

A REGULAR MEETING OF THE PLANNING COMMISSION OF THE COUNTY OF JAMES CITY, VIRGINIA, WAS HELD ON THE FIFTH DAY OF MAY, NINETEEN HUNDRED AND NINETY-SEVEN AT 7:00 PM IN THE COUNTY GOVERNMENT CENTER, BOARD ROOM, 101C MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

1. ROLL CALL

Alexander Kuras
Jay Everson
Martin Garrett
John Hagee
Donald Hunt
A. Joe Poole, III

ALSO PRESENT

O. Marvin Sowers, Director of Planning
Gary Pleskac, Planner
Paul Holt, Planner
Tammy Rosario, Planner
Jill Schmidle, Planner

ABSENT

Willafay McKenna

2. MINUTES

Upon a motion by Martin Garrett, seconded by Alex Kuras, the minutes of the April 7, 1997 meeting were approved, as presented, by unanimous voice vote.

3. DEVELOPMENT REVIEW COMMITTEE REPORT

Martin Garrett presented the report and upon a motion, seconded by Alex Kuras, the Development Review Committee Report was approved by unanimous voice vote.

4. CASE NO. SUP-15-97. VIRGINIA POWER.

Gary Pleskac presented the staff report for the special use permit requesting to expand an existing electrical substation with a new transformer and supporting equipment adjacent to the Anheuser-Busch brewery building. Staff recommended approval of this request with the condition that construction commence within twelve (12) months of the issuance of the special use permit.

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

Martin Garrett made a motion, seconded by Don Hunt, to recommend approval of the special use permit. John Hagee abstained from voting due to a potential conflict of interest. In a roll call vote, motion passed. AYE: Garrett, Hunt, Everson, Poole, Kuras (5), NAY: (0), Abstained: Hagee (1).

5. CASE NO. SUP-11-97. BASF WASTEWATER FACILITY.

Jill Schmidle presented the staff report for a special use permit to construct wastewater collection, pumping, and transmission facilities. Staff felt that this proposal was consistent with the land use designation of the Comprehensive Plan and with the surrounding development and recommended that the Planning Commission approve this application with the conditions stated in the staff report.

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

Martin Garrett made a motion, seconded by John Hagee, to recommend approval of this application. Joe Poole abstained from voting on this case due to a potential conflict of interest. In a roll call vote, motion passed. AYE: Garrett, Hagee, Hunt, Everson, Kuras (5), NAY: (0), Abstained: Poole (1).

6. CASE NO. SUP-8-97. APVA.

Paul Holt presented the staff report for this special use permit to allow professional offices in an R-8, Rural Residential District, in the Yeardley House on Jamestown Island. Staff felt this use would serve an important public need and supplement the work currently being performed as part of the Jamestown Discovery Project. Staff recommended that the Planning Commission approve this application with the condition that an archeological study be performed and approved before any land disturbing activity occurred.

Alex Kuras opened the public hearing.

Joseph Lahandro representing APVA spoke on the archeological aspect of the area and asked if the Commission had any questions.

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

Joe Poole made a motion, seconded by Martin Garrett, to recommend approval of the special use permit. In a roll call vote, motion passed. AYE: Garrett, Hagee, Hunt, Everson, Poole, Kuras (6), NAY: (0).

7. CASE NO. Z-3-97. WILLIAMSBURG MUSIC THEATER.

Jill Schmidle presented the staff report to rezone approximately 10 acres from M-1, Limited Business/Industrial District, to MU, Mixed Use, for the purpose of constructing an indoor theater and museum. Staff felt that the Mixed Use proposal on this site met the intent of the Mixed Use Designation and stated that the applicant included proffers for entrance and intersection improvements which would minimize potential traffic impacts at the Richmond Road/Croaker Road intersection. Staff recommended that the Planning Commission approve this rezoning case, with the proffers contained in the staff report.

Alex Kuras opened the public hearing.

Alvin Anderson representing the applicant, John B. Barnett, Jr., pointed out to the Commission that his client was requesting to down zone this parcel with proffers. He showed the Commission the artists rendering of the proposed theater site and asked if they had any questions pertaining to this case.

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

Joe Poole had some concern regarding the one bay of parking adjacent to Richmond Road. He stated he preferred to see that area moved elsewhere on the property in order to maintain the substantial stance of trees along Richmond Road.

John Barnett stated that, due to the berm and direction of the road toward the proposed theater, the corner area of trees would remain intact. He added that currently the area was a shared overflow parking area for the Williamsburg Soap and Candle Factory and that he wished to retain that parking area.

