

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

1. ROLL CALL

Ms. Willafay McKenna, Vice-Chairman
Mr. Alexander C. Kuras
Mr. John F. Hagee
Mr. Donald C. Hunt
Mr. Jay H. Everson
Mr. A. Joe Poole, III

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. John B. Patton, Development Management Technician
Mr. Mark J. Bittner, Planner
Mr. Gary A. Pleskac, Planner
Mr. Matthew W. Maxwell, Planner

Mr. Sowers introduced Tamara Mayer who has joined the staff of the Planning Division as a Planner. Mr. Sowers stated that Ms. Mayer comes to the County with good experience and strong credentials.

2. MINUTES

Upon a motion by Mr. Kuras, seconded by Mr. Poole, the Minutes of the May 9, 1995 Planning Commission meeting were approved.

3. DEVELOPMENT REVIEW COMMITTEE REPORT

Mr. Hagee stated that he had a conflict of interest and would abstain from voting on Case No. SP-41-95 - Kingsmill Conference Center Expansion and Clubhouse Reconstruction.

Mr. Hagee presented the report. Mr. Kuras made a motion, seconded by Mr. Hunt, for approval. The motion passed by voice vote with Mr. Hagee abstaining.

4. CASE NO. Z-6-95. POWHATAN ENTERPRISES, INC.

Mr. Sowers stated that the applicant requested a continuance of this application in order to allow further discussion with VDOT on a proposed change in alignment for Alternate Route 5. Mr. Sowers further stated that staff concurs with this request and that the case be continued to the July meeting.

Ms. McKenna opened the public hearing. There being no speakers, and with the Commission's concurrence, the public hearing was continued to the July 11, 1995 meeting.

5. CASE NO. ZO-7-95. ZONING ORDINANCE AMENDMENT/RIGHT TO FARM.

Mr. Patton presented the staff report (appended) for an amendment which would bring the Zoning Ordinance into compliance with current state legislation. Mr. Patton stated that staff recommended approval of the Zoning Ordinance amendment.

Ms. McKenna opened the public hearing. There being no speakers the public hearing was closed.

The Commission agreed to delete the word intensive from Section 20-214. (3) a. in order to clarify that the acreage limits apply to all agricultural land.

Mr. Kuras made a motion, seconded by Mr. Hagee, to accept the staff's recommendation of approval with the word intensive deleted from the amendment.

On a roll call vote the motion passed: AYE: Hagee, Hunt, Everson, Poole, Kuras, McKenna (6). NAY (0).

6. CASE NO. SUP-19-95. MIDDLE PENINSULA JUVENILE DETENTION CENTER

Mr. Bittner presented the staff report (appended) for a special use permit to construct a juvenile detention facility to serve 19 local jurisdictions located on the Upper, Middle and Lower Virginia Peninsulas along the Chesapeake Bay. The property is located at 9316 Merrimac Trail. Mr. Bittner stated that staff recommended approval of this application with the conditions detailed in the staff report.

In response to Mr. Everson's inquiry as to why this facility did not locate in Middlesex County, Mr. John McDonald, Project Manager, responded that the problem with the sites in Middlesex related to sewer and discharge into Urbanna Creek.

Ms. McKenna opened the public hearing.

Mr. John McDonald, representing the Middle Peninsula Regional Juvenile Detention Commission, introduced Mr. David Whitlow of King William County, Chairman of the Commission, and Mr. Wiley Cook, the project architect, who were also available to answer questions.

There being no speakers the public hearing was closed.

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

On a roll call vote the motion passed: AYE: Hagee, Hunt, Everson, Poole, Kuras, McKenna (6). NAY (0).

7. CASE NO. Z-7-95. HOLLY RIDGE.

Mr. Bittner presented the staff report (appended) stating that since the deferral of this case at the May 9 meeting, the applicant had strengthened the voluntary proffers regarding a greenbelt along Jamestown Road, proffered to close the Jamestown Road driveway to the existing house on the property, but had not proffered an archaeological study in line with the County's Archaeological Condition Policy. Mr. Bittner stated that although staff would prefer that the entire greenbelt be separate from private lots, because the proffers have been strengthened, staff recommended approval of this application.

