

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

1. ROLL CALL

Martin Garrett
Donald Hunt
Wilford Kale
Alexander Kuras
Willafay McKenna
A. Joe Poole, III

ALSO PRESENT

John Horne, Development Manager
O. Marvin Sowers, Planning Director
Leo Rogers, Deputy County Attorney
Matthew Maxwell, Senior Planner
Tammy Rosario, Senior Planner
Paul Holt, Senior Planner
Jill Schmidle, Planner

2. RECOGNITION OF ACHIEVEMENT

Martin Garrett congratulated Wilford Kale on his completion of the Virginia Certified Planning Commissioners Program and said the Commission appreciated the time he put into the program.

Wilford Kale said he enjoyed the program very much and received numerous materials to read and looked forward to using the information.

3. DEVELOPMENT REVIEW COMMITTEE

Alex Kuras reviewed the lengthy agenda stating that much of it was routine. He said the most significant case was the Stonehouse Development who requested the relocation of residential and commercial bays, without changing the number of units. He made a motion for approval, seconded by Willafay McKenna. In a unanimous voice vote, motion passed.

4. AMATEUR RADIO TOWER

Martin Garrett informed the audience that staff had recommended deferral of the Amateur Radio Tower case.

Marvin Sowers stated the public hearing be opened and anyone who wanted could speak on this matter tonight. However, he said, staff would be presenting a revised ordinance in a few months and copies of the report would be sent to anyone interested.

5. MINUTES

Joe Poole asked that wording "*off-site residential real estate signs*" be added on the bottom of page 6 to clarify his statement that he was opposed to the committee's recommendation regarding signs.

Alex Kuras made a motion, seconded by Willafay McKenna, to approve the minutes as amended. By unanimous voice vote, the minutes were approved.

6. CASE NO. ZO-9-98. ORDINANCE AMENDMENT / SIGNS.

Matthew Maxwell began his report explaining that the Community Character Committee revisited issues of concern to the Planning Commission at their September meeting. The committee now recommended to allow signs for industrial buildings in the M-1, M-2, and RT zoning districts to exceed 60 square feet as outlined in the staff report. The committee and staff continue to support the ordinance regarding the use of flags with several exceptions as outlined in the staff report. He stated the Committee revised the open house signs for residential properties to emphasize that off-premise realtor signs were temporary, directional, and generic in style. He stated staff continued to recommend that the revision concerning off-premise realtor signs be omitted from the proposed revisions of the ordinance.

Joe Poole asked if it were staff's opinion that, if the ordinance was approved, that there would be an increase in signs throughout the County.

Wilford Kale asked why staff believed there would be an increase since these signs were already in use.

Matthew Maxwell stated illegal signs placed along roadways are currently being picked up and with the change in the ordinance the practice of removing signs would stop and there would be more signs.

Alex Kuras asked if staff has received any complaints regarding these signs.

Matthew Maxwell stated there has not been an overwhelming amount of complaints but did comment that during the Comprehensive Plan process the majority of citizens felt the community was special and the character of the community should be protected.

Marvin Sowers said that legalizing off-premise signs would be a first for the community and believed that recognizing these temporary signs would invite other organizations to request special signage to advertize and direct people.

Martin Garrett continued the public hearing from the September meeting.

Paul Robinson, President of the Williamsburg Area Association of Realtors, stated the position of the realtors remained the same as stated during last months public hearing. Again he stressed the realtors' support of the proposed ordinance and thanked the Commission for their consideration of their comments.

John Enright spoke in support of the sign ordinance stating these signs were a very useful tool in serving the sellers, especially those who are in the back area of neighborhoods where the average buyer, who is driving around, would never know about a house for sale without the use of these signs.

Mike Bucci also spoke in favor of the proposed ordinance stating that the signs, although illegal, have been used over the past years and disagreed with staff that there would be an influx of additional signs to the area if the ordinance was passed.

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

Joe Poole commented that the Community Character Committee did not overwhelmingly agree on the recommendation of allowing off-premise realtor signs and said he still did not understand what compelling need drove this recommendation. He expressed his concerns because he believed there would be an increase in signs and could set a precedent. He moved to accept staff recommendation of approval with the exception of Sec. 24.73.

Alex Kuras felt these signs served a purpose, they were already in use, and he supported the committee's recommendation.

Wilford Kale supported the use of the generic signs and stated if Joe Poole's motions failed, he would like to add wording to staff's proposal that would ensure that "generic" was maintained.

Don Hunt felt if the signs did not serve a function, realtors would not put them up in the first place. He supported the committee's recommendation.

Willafay McKenna commented there were two reasons why the signs should be up, traffic and public safety. She also said there were several restrictions within the ordinance that spoke to the uniqueness of these signs.