Joe Poole asked if the site plan would be brought before the Development Review Committee.

Jill Schmidle stated that, according to the change in the proffers, the overall landscaping and landscaping of berms would be approved by the Planning Director and, therefore, not brought before the DRC.

Martin Garrett made a motion, seconded by Joe Poole, to approve the rezoning case. In a roll call vote, motion passed. AYE: Garrett, Hagee, Hunt, Everson, Poole, Kuras (6). NAY: (0).

8. CASE NO. SUP-9-97. HAYNES BED & BREAKFAST.

Jill Schmidle presented the staff report for a special use permit to allow the rental of two rooms for use as a bed and breakfast with a maximum of six guests in an R-1, Limited Residential District. Staff felt that the proposal was consistent with the land use designation of the Comprehensive Plan and stated that having the owner/operator inhabit the premises preserved the residential nature of the site and surrounding area. Staff recommended the Planning Commission approve this application according to the conditions outlined in the staff report.

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

Joe Poole made a motion, seconded by John Hagee, to approve this application. In a roll call vote, motion passed. AYE: Garrett, Hagee, Hunt, Everson, Poole, Kuras (6). NAY: (0).

9. CASE NO. SUP-16-97. COUNTRY CONTRACTORS.

Gary Pleskac presented the staff report for a special use permit to expand an existing contractor's warehouse facility in an A-1, General Agricultural, district. He stated the expansion of 2,400 square feet would be for indoor storage of the applicant's construction equipment, including trucks, bobcat loaders, and similar equipment. Staff recommended the Planning Commission approve this special use permit request per the conditions outlined in the staff report. He continued by stating that staff did not believe the limited expansion associated with this request set a precedent for this or any other Low Density Residential area and, if the Planning Commission felt that staff's recommendation of approval did set a precedent, it should not approve the application.

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

Alex Kuras made a motion, seconded by Jay Everson, that this would not be considered a precedent for future use in the area based upon the fact that this was an expansion of an existing business. By unanimous voice vote, the motion passed.

Jay Everson made a motion, seconded by Martin Garrett, to approve the special use permit. In a roll call vote, motion passed. AYE: Garrett, Hagee, Hunt, Everson, Poole, Kuras (6). NAY: (0).

10. CASE NO SUP-12-97. VIRGINIA METRONET.

Gary Pleskac presented the staff report for a special use permit to allow for the construction of a 199-foot tall self-supporting, unlit, communications tower and supporting equipment for multiple cellular carriers on a 0.25 acre portion of a parcel located on Old Stage Road in an A-1, General Agricultural, district. Staff recommended that the Planning Commission approve this application subject to the conclusions and recommendations of their consultant regarding their analysis of the co-location and RF data and the conditions listed within the staff report.

Martin Garrett asked for clarity in staff's statement that the tower could facilitate three users, but that they were not aware of multiple users.

Gary Pleskac stated that the tower would be designed to accommodate multiple users and the site could accommodate an additional tower. He stated that, at this time, the applicant did not have a co-locator for this tower.

Martin Garrett asked if the applicant could refuse to allow someone else to put up a tower.

Marvin Sowers stated that the applicant was leasing this space and that it would be the decision of the property owner. He added that there was a SUP condition that reserved space on the site for an additional tower and that owner negotiate, in good faith, with any party requesting space on the tower or site.

Martin Garrett was concerned that the present applicant might coerce the property owner from not allowing the additional tower on the site and wanted to know if there was anything we could do to protect this from happening.

Gary Pleskac commented that it would be in the owner's best interest to put in an additional user on the site adding that it would mean additional income from the property.

Joe Poole stated that if another application were submitted for a new tower, the Commission could look unfavorable and deny the application simply because there was another tower that would be in place.

Martin Garrett asked for the diameter in miles of service this tower would provide.

Bill Graham of Espy-Houston and consultant for James City County stated that it would depend on the terrain within the diameter, but generally a tower would cover a three or five mile radius, depending upon whether it was for cellular or PCS use.

Martin Garrett asked, if that were the case, would there have to be a tower every ten miles from here to Richmond.

Bill Graham stated that one might only need an antenna every five miles for each of the wireless communications providers. He stated that one thing they are trying to accomplish, by the ordinance and by the technical analysis of the application, was to make sure that it maximized the utilization of existing and future towers. He stated it would be the intent to encourage new applicants to co-locate on current towers.

Marvin Sowers stated that there are four communication providers presently licensed in the County with the potential of two additional ones. He added that, if this application were approved in its present state, it would give the opportunity for all the providers to co-locate on the site.

