

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

1. ROLL CALL

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

2. ALSO PRESENT

Mr. O. Marvin Sowers, Jr., Director of Planning  
Mr. Mark J. Bittner, Planner  
Mr. Matthew W. Maxwell, Planner  
Mr. Gary a. Pleskac, Planner

Mr. Kuras introduced Mr. Phil Rodenburg, Assistant Manager of the City of Williamsburg, and Ms. Marguerite Davis, Member of the City of Williamsburg Planning Commission, who were attending the meeting as a requirement of the Virginia Certified Planning Commission Program.

3. MINUTES

Upon a motion by Ms. McKenna, seconded by Mr. Garrett, the Minutes of the October 10, 1995 Planning Commission meeting were approved as presented by unanimous voice vote.

4. DEVELOPMENT REVIEW COMMITTEE REPORT

Mr. Garrett presented the report and stated the following regarding the naming of Alternate Route 5:

Although not on the agenda, a significant discussion on the name of Alternate Route 5 brought out the importance of addressing the issue now. Alternate Route 5 will be a major County thoroughfare. It would be undesirable to allow segments to be named individually. Part of it, we were told, is already called Legacy Drive. Furthermore, its importance justifies an appropriate name. It was suggested that since it is an extension of Monticello Road that the name Monticello be used directly or by association, such as Monticello Parkway. It is recommended that staff reserve and recommend a name.

Mr. Sowers stated that staff is in the process of working with VDOT for acceptance of the road and they would consider naming of the road at this time.

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

5. CASE NO. Z-12-95. CARTER HILL, INC.

Mr. Pleskac presented the staff report (appended) stating that staff concurs with the applicant's request to defer this case until further notice in order to address remaining issues with staff. Mr. Pleskac further stated that the applicant may decide to proceed with the project without amending the current proffers.

Mr. Kuras opened the public hearing. There being no further speakers the public hearing was continued until further notice by the applicant.

Mr. Garrett questioned if the issues to be addressed with staff involve the owner not reserving ownership of the wetlands.

Mr. Pleskac responded that the issue had been discussed at the DRC meeting and the committee is exploring the possibility of a note on the plat or some other means such as a covenant. Mr. Pleskac expects to discuss this further with Mr. Alvin Anderson, who represents the applicant, and will keep the Commission informed of the status of this case.

6. CASE NO. AFD-7-86. MILL CREEK (MAYNARD WITHDRAWAL REQUEST)

Mr. Pleskac presented the staff report (appended) and stated that staff concurs with the applicant's request to defer this case indefinitely until issues pertaining to the possible sale of the property are resolved.

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

7. CASE NO. AFD-7-86. MILL CREEK ADDITION

Mr. Pleskac presented the staff report (appended) for an application to add approximately 304 acres to the existing Mill Creek Agricultural and Forestal District located at 9138 Richmond Road, which was unanimously approved by the AFD Advisory Committee on November 2, 1995. Mr. Pleskac stated that staff recommends that all land within 25 feet of the rights-of-way of Richmond Road, Barnes Road and Old Route 60 West be excluded from addition to the district to allow for sufficient right-of-way for any future road, drainage or utility improvements. This addition would be up for review with the rest of the Mill Creek AFD in October, 1998. During that review period, the owner may exercise his option to withdraw all or a portion of his property without legislative action.

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: Garrett, McKenna, Hagee, Hunt, Everson, Kuras

8. CASE NO. AFD-9-86. GORDON CREEK/NAYSES BAY LAND COMPANY ADDITION

Mr. Pleskac presented the staff report (appended) for an application to add approximately 42.5 acres to the existing Gordon Creek Agricultural and Forestal District located at 2003-2071 Bush Neck Road, which was unanimously approved by the AFD Advisory Committee on November 2, 1995. Mr. Pleskac stated that staff recommends that all land within 25 feet of the right-of-way of Bush Neck Road be excluded from addition to the district to allow for sufficient right-of-way for possible future road, drainage or utility improvements. This addition would be up for review with the rest of the Gordon Creek AFD in October 1998. During that review period, the owner may exercise his option to withdraw all or a portion of his property without legislative action.