Martin Garrett asked if there was a second for Joe Poole's motion. There being none, the motion failed.

Martin Garrett asked the Commission to vote on an amendment to Sec. 24-74 (19) (D) to add additional wording so the section would read as follows: Such signs shall be located only at intersections where a turning movement is indicated and, only at intersections where at least one of the streets is within the residential area in which the subject property for sale, lease, or rent is located. He stated the purpose of this was to provide adequate directions inside the subdivision while keeping signs off of major corridors.

Martin Garrett made a motion to approve the additional language, seconded by Willafay McKenna. In a unanimous voice vote, motion passed 6-0.

Wilford Kale suggested changing the wording, in Section 24-74 (19), to read as follows: "Off-premises, directional, temporary, **and generic** open-house **realtor** signs may be"

Willafay McKenna commented she was glad to see Section 24-74 (18) (D) deleted from the ordinance, but still had concerns over the limitation of flags and said she could not vote for it if it included the prohibition on the flying of the flag. She suggested the elimination of paragraph 18 altogether.

Wilford Kale suggested that they delete only section (C) of paragraph (18).

Willafay McKenna moved that (18) (C) be withdrawn. Alex Kuras seconded.

John Horne asked to speak before the Commission took a vote. He stated a provision such as the limitation on the number and size of flags was not unusual in progressive communities. He pointed out an example where a fast food restaurant flew eight American flags on their roof line.

He felt they were a patriotic corporation, but it was difficult to understand why three flags was somehow less patriotic than six or eight flags on the roof line.

Willafay McKenna stated she would not even consider asking anyone why they were flying an excessive number of flags and felt that (18) (C) should be omitted.

In a voice vote, the motion to delete (18) (C) passed 4-2. Both Joe Poole and Martin Garrett voted NAY.

Wilford Kale asked for motion of approval of the additional wording to Sec. 24-74 (19) as mentioned above. Willafay McKenna seconded his motion. In a voice vote, motion passed 6-0.

Willafay McKenna made a motion, seconded by Wilford Kale, to approve the ordinance as amended. In a roll call vote, motion passed (5-1). AYE: McKenna, Hunt, Kale, Kuras, Garrett (5). NAY: Poole (1).

Matthew Maxwell thanked the citizens and Commission members, who worked on the sign ordinance, for their time, hard work, and patience in developing a better and more user friendly ordinance.

7. CASE NO. SUP-22-98. CASEY NEW TOWN CENTRAL TRUNK SEWER.

Tammy Rosario presented the staff report stating the applicant requested a special use permit to allow the construction of a gravity sewer main through the east side of the Casey New Town development. Staff found this proposal to be consistent with the approved master plan, the surrounding development, and the Comprehensive Plan. Therefore, staff recommended the Planning Commission approve this application with the conditions outlined in the staff report.

Martin Garrett opened the public hearing. There being no speakers, the public hearing was closed.

Alex Kuras made a motion, seconded by Willafay McKenna, to approve this application. In a roll call vote, motion passed (6-0). AYE: McKenna, Hunt, Kale, Poole, Kuras, Garrett (6); NAY: (0).

8. CASE NO. SUP-7-98. J. W. CROSSING (formerly C & N Dining).

Martin Garrett made the following statement:

"This case is a continuance of a public hearing from last month. However, there are two unresolved issues that make it uncertain whether the project can be constructed as proposed. One, the issue of entrances to the property and two; the issue of the location of the BMP that places in question the location of development. As you are aware, the Planning Commission, for several months, has worked under the policy that all major issues be resolved and enough questions answered that we have sufficient information to make a decision before sending the case to the Board. For these reasons, I am requesting that staff, the applicant, and members of the public withhold comments until these major issues are resolved."

Willafay McKenna supported his request, seconded by Wilford Kale.

Alex Kuras commented that when the shopping center was first proposed years ago, the plan showed five entrances and they were asked come back with a plan with two entrances. VDOT recommended a third entrance to serve service vehicles. Three entrances were approved at that time and he could not support a fourth entrance.

Having heard the consensus of the Commission, Martin Garrett opened the public hearing and stated it would remain open until next month.

Alvin Anderson, representing the applicant, stated this case had been filed in February and discussions on several issues had taken place among the developer and property owner. These issues included but were not limited to the conflict between the Paluzsay family and the developer. He said the developer had a binding master plan and was ready to present it to the Commission tonight. He stated the developer would comply with the restrictive covenants prior to submitting the application of site plan approval. He added that if developer could not comply with the restrictive covenants, the approval the Commission would have given for this special use permit would be null and void. He said he was prepared to proceed tonight but, if the Commission chose not to, he would not make his presentation. He concluded by stating it was unfortunate and unfair to have these discussions over this long period of time and, now, have the Paluzsay's say this was in violation of the restrictive covenants. This information had been known by staff for months.