Martin Garrett asked if there was a provision in the ordinance that provided for the removal of the towers when they became obsolete.

Bill Graham stated that a requirement in the ordinance would stipulate that the applicant be required to post a letter of credit or bond to allow for the removal of the tower at such time it became obsolete.

Marvin Sowers stated such a condition on the SUP was recommended by staff.

Jay Everson asked why the Commission should be taking action on this application when crucial pieces of information were not made available by the applicant on the need for a tower at this location.

Marvin Sowers stated that, if the Commission disagreed with the decision of staff, they could wait until the information became available to them before they acted on this case. He further explained that the preliminary findings of the Countys' consultant were that the site was needed and was a good location to serve other providers.

Martin Garrett felt that the location of this tower was acceptable but stated his concern about towers that could be seen and ruin the aesthetics of residential areas within the County.

Alex Kuras opened the public hearing.

Dick Gibson representing the applicant complimented staff and the consultant on the excellent job in presenting information regarding this site to the Planning Commission. He wanted to stress to the Commission the issue of co-location. He stated that 360° did co-locate with its competitors either by placing them on their towers or vice versa.

Malcolm Boswell of 182 Racefield Drive stated he had not been notified of the scheduled balloon test. He requested that the Planning Commission defer this case until after another test was done and his questions answered pertaining to whether SHPO (State Historical Preservation Office) had been contacted and if surveying for cultural resources or any environmental assessment had been done.

Mark Sexton of Eight Prestwick had a general concern about the towers in the County. He asked that the Planning Commission defer this case in order to more fully explore the application. He was also concerned that two items, the co-location on a tower in New Kent County, and the lack of commitment from Chesapeake that the buffer area would remain, were unsolved. He also questioned the use of stealth towers in the County.

Dick Gibson asked if he could clear up some of the concerns of the previous speakers. He stated that during the balloon test, the balloon was not visible when driving on I-64 W and should not affect the Racefield Subdivision. He also stated that the PrimceCo tower, a 170-foot tower, was located at an elevation of 35 feet lower than the proposed tower. In order for 360° to get its cover objective of 186 feet above ground level at that site, the PrimceCo tower would need to be 221 feet and then would have to be lit. Also, the location was over a mile to the northwest of the subject site and when sites are moved, a hole in the system of coverage could be created and the result might mean another tower. He added that all necessary data would be given to Bill Graham for his verification. He also stated that, in this particular area, there was nothing that could serve as a stealth site.

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

Marvin Sowers requested that Gary Pleskac explain the process for the Commission and audience on how staff went about advertising the balloon test for this particular application.

Gary Pleskac stated that the main area of concern was Old Stage Road, due to the open properties along the area. He stated that staff was required to send out adjacent t property owner letters to persons adjacent to and across the street from the site. He added that staff notified 60 to 80 property owners within the general area, some of which were not technically adjacent property owners. In addition, staff telephoned all property owners along Old Stage Road and several in the Kings Village Subdivision. Two issues of the Virginia Gazette and one issue of the Daily Press ran

ads in approximately a 5 x 5 inch block. He added that, if the Commission felt another balloon test would be necessary, one could be requested.

Alex Kuras asked for comments regarding the buffering problem, if agreements on the ravine trees fall through.

Gary Pleskac stated he spoke to Bill Apperson from the Virginia Department of Forestry. He said he was informed that the trees which were presently 400 to 800 per acre could be thinned out in approximately 15 years and added that a typical site, such as this, would be timbered or have a marketable stand of timber in about 35 years. Gary Pleskac stated he would check with Bill Apperson regarding the trees that were retained on the site as far as water quality and will follow-up on the trees along I-64 to determine their number.

Martin Garrett made a motion, seconded by John Hagee, to approve the special use permit with the conditions in the staff report and staffs' recommendation that, if the conclusions from the consultant were negative, the case would come back to the Commission. In a roll call vote, motion passed. AYE: Garrett, Hagee, Hunt, Everson, Poole, Kuras (6). NAY: (0)

11. CASE NO. SUP-10-97. JCSA - CHANGE IN CONDITION FOR SUP-20-88.

Tammy Rosario presented the staff report for a change in condition of SUP-20-88. She stated that staff felt the application was consistent with the Utility Connection Policy adopted as part of the 1997 Comprehensive Plan. Staff recommended that the Planning Commission approve the additional condition for SUP-20-88 as outlined in the staff report.