Mr. Kuras recommended that at the time the existing driveway from Jamestown Road is abandoned that the culvert be installed with the driveway from the new street to the existing house.

In discussion regarding the archaeological proffer, Mr. Bittner stated that, at the time of the printing of the staff report, archaeological field work had not been completed on the site. Staff was aware that, up to that point, no artifacts had been discovered on the site. Staff's recommendation was that the Commission recommend inclusion of the full Archaeological Condition Policy so that, in the event of a discovery, inclusion of the full policy would allow examination by staff and the possibility of preservation or further study. Staff also stated that, in the event no discoveries were made on the site prior to the Board of Supervisors meeting, inclusion of the full policy would most likely not be necessary.

Mr. Bittner stated that drainage issues would be examined when a subdivision plan has been submitted.

Mr. Stephens stated that the archaeological study field work had been completed since the printing of the staff report and nothing of significance had been found. He further stated that a full archaeological study would be submitted when the historical research work has been completed.

Ms. McKenna opened the public hearing.

Ms. Ann Hewitt, resident of Raleigh Lane, expressed concern regarding the number of homes that will be built along the shores of Powhatan Creek which would disturb the rare plant and animal species located within the natural area as well as the quality of life along the creek. Ms. Hewitt requested deferral of the application until issues of stormwater runoff and minimum compliance with the Comprehensive Plan are proffered.

There being no further speakers the public hearing was closed.

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

On a roll call vote the motion passed: AYE: Hagee, Hunt, Everson, Poole, Kuras, McKenna (6). NAY (0).

8. CASE NO. Z-8-95. R. M. HAZELWOOD, JR.

Mr. Bittner presented the staff report (appended) to rezone approximately 86 acres from A-1, General Agricultural, to R-2, General Residential, for the purpose of subdividing approximately 200 single family lots. Mr. Bittner stated that Mr. Thomas Dow, the applicant, had provided a revised set of proffers at this meeting which contain a children's playground. Mr. Bittner further stated that because revised proffers do not adequately address recreation facilities and archaeology, and because staff would prefer additional time to review the revised proffers and discuss them in detail with the applicant, staff recommends that this case be deferred until the July meeting.

Ms. McKenna opened the public hearing.

Mr. Thomas Dow, the applicant, stated that it was his understanding that the James City Service Authority would allow the developer to provide water and sewer to the subdivision and the JCSA would agree to it at the subdivision plan review stage; Mr. Dow agreed. Mr. Dow agreed with one entrance to the subdivision but was concerned that VDOT could require two entrances. Mr. Dow felt that a recreation area would add to the subdivision's appeal but was concerned about how the homeowners association would maintain the area. In regard to the archaeological study, Mr. Dow stated that the Archaeological Condition Policy is used where there is significant archaeological potential, and that the staff report states that sites are considered to be a priority if they exhibit a moderate to high degree of structural integrity; there are no structures on the property, he stated. Mr. Dow said that he is reluctant to spend \$8,000-\$10,000 for an archaeological study because he felt it would be wasted funds in this case. Mr. Dow stated that he would appreciate an affirmative vote.

Ms. McKenna clarified that structural integrity did not necessarily apply to a building but whether or not there had been ground disturbing activity that had affected any artifacts.

Mr. Dow responded that about 80% of the site had been farmed for many years and that it would be difficult to have structural integrity on at least that part of the site.

Mr. Sowers stated that archaeologists have indicated that in many instances farming does not destroy structural integrity of archaeological sites and that in this particular site it has been indicated by them that there is archaeological potential despite farming of the land and archaeological importance can only be determined by a Phase I survey.

Mr. Hagee asked for a clarification of how it is determined when a property should or should not be studied.

Mr. Sowers responded that generally staff confers with an archaeologist (Colonial Williamsburg or The College of William and Mary), and reviews the site characteristics (previous development, cultivation, near stream beds, topography, logging activity, etc.).