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

9. CASE NO. SUP-27-95. 1407 JAMESTOWN ROAD BED & BREAKFAST

Mr. Bittner presented the staff report (appended) for a special use permit to operate a bed and breakfast in a newly constructed residence located at 1407 Jamestown Road.

Mr. Bittner stated that this property and the neighboring property at 1409 Jamestown Road are subject to the same covenants, which apply only to the two properties, and which currently prohibit nonresidential uses. Although the county does not enforce covenants its policy has generally been to not take action that violates established covenants. Staff has suggested that the applicant work with the adjacent property owner to have the covenants amended to allow the proposed bed and breakfast use.

Mr. Bittner stated that this proposal is consistent with the land use designation of the Comprehensive Plan and with surrounding development and zoning. Mr. Bittner further stated that since the covenants have not yet been amended to allow the proposed commercial use in a residential area staff recommends approval of this application contingent upon this amendment being completed prior to the Board of Supervisors meeting. Also, staff recommends that the conditions contained in the staff report be placed on the special use permit.

In response to Mr. Garrett's inquiry, Mr. Bittner stated that staff would look into the matter of how bed and breakfast operations are taxed and report to the Commission at the next meeting.

Mr. Bittner stated that although the covenants had not yet been notarized in the proper legal manner, he had received a letter (today) signed by both of the property owners supporting an amendment to permit this use.

Mr. Kuras opened the public hearing.

Ms. Dorothy Poucher of GSH Real Estate representing the potential owners, Allen P. and Sharon A. Duling, stated that she received a notarized copy of the letter of intent stating that the two property owners were willing to change the covenants.

Mr. Bittner clarified that parking spaces were adequate.

Mr. Stephen Haynes, representing Edye and Glendell Haynes of 1409 Jamestown Road, stated that there is no problem with changing the covenants; and, in fact will probably be applying for a bed and breakfast permit at 1409 Jamestown Road very shortly.

Mr. Garrett made a motion to defer action on this proposal until there is a legal agreement on the covenants and the tax situation on a bed and breakfast is available.

Mr. Kuras stated that he felt the Commission did not need information in the tax situation to make its decision.

There being no further speakers the public hearing was closed.

Mr. Garrett amended his original motion, seconded by Mr. Kuras, to accept the staff's recommendation of approval. On a roll call vote, the motion passed: AYE: Garrett, McKenna, Hagee, Hunt, Everson, Kuras (6). NAY: (0).

#### 10. CASE NO. Z-18-95. JEHOVAH'S WITNESS PROFFER AMENDMENT

Mr. Bittner presented the staff report (appended) for an application to amend the existing proffers to allow an expansion of the existing Jehovah's Witness worship center located at 5731 Richmond Road. Mr. Bittner stated that staff recommended approval of this application for reasons stated in the staff report.

Mr. Kuras opened the public hearing.

Mr. Ralph G. Brown, the applicant, briefly discussed the proffer amendment.

There being no further 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: Garrett, McKenna, Hagee, Hunt, Everson, Kuras (6). NAY: (0).

Ms. McKenna stated the resolution and the recommendation in this matter were handled in a very innovative way and commended staff and the applicant for working well together.

The applicant complimented the staff for a good working relationship in resolving the issues.

11. SIX YEAR PLAN FOR SECONDARY ROAD IMPROVEMENTS - FY1977

Mr. Maxwell presented the staff report (appended) and reviewed the section projects and related priority lists. Mr. Maxwell stated that staff recommends the Commission approve the FY1977 Six Year Secondary Road Construction Plan.

Mr. Kuras felt that accidents are treated in a trivial manner and that he does not see the accidents having any impact on priorities.

Mr. Maxwell stated that staff has the same concerns and that next year staff will consider reevaluating the formula.

Mr. Sowers stated that current accident records do not provide enough information to evaluate possible road improvement needs.

By voice vote, the Planning Commission unanimously approved the FY 1977 Six Year Secondary Road Construction Plan.

12. 1996 PLANNING COMMISSION CALENDAR

By voice vote, the Planning Commission unanimously approved the 1996 Planning Commission Calendar.

13. PLANNING DIRECTOR'S REPORT

Mr. Sowers stated that the first Community Conversations meeting was held on November 11 at the Toano Middle School. Three additional meetings will be held on November 21 at James River Elementary School at 7 p.m., December 6 at Clara Byrd Baker at 7 p.m. and December 14 at 9 a.m. at the Recreation Center.

