees.

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

Ms. McKenna stated that the Policy Committee had hoped that smaller antennas would be available and this appears to be on the threshold now. Ms. McKenna commended the applicant on the plan to disguise the antenna.

Ms. McKenna made a motion, seconded by Mr. Betzner, to accept the staff's recommendation of approval.

On a roll call vote, the motion passed: AYE: Bradshaw, Garrett, Mckenna, Betzner, Hunt, Everson, Kuras (7). ABSTAIN: Hagee (1). NAY: (0).

7. CASE NO. SUP-27-94. G SQUARE, INC. DUPLEX

Mr. Bittner presented the staff report (appended) for a special use permit to construct a residential duplex approximately 3,000 square feet at 4086 Ironbound Road. Mr. Bittner stated that since the printing of the staff report, staff had received a letter from the Homeowners Association stating their objection to this proposal and distributed a copy to each member of the Commission. Mr. Bittner further stated that staff recommends denial of this application because the proposal is contrary to what the covenants for the neighborhood permit and would be in conflict with the established development pattern of the Brook Haven Subdivision.

In response to Mr. Everson's inquiry, Mr. Bittner responded that the County cannot enforce covenants but the County Attorney's office has assured staff that it would not be illegal for the Commission or the Board of Supervisors to deny this application based on the covenants.

Mr. Sowers stated that covenants are enforced by Homeowners Associations.

Mr. Kuras felt that the County should take covenants seriously.

Mr. Kuras opened the public hearing.

Mr. Steven Meade, on behalf of the applicant, stated that the staff report was very fair. Mr. Meade stated that proposal was in compliance with the Zoning Ordinance. Mr. Meade further stated that whether the dwelling would violate the restrictive covenants was a dispute between private landowners to be settled by the courts. Mr. Meade pointed out that there are three other duplex structures within the general vicinity, and that a single entrance for two families "would not add that much traffic." Mr. Meade felt the covenant was unclear by what was meant by "one detached dwelling." Mr. Meade stated that the application was consistent with all surrounding zoning and development in the area, and except for the restrictive covenants, there was no reason to deny the application and it should be granted.

In response to Mr. Garrett's inquiry, it was clarified that the duplexes that Mr. Meade referred to were, in fact, down the road from the subdivision and not within Phase II which is covered by the restrictive covenants.

Mr. Al Johnson, a founding father of Brook Haven, stated that the restrictive covenants clearly states "single family dwellings" and at the organizational meeting it was unanimous that no one wants a duplex. Mr. Johnson asked that the proposal be denied.

Mr. Lafayette Brown asked Mr. Meade to explain his reference to Brook Haven being low income housing.

Mr. Meade stated that his reference was to lower income and more affordable housing than a single family housing.

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

Ms. McKenna stated that she was particularly concerned about the change in density that this project would imply.

Mr. Garrett stated his strong support of covenants as an excellent means of a neighborhood maintaining what the homeowner purchased originally; if the rules are changed, it changes the value of the housing.

On a roll call vote, the motion passed: AYE: Bradshaw, Garrett, Hagee, Mckenna, Betzner, Hunt, Everson, Kuras (8). NAY: (0).

8. CASE NO. SUP-28-94. LITTLE CREEK BOAT ACCESS PARK

Mr. Sowers presented the staff report (appended) for a special use permit for a hand-carried boat launching facility on Little Creek Dam Road. Mr. Sowers presented background information for the grant application, described the project, and discussed the conditions that address concerns of an adjoining property owner (Mr. Michael Latimer), including a separate entrance to his property. Mr. Sowers further stated that because of a dispute regarding the use of the property when originally acquired by Newport News from the adjoining property owner's grandfather, a title search will be performed. If the title search of the covenants and conditions prevents this use and cannot be resolved, this project would be terminated.

Mr. Sowers stated that staff recommends approval and encouraged the Commission to act at this meeting in order to meet the grant deadline.

In discussion that followed the Commission was informed that no land costs for acquisition would be involved, landscaping would occur for buffering and controlling runoff, and the site will be patrolled for security and cleanup.

Mr. Kuras opened the public hearing.

Mr. Jim Daniels expressed concerns regarding the hours of operation to which Mr. Sowers responded that there would be a lockable gate which would be left open but if there are undesirable activities the site will be locked.

Mr. Jim Daniels also expressed concerns regarding the added boats which would disturb the ducks in his 37 acres of wild life safety zone and game habitat, and the low tide condition at the launch site.