In response to Mr. Everson's inquiry regarding the recreational facilities issue with staff, Mr. Dow stated his preference to proffer \$200.00 per home site for recreation equipment of the residents' choice, while staff felt that a proffered list of specific recreation equipment would be easier to enforce than a cash proffer-type system administered by the homeowners association.

In response to Mr. Kuras' inquiry regarding only one entrance to the subdivision, Mr. Bittner responded that in this case there is limited access frontage because of a future interstate interchange and wetlands.

In response to Mr. Hagee's inquiry regarding the water and sewer issue with JCSA, Mr. Bittner stated that JCSA prefers that the proffers explicitly state that the applicant would extend water and sewer to the site, which is not the case at this time.

Mr. Bittner stated that he had reviewed the proffers distributed at this meeting but had not received comments from the County's other review agencies and there are some details to be discussed.

Mr. Hagee recommended that the Planning Commission and staff schedule a meeting in the near future to resolve how to prioritize property to be studied for archaeological purposes.

Ms. McKenna felt that because there were not many 19th century domestic sites, which makes them unique, it would be a grave error not to take this opportunity to find out something about that era. Further, that Phase I would indicate whether or not there was anything worth pursuing. Mr. Hagee felt that prior to the next meeting, and a recommendation to the Board of Supervisors, the Policy Committee should review the Archaeology Policy again.

Ms. McKenna stated that the Policy Committee had recently reviewed the County's Archaeological Policy and it was their consensus that a Phase I study should be required in instances such as this. Mr. Sowers confirmed Ms. McKenna's comment about recent Policy Committee action and stated that no action on changing the current Archaeological Policy for Phase II and Phase III studies has been taken, but the Planning Commission requested the Board of Supervisors to fund a County-wide risk analysis for archaeological sites to determine to what extent such future studies may be needed. He noted the County had received a grant from the State to evaluate the entire County for the potential of archaeological finds.

Mr. Dow stated that he would make an effort to receive a high risk analysis of this property.

Mr. Kuras made a motion, seconded by Mr. Poole, for deferral in order for the proffers to be put in more formal form.

Mr. Hagee made a motion to amend the motion to allow the Policy Committee to meet prior to the next Planning Commission meeting to discuss the Archaeological Policy and to make a recommendation to the Planning Commission relative to whether the Commission will make adjustments to the Policy. Mr. Kuras concurred with Mr. Hagee's amendment to his motion.

On a roll call vote, the motion with the amendment passed: AYE: Hagee, Hunt, Everson, Poole, Kuras, (5). NAY: McKenna (1).

9. CASE NO. Z-10-95. JAMESTOWN LANDING/ESTATE OF MICK ZUZMA

Mr. Pleskac presented the staff report (appended) to rezone approximately 34 acres from R-8, Rural Residential, to R-2, General Residential, for the purpose of subdividing and the construction of 49 single family homes. Mr. Pleskac stated that staff recommended deferral of this case until the July meeting to allow time for the applicant and staff to develop acceptable proffers for vehicular access, drainage improvements, archaeology, pedestrian access to Powhatan Creek, and to address any issues raised in the staff report by the Planning Commission. Mr. Pleskac further stated that the applicant had concurred with the staff's recommendation to defer this case.

Mr. Everson questioned drainage and flooding at Sandy Bay Road. Mr. Sowers responded that there were problems in the vicinity of the site which will be discussed with the applicant.

Ms. McKenna opened the public hearing. There being no speakers, and with the Commission's concurrence, the public hearing was continued to the July 11, 1995 meeting.

10. CASE NO. SUP-12-95. AVALON (AMENDMENT TO SUP-42-89).

Ms. McKenna stated that because of a conflict of interest she would abstain from participation on the issue.

Mr. Bittner presented the staff report (appended) for a special use permit to amend SUP-42-89 to allow the existing shelter and a proposed expansion to connect to the Governor's Land Water Main located on John Tyler Highway. Mr. Bittner stated that because this proposal would not constitute a significant precedent encouraging expansion of public utilities outside the PSA, staff recommended that SUP-42-89, Condition 7, be amended to allow the proposed expansion to connect to the Governor's Land water main.