Mr. Sowers reminded the Commission that the Board will hear the HRSD Composting Facility case on November 18.

Mr. Sowers briefly announced the upcoming Casey Design Competition schedule with the public invited to view and comment on the design submittals on November 30 from 1 to 9 p.m. at William and Mary's Trinkle Hall. The Planning Commission is invited to an invitational showing for viewing of the finals on November 30 from 9 to 11 a.m.

Mr. Everson expressed concern regarding drainage on the Mainland Farm rezonings scheduled for public hearing at the December meeting. Mr. Everson questioned if the County should ask for proffered sealed engineering so that accountability for error would be clear.

Mr. Kuras agreed that there should be a major engineering review on the project.

Mr. Sowers stated that there are significant differences in the drainage characteristics between the Richmond Homes site and the Mainland Farm rezonings and asked that the Commission review the material before making a judgment.

Mr. Garrett stated that Mr. Wayland Bass, County Engineer, informed him that the County has standards that are acceptable to the extent that there will not be drainage problems.

Mr. Everson stated that he was not satisfied with the drainage situation and asked if sealed engineering could be legally proffered in order to hold the engineer responsible.

Mr. Sowers responded that if there are extraordinary concerns after reviewing the material of the rezonings, the applicant could voluntarily proffer a performance type standard. Mr. Sowers further stated that the Commission could design a performance standard where there is a longer period of time to determine if the design is acceptable.

Mr. Kuras stated that if there are doubts he could see value in Mr. Everson's suggestion of a voluntary proffer for performance standard, but with a good evaluation system he felt it would be an additional unnecessary expense to the developers.

Mr. Everson again stated his concern that the County should have a much higher standard on drainage.

Mr. Garrett stated that he had received complaints from citizens regarding the clearance of trees at Williamsburg Crossing Shopping Center. Mr. Garrett questioned if the clearance was legal.

Mr. Bittner responded that the clearance was according to the ordinance and that the developer had done nothing illegal. Mr. Bittner explained even though it appears to the viewer that the site had been cleared that some of the site to the rear had been preserved.

Mr. Hagee stated that in order to have proper grading and drainage in multi-family development it is difficult to keep trees on the site unless the trees are clustered. Mr. Hagee pointed out in areas where unattractive trees are removed the remaining trees have a better opportunity to flourish.

Mr. Sowers stated that there may be additional clearing on the site as there is the possibility of road improvements.

Mr. Bittner stated that, as of now, the developer is planning to access the site via the Kings Way entrance into the existing Williamsburg Crossing Shopping Center. There will probably be some site distance clearing along Route 5 because of the severe curve in that area. Mr. Bittner stated that the developer previously planned to access through Carolina Boulevard but has now decided on Kings Way.

Ms. McKenna stated that is a dreadful section of the road because of poor drainage and poor left turn visibility. Ms. McKenna stated that she voted for approval of the shopping center project in the first place because the developer planned to use Carolina Boulevard.

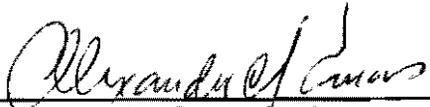
Mr. Bittner responded that there is a special use permit in place on the overall Williamsburg Crossing development and that Kings Way is slated to be modified greatly in conjunction with additional development at Williamsburg Crossing and the Route 199/Route 5 intersection project. He further stated that there will be improvements at the intersection in association with the accessing of 160 multi-family units.

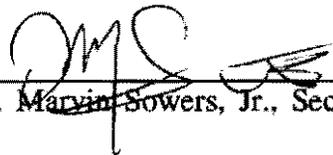
Mr. McKenna stressed the need to immediately address the flooding at that intersection (6"-7") whenever it rains and the fact that flooding does not abate for many hours after the rainfall.

Mr. Sowers said that he would inform VDOT of her concern.

14. ADJOURNMENT

There being no further business the November 14, 1995 Planning Commission meeting adjourned at approximately 8:30 p.m.

  
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Alexander C. Kuras, Chairman

  
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O. Marvin Sowers, Jr., Secretary