Mr. Michael Latimer briefly discussed the history of the property and that he felt it was taken from his family by Newport News who promised it would not be used except as it currently is. Mr. Latimer felt that the access path was too long and too steep for carrying

boats to the launch area and consequently that his property would be used because it was a shorter distance and not steep and he objected to this possibility. Mr. Latimer distributed pictures showing the entrance to his property, the path to the dock, and the mean low tide at approximately 10 a.m. Mr. Latimer felt to use the driveway which he currently shares with Newport News would be a safety hazard, and would block his driveway, and that a separate entrance should be considered. Mr. Latimer stated that a fence installed separating his property from the canoe access path would satisfy his concern.

Mr. Earl Flora, a resident, stated that he owns two boats and felt he would not be able to drive his 10 ft. trailer on top of the hill and turn it around with his pick up truck. Mr. Flora also felt there was not enough land for another driveway, and on the existing road there is currently a lack of police patrol to control speeding, litter, and socializing.

There being no further speakers the public hearing was closed.

In discussion that followed Mr. Sowers stated that during a site visit there was enough water to bring in a canoe. Mr. Sowers stated that the County's intent is to construct a facility that would be useable and would not encourage use of adjacent property.

Ms. McKenna made a motion, seconded by Mr. Kuras, to approve the proposal with the following conditions:

- 1) specifically address the tidal problem;
- 2) provide a separate entrance for Mr. Latimer's property;
- 3) there be no fires whatsoever;
- 4) resolve any covenants or restrictions on the property;
- 5) that the proposal be brought before the Development Review Committee for approval.

Mr. Sowers stated that he would appreciate Mr. Latimer inviting the staff and Commission to his residence at dead low water.

Mr. Hagee expressed concern regarding the distance to the launch site and that only avid canoers would be apt to use it, and wondered if another location would encourage more people become involved in canoeing.

Mr. Sowers stated that in addition to this being a 50-50 match grant, at a very low cost to the County, the proposed location is a pristine, natural area, with the possibility of a canoe trip with a beginning and ending point. Mr. Sowers felt that a gate, and a double entrance approved by VDOT, would help prevent the blocking of Mr. Latimer's driveway. In regard to the low tide, Mr. Sowers stated that those using the facility will look at tide charts for put in and take out locations, and the site could be used for one end of the trip with Shipyard Landing as the other.

On a roll call vote, the motion failed: AYE: (0). NAY: Bradshaw, Garrett, Hagee, Mckenna, Betzner, Hunt, Everson, Kuras (8).

The Commission commended staff on its performance on this project given the limited timeframe in which to accomplish the requirements of the grant application, and encouraged staff to resolve the issues for further review by the Commission.

9. CASE NO. SUP-29-94, UPPER COUNTY PARK MASTER PLAN

Mr. Pleskac presented the staff report (appended) for a special use permit to construct community park facilities at Upper County Park for citizens of the Toano area. Mr. Pleskac stated that staff recommends approval with the conditions detailed in the staff report.

There was a brief discussion regarding the accomplishment of development, including the need of design and engineering costs, buildings and roads, etc., at which time Mr. Darrell Gray stated that improvements have begun on the pool and in 1997 there is funding for the parking, and further improvements will depend upon prioritizing.

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

Ms. McKenna made a motion, seconded by Mr. Garrett, to accept the staff's recommendation of approval. On a roll call vote, the motion passed: AYE: Bradshaw, Garrett, Hagee, Mckenna, Betzner, Hunt, Kuras (7). NAY: Everson (1).

10. CASE NO. ZO-3-94. ZONING ORDINANCE AMENDMENTS/REVIEW CRITERIA

Mr. Maxwell presented the staff report (appended) for Zoning Ordinance amendments (Sections 20-53. Minimum off-street parking; Section 20-147. Criteria for review) which would reduce the case load of items required to be reviewed by the Planning Commission and the Development Review Committee. Mr. Maxwell stated that the Development Review Committee recommended approval of the changes, and that staff recommends that the Planning Commission forward a recommendation of approval to the Board of Supervisors.

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

Mr. Garrett made a motion, seconded by Mr. Hagee, to accept the staff's recommendation of approval.

A brief discussion followed regarding whether the DRC should relinquish control on certain criteria; however, the issues were resolved to the Commission's satisfaction.

On a roll call vote, the motion passed: AYE: Bradshaw, Garrett, Hagee, Mckenna, Betzner, Hunt, Everson, Kuras (8). NAY: (0).