In response to Mr. Everson's inquiry, Mr. Bittner responded that a new residential structure would not be permitted to connect to the Governor's Land water main or sewer force main under the current special use permit. However, a special use permit application could be submitted for review.

Mr. Horne stated that staff sees a strong distinction between this use and Mr. Everson's referenced hypothetical use, but if the Planning Commission felt that there was not enough distinction and that a precedent would be set to connect any residential use outside of the PSA that is proposed on a vacant property, then they should not approve the special use permit. He stated it was crucial to the PSA to not set a precedent for incremental growth.

Mr. Joseph Phillips, Chairman of Avalon, spoke about the organization's functions and the need for improved facilities. Mr. Phillips introduced Ms. Joyce O'Brien, Executive Director of Avalon, who was also available to answer questions.

Ms. McKenna opened the public hearing.

A citizen who wished to remain anonymous but identified himself as Robert, and a resident of James City County on Route 5, referenced a letter received as an adjacent property owner, and applauded Avalon for their work and being a good neighbor. Robert stated that

he had no problem with the approval of this application as long as this policy was applied consistently throughout the County. Robert further stated that he would like to build 3-4 homes for his children on his property but his land will not perk and he cannot hook on to the public utilities under the current special use permit.

There being no further speakers the public hearing was closed.

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

Mr. Everson felt that it was unfair to other property owners in the area to approve this application since there is a water solution available and felt the distinction in this case was not strong enough. He said it was important to not let utilities get away from us.

Mr. Kuras felt that this application was a unique situation because it involved the safety of women and children and should not be delayed until the review of the Comprehensive Plan in September.

Mr. Hagee stated it was very unique, it maintained the same use, and was consistent with County Policy.

On a roll call vote the motion passed: AYE: Hagee, Hunt, Poole, Kuras (4). NAY: Everson (1). ABSTAIN: McKenna (1).

11. CASE NO. SUP-20-95. WILLIAMSBURG UNITARIAN UNIVERSALIST CHURCH

Mr. Pleskac presented the staff report (appended) for a special use permit to allow the use of existing church property by the Williamsburg Montessori School. Mr. Pleskac stated that staff recommended approval with the conditions detailed in the staff report.

Ms. McKenna opened the public hearing.

Mr. David Stemann of Carlton Abbott and Partners, the applicant, introduced John Tarley of the Williamsburg Montessori School and Ms. Jane Riley, President of the Trustees for the Williamsburg Unitarian Universalist Church, who were also available to answer questions. Mr. Stemann requested an affirmative vote.

Mr. John Farley, Chairman of the Montessori Board and Ms. Carlotta P. Cundari, the school's administrator, were also available to answer questions and encouraged the approval of this application.

There being no further speakers the public hearing was closed.

Mr. Everson and Mr. Poole complimented the applicant on the submittal which they felt was superior to the previous submittal for the Williamsburg Montessori School.

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

On a roll call vote the motion passed: AYE: Hagee, Hunt, Everson, Poole, Kuras, McKenna (6). NAY (0).

12. CASE NO. SO-1-94. SUBDIVISION ORDINANCE AMENDMENT/DRAINAGE
CASE NO. SO-1-95. SUBDIVISION ORDINANCE AMENDMENT/PLAT NOTE

Mr. Maxwell presented the staff report (appended) for ordinance amendments which addressed the problems of subdivision and lot drainage. Mr. Maxwell stated that staff worked cooperatively with the development community in drafting the proposed ordinance amendments and that the amendments along with the revised building permit requirements would improve both subdivision and individual lot drainage as well as provide additional protection to environmentally sensitive areas. Mr. Maxwell further stated that staff recommended approval of the ordinance amendments.

Mr. Kuras stated that he had received complaints regarding moisture under crawl spaces and questioned if this matter should be included in the amendment.

Mr. Maxwell stated that the concern is for all facets of lot drainage and that this additional detailed information would help remedy some of the problems; however, he felt that was a problem related to the individual home construction.