Peter Paluzsay addressed Alvin Anderson's comment regarding the conflict between C & N Dining and the Paluzsay family. He felt that comment was absolutely unfounded, absolutely uncalled for, and inexcusable.

There being no further speakers, the public hearing remained opened.

Martin Garrett stated there had been a policy in place for several months that the Commission would consider the same information that would go to the Board of Supervisors.

John Horne stated that staff had seen a drawing which was the basis of the staff report that the Commission had before them. He said staff recently learned that there were aspects of the drawing that were subject to approval by another property owner and staff had a written statement saying the property owner had not given that approval. Staff believed, from a policy point of view, not a legal one, that it would not be wise for the Commission to look at drawings that did not appear to have the ability to be executed.

Martin Garrett stated the public hearing would be continued next month and that the Commission would have to take action on this case.

9. CASE NO. SUP-20-98. RICHMOND ROAD FLEA MARKET.

Paul Holt presented the staff report for this application to have an outdoor flea market which would operate on weekends. Staff found this proposal to be inconsistent with the Land Use Map and the Goals and Objectives of the Comprehensive Plan. Staff believed this proposal constituted a more intense commercial use and development and set a precedent for additional commercial activity in an area which was also inconsistent with the intent of the Comprehensive Plan. Staff, therefore, recommended the Planning Commission deny this application.

Jim Hug stated the B-1 zoning for this parcel was already in place and that directly north of

the parcel, the vacant land was recently rezoned for Williamsburg Dodge. He said they would not be adding any buildings or changing any of the aesthetics. What they would be doing was setting up tables to run a flea market on weekends and remove them by Monday. He added that if the Commission had concerns as to the location, they would be happy to relocate it behind the back of the building. He concluded that by saying they have worked with staff regarding their concerns for parking and said if there was anything additional they would have to do, they were willing to work with staff and the Commission.

Jim Crabtree told the Commission he was a small businessman in a big world. He stated that outdoor flea markets exist in every town and stated that he was aware of with the exception of James City County. He asked that the Commission approve this special use permit.

Millie Web, a music teacher at Norge Elementary and a resident of 202 Elmwood Lane in Croaker, spoke in support of this flea market especially in this area.

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

Willafay McKenna stated she preferred to see the flea market placed further away from Richmond Road with a limited number of tables.

Martin Garrett agreed that if the market were behind the building he could support this special use permit.

Wilford Kale also agreed that the market be placed behind the building and smaller in size.

Joe Poole suggested that one of the conditions be that the tables must be removed from the property by Monday.

After a lengthy discussion by the Commission on the location of the proposed flea market, Martin Garrett suggested the case be deferred in order to allow the Commission to visit the sight.

Martin Garrett's motion for deferral was seconded by Alex Kuras. In a roll call vote, motion passed (4-2). AYE: McKenna, Poole, Kuras, Garrett (4); NAY: Hunt, Kale (2).

10. CASE NO. ZQ-4-98. AMATEUR RADIO ANTENNA.

Paul Holt stated staff requested indefinite deferral of the proposed changes in order that staff could work with members of the Amateur Radio Community to revise and clarify terms in the ordinance. He stated the case would be readvertised when it was brought back before the Commission.

Marvin Sowers requested that individual Commission members contact staff with any major policy concerns over the next several weeks.

Wilford Kale asked why staff was deferring this case.

Marvin Sowers stated staff had received a number of additional comments from the Amateur Radio Community which caused staff to feel a need to conceptually look at some of the items in the ordinance.

Martin Garrett opened the public hearing.

James Nicely, a resident and amateur radio operator, thanked staff and the Commission for the deferral. He handed out additional material for the Commission to review over the next few months and highlighted the importance of amateur radio operators to the community.

Chris Courson, a resident of First Colony, explained his position as Amateur Radio Emergency Coordinator who organizes volunteer operators in the event of a disaster when normal modes of communication fail. He stated that some new rules and guidelines were expected, but it was important that they not become so difficult for the amateur operator to participate. He concluded by stating he appreciated deferral of this case so that information could be brought to the Commission before they took action.

11. PLANNING DIRECTOR'S REPORT

Marvin Sowers stated that once a year the Virginia Citizens Planning Association gives an award to a citizen/planner in the State of Virginia for outstanding efforts in the planning field. He said he was pleased to announce that Jeff Barra received the organization's highest award that can be bestowed upon a citizen. Jeff Barra received the award at the BOS meeting of September 22 for his contributions to the Zoning Ordinance Update of 1998 and 1992 and the Citizens and Steering Committee for the Comprehensive Plan in 1997 and 1991.

There being no further business, the Planning Commission adjourned at approximately 8:55 P.M.

Martin A. Garrett, Chair



O. Marvin Sowers, Secretary