11. CASE NO. ZO-2-94 AND CASE NO. SO-1-94. ORDINANCE AMENDMENTS/YARD AREAS AND SUBDIVISION TOPOGRAPHY

Mr. Maxwell presented the staff report (appended) for Zoning and Subdivision

Ordinance amendments to provide yard area outside of wetlands and Resources Protection Areas as well as the required submission of topographic plans for subdivisions. Mr. Maxwell stated that the proposed amendments were reviewed by the development community who raised many concerns; therefore, staff recommends that action on these amendments be deferred until the December meeting in order for staff to address the concerns.

In a brief discussion, it was explained that the purpose of the yard areas amendment is to assure the property owner that there is a usable rear yard which is required by the Zoning Ordinance to be located outside of the Resource Protection Area and the wetlands area. Also, it will protect buyers who, in the past, have not been effectively informed of the restrictions of the backyards. Further, it will protect property owners who buy in dry summer weather that the property in rainy weather will not have water up against the foundation and no useable yard area.

It was further explained that the purpose of the topography amendment is to require either a one or two foot contour interval depending on lay of the land which would allow County staff to better evaluate site plans and drainage on a site. A discussion followed on drainage and topography.

Mr. Kuras opened the public hearing. There being no speakers, with the Commissioners' concurrence, the public hearing was continued to the December 13, 1994 meeting.

12. LITTLE CREEK RESERVOIR PARK MASTER PLAN

Mr. Pleskac presented the staff report (appended) stating that in accordance with Section 15.1-456 of the Code of Virginia, the Planning Commission must determine if the Little Creek Reservoir Park Master Plan is consistent with the James City County Comprehensive Plan. Mr. Pleskac further stated that staff feels this master plan is in accordance with the Comprehensive Plan and recommends that the Commission make that finding.

Mr. Darrell Gray spoke briefly on the available funding and the facilities at Little Creek Reservoir Park.

Ms. McKenna made a motion, seconded by Mr. Garrett, to recommend approval of the Board of Supervisors. On a voice vote, the motion passed: AYE: Bradshaw, Garrett, Hagee, McKenna, Betzner, Hunt, Kuras (7). NAY: Everson (1).

13. HRSD COMPOSTING FACILITY (INFORMATIONAL PRESENTATION BY HRSD)

Mr. Trenton Funkhouser stated that HRSD submitted a development application to construct a sewage sludge composting facility (currently located in Newport News) on a site in the Skiffe's Creek area. The HRSD staff, in preapplication meetings, expressed interest in conducting an information meeting with members of the Commission. Mr. Funkhouser stated that Mr. Vernon Geddy, HRSD staff, and members of the engineering and design firms of Langley & McDonald and Black and Veach were available to provide a brief presentation of the proposed facility.

Mr. Vernon Geddy, III, representing the Hampton Roads Sanitation District, briefly discussed the facility, what biosolids composting are (solids left at HRSD treatment plants at the end of the waste water treatment process), and what can be done with biosolids (incineration, direct land application or disposal of material in a land fill), the preferred alternative is to compost biosolids. Mr. Geddy showed a video of a sewage sludge composting facility located in Montgomery County, Maryland, operated by the Washington Suburban Sanitary Commission, which is similar but less advanced than the proposed facility in James City County.

A brief discussion followed. A public hearing will be held on this matter at the December 13, 1994 Planning Commission meeting.

14. PLANNING COMMISSION MEETING SCHEDULES

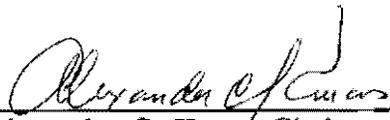
The 1995 Planning Commission meeting schedule was approved by unanimous voice vote, with meeting time to be at 7:30 p.m.

15. MATTERS OF SPECIAL PRIVILEGE

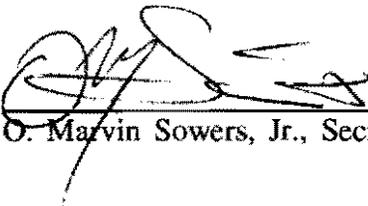
Mr. Kuras informed Mr. Bradshaw that a dinner in honor of his retirement from the Planning Commission was being planned.

16. ADJOURNMENT

There being no further business, the November 8, 1994 Planning Commission meeting adjourned at 10:20 p.m.



Alexander C. Kuras, Chairman



O. Marvin Sowers, Jr., Secretary