Mr. Home stated that the building code requires that the floor of the crawl space be higher than the outside elevation and that there cannot be any visible moisture at the time of the final building permit approval. However, while there may not be moisture at the time of the final inspection, problems could occur during the life of the home, which is what the County is experiencing at this time. Mr. Home further stated that once the County issues the certificate of occupancy there is no guarantee that the condition at the time of final approval will be maintained.

In response to Mr. Hagee's inquiry regarding whether the proposed amendment would have remedied the White Farm situation, Mr. Maxwell responded that the proposed amendments would assist in reviewing the subdivision plans relative to reviewing individual lot drainage and subdivision drainage.

Mr. Maxwell stressed that the amendments would not turn undevelopable land or poor land into land that would drain well. These ordinances, he said, were designed to improve staff review of subdivision and individual lot drainage but would not be a cure-all solution to develop poor land.

Mr. Hagee stated that he felt uncomfortable in making a decision on drainage on the White Farm application because he lacked expertise. Mr. Hagee felt the Commission looked at an application from a planning and zoning perspective while the ordinances would cover the physical properties of the land (slope, soil) and could not be developed at the overall Comprehensive Plan recommendation. Mr. Hagee questioned what the amendments would solve in this regard. Mr. Hagee expressed concern that there are other properties in the County similar to White Farm in terms of the lay of the land and wondered if we would find ourselves in same situation in the future.

Mr. Sowers stated that White Farm was a unique piece of property affected by a number of unique variables and similar applications would still require special proffers to be workable, even with this ordinance.

Mr. Maxwell pointed out that White Farm had elevations that were well below the elevations of adjacent properties. This ordinance attempts to deal with land that is particularly flat but does not necessarily address land that is both flat and at a low elevation.

Mr. Horne stated that he questioned whether it was possible for the public sector to place supportable minimum standards that would be treated as the maximum standards by the private sector. Mr. Horne said that we are not building the subdivisions, houses, or developing the lots, so this is one of those grey areas, and questioned how far to push government regulations to try to assure that subdivisions are not built in areas that have fundamental characteristics and, logically, should not be there in the first place. Mr. Horne felt we could never say that we have it all solved.

Mr. Hagee stated that since we delineate highly erodible soils and other physical constraints on an applicant's property, would it be possible to determine the allowable density bonus on this information.

Mr. Horne responded that staff was going about that slowly by requiring more up front information. He questioned how much of that cost are we willing to impose uniformly. Mr. Horne stated that it has turned into a one sided discussion recently as to why the local government does not absolutely protect people from some of these situations, and absolutely set standards. Mr. Horne said that there needs to be a three way discussion between the home buyer, the local government, and the person building the house/subdivision for the buyer and all need to agree.

Ms. McKenna asked if the requirement of one contour line for each 100 feet is required for each subdivision.

Mr. Maxwell responded that the current ordinance requires a topo line at every five foot contour interval; the proposed ordinance would leave that in tact but also add language which would require at least one contour line per 100 feet of horizontal distance, so that if the lot is extremely flat a smaller contour interval would be required.

Mr. Maxwell further stated that the change would provide more detail to the County engineers to better evaluate drainage on flat and poorly drained land. These amendments would provide additional review information at the subdivision stage as well as at the building permit stage.

Mr. Horne stated that there is currently a provision in the ordinance that requires that roadways and the outfall from roadways be adequate, but what the ordinance lacks is adequate detail so that staff could recognize in all cases whether in fact that is being achieved. Mr. Horne said that although we may believe the general standard is being met in approving subdivisions in the flat areas, sometimes it is not until after the structure is built and a problem occurs that it is evident that the standard was not met because of insufficient information to illustrate some condition that was there but could not be seen.

Mr. Horne further stated that there is little attention by the builders or staff until the house is built and final approval is requested, and at that time it is discovered that the yard does not drain. Sometimes, he said, the problem is correctable but sometimes on a dead flat lot, with a house at the wrong elevation, and no where for the water to go, there is no easy solution.