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

Joe Poole made a motion, seconded by Martin Garrett, to approve this application. In a roll call vote, motion passed. AYE: Garrett, Hagee, Hunt, Everson, Poole, Kuras (6). NAY: (0)

12. CASE NO. SO-1-97. AMENDMENT TO THE SUBDIVISION ORDINANCE, CHAPTER 17, ARTICLE III.

Tammy Rosario presented the staff report to allow for the deletion of Section 17-57(b), Waiver for Central Water System Requirement in the Subdivision Ordinance, Chapter 17, Article III. The change would be to eliminate the waiver provision for the central water system requirement. Staff felt that the ordinance change was consistent with the 1997 Comprehensive Plan and recommended that the Planning Commission recommend approval of the change to the Subdivision Ordinance as outlined in the staff report.

John Hagee asked when a waiver was issued and whether we had any criteria.

Larry Foster stated that there were two criteria: one for within the PSA and one for outside the PSA. He stated, if a parcel was more than 1,000 feet from the public water system inside the PSA or more than 2,500 feet outside the PSA, then one could obtain a waiver. He also added that he would consider whether a particular area was slated for extension of water or sewer. The number of lots would also be considered.

Martin Garrett stated that he would not want to eliminate a farmette type subdivision stating that there are presently several nice ones in the County.

Alex Kuras commented that this would also pertain to areas within the PSA.

Tammy Rosario stated that currently the central well requirement applies to land within the PSA as well as areas outside the PSA where public water was not available. In addition, when staff reviews the ordinance in full, they could visit the issue of adding back in this particular revision, if the Commission should vote to delete it at this time. This would be done after review of the A-1 zoning district.

Marvin Sowers stated a substantial discussion was held during the Comprehensive Plan review on how to handle rural development and that public utilities were a major factor. This issue will be brought back to the Commission at some point during the summer or fall.

John Hagee asked if staff knew how many wells would have to be built for it to become a major issue. He added that presently there was a three acres minimum lot size for rural areas. He did not know at this time how many three-acre subdivisions existed, but wanted to know how many three-acre subdivisions would need to be created before there would be major concerns pertaining to ground water availability.

Larry Foster stated he was unable to clearly answer his question with an actual number of wells, but stated that if there were three-acre lots with each having an individual well, there would eventually be a problem.

John Hagee asked if it were a matter of volume of development that would cause the problem or just having lots with individual wells.

Larry Foster said the answer would be the volume/number of development.

Alex Kuras opened the public hearing.

Norman Mason of Langley and McDonald stated that the Commission had raised some of his same concerns pertaining to the ordinance change. He felt the proposed ordinance had the potential of increasing rather than decreasing or eliminating development in areas beyond the PSA. He requested that the Commission consider an option for individual lot wells for densities less than one lot per ten acres. He added that this would allow the land owner to realize value in his land without being forced to the higher densities that would be allowable under A-1 zoning and he might be forced to these densities to adequately spread the cost of a central water system. He suggested that appropriate notes be placed on subdivision plats that note the property is not supplied by a County owned central water system and that the County would not be responsible for water supply to the individual lots. He concluded by stating that the Commissions consideration of his comments would be appreciated and offered to answer any questions.

Martin Garret asked if anyone objected to the addition of "for subdivisions with a density of less than one unit per ten acres." under part (b) The central water system requirement may be waived by the service authority manager . . .

Tammy Rosario suggested that the Commission possibly give staff time to review whether ten acres was an appropriate density.

Alex Kuras asked if this could be deferred until next month.

John Hagee felt that the change being made in the ordinance regarding A-1 zoning should have a complete discussion with all property owners in the district notified as to the Countys' intent of change. He was agreeable to a work session in order to have input from property owners.

Marvin Sowers stated that what John Hagee suggested would be taking place as part of the

zoning ordinance amendment process and suggested that the Commission defer action until that time if they wish to more fully discuss the points raised by John Hagee.

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

Martin Garrett made a motion, seconded by Jay Everson, to defer this case indefinitely. In a roll call vote, motion passed. AYE: Garrett, Hagee, Hunt, Everson, Poole, Kuras (6). NAY: (0)

12. COMMISSION CONSIDERATION

Marvin Sower's presented the staff report on the naming of Alternate Route 5 to Monticello Avenue which was approved by unanimous voice vote.

13. PLANNING DIRECTOR'S REPORT


Marvin Sower's presented the staff report which was approved as presented.

14. ADJOURNMENT

There being no further business, the May 5, 1997 Planning Commission meeting adjourned at approximately 9:30 PM.



Alexander Kuras, Chairman



O. Marvin Sowers, Secretary