Ms. McKenna opened the public hearing.

Mr. Richard Costello, 1020 Sycamore Landing Road, with AES Consulting Engineers, stated that staff worked with the development community and an overwhelming majority agreed with the changes. Mr. Costello stated that the development community felt that this would accomplish necessary changes with minimal expense and aggravation to the development community and with less trouble to Code Compliance and the Board of Supervisors in the future.

Mr. Sowers stated that meetings were held with the development community represented by builders, developers, and the Home Builders Association.

There being no further speakers the public hearing was closed.

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

On a roll call vote the motion passed: AYE: Hagee, Hunt, Everson, Poole, Kuras, McKenna (6). NAY (0).

13. CASE NO. ZO-5-95, ZONING ORDINANCE AMENDMENT BASED ON RECOMMENDATIONS OF THE LIGHTING TASK FORCE

Mr. Patton presented the staff report (appended) stating that the proposed ordinance changes implement some of the recommendations of the Lighting Task Force as described in the report. Mr. Patton further stated that staff recommended approval of the ordinance changes, and, in the future, would submit additional ordinance changes to implement some of the more complex recommendations of the Task Force that would entail the use of various performance standards.

Following brief discussion, the Commission agreed to change the definition of Glare to read: conspicuous and obtrusive instead of or obtrusive.

Ms. McKenna opened the public hearing. There being no speakers the public hearing was closed.

Mr. Hagee questioned if vertical lights (not recessed) as in parks, would be allowed in parking lots.

Mr. Patton responded that under this change parking lots would have horizontally mounted and recessed lights, and any deviation from this would require approval from the Board of Zoning Appeals.

Mr. Rich Costello, who served on the Lighting Task Force, stated that staff attempted to correct the most glaring problems in the ordinance.

Mr. Kuras made a motion, seconded by Mr. Hunt, to accept the staff's recommendation of approval with the noted change in the definition of Glare to: ...conspicuous and obtrusive.

On a roll call vote the motion passed: AYE: Hagee, Hunt, Everson, Poole, Kuras, McKenna (6). NAY (0).

14. CASE NO. ZO-6-95. ZONING ORDINANCE AMENDMENT/MANUFACTURED HOMES IN THE AGRICULTURAL DISTRICT.

Mr. Patton presented the staff report (appended) for an amendment which would eliminate the need for a special use permit for a manufactured home less than 19 feet in width in the A-1, General Agricultural District. Mr. Patton stated that staff recommended approval of the Zoning Ordinance amendment.

Ms. McKenna opened the public hearing. There being no speakers the public hearing was closed.

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

On a roll call vote the motion passed: AYE: Hagee, Hunt, Everson, Poole, Kuras, McKenna (6). NAY: (0).

15. CASE NO. ZO-8-95. AMENDMENT TO THE ZONING ORDINANCE/SECTION 20-548. DENSITY BONUSES - RESIDENTIAL CLUSTER DEVELOPMENT.

Mr. Maxwell presented the staff report (appended) on Section 20-548, Density Bonuses, for compliance with Virginia Housing Development Authority's recent change in policy as detailed in the staff report dealing with affordable housing prices. Mr. Maxwell stated that staff recommended approval of the amendment to the Zoning Ordinance.

Following a brief discussion on clarification of the change and its use in the County, Ms. McKenna opened the public hearing. There being no speakers the public hearing was closed.

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

On a roll call vote the motion passed: AYE: Hagee, Hunt, Everson, Poole, Kuras, McKenna (6). NAY: (0).

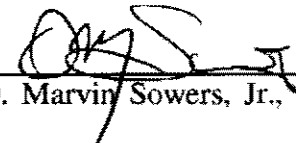
16. PLANNING DIRECTOR'S REPORT

Mr. Sowers presented the staff report (appended).

17. ADJOURNMENT

There being no further business, the June 13, 1995 Planning Commission meeting adjourned at approximately 11 p.m.


Willafay McKenna, Vice Chairman


O. Marvin Sowers, Jr., Secretary

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