

A REGULAR MEETING OF THE PLANNING COMMISSION OF THE COUNTY OF JAMES CITY, VIRGINIA, WAS HELD ON THE SECOND DAY OF NOVEMBER, 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

O. Marvin Sowers, Planning Director
Leo Rogers, Deputy County Attorney
Andy Herrick, Assistant County Attorney
Paul Holt, Senior Planner
Jill Schmidle, Planner

2. DEVELOPMENT REVIEW COMMITTEE

Alex Kuras reviewed the three cases brought to the DRC and recommended approval by the Commission. Willafay McKenna seconded his motion. In a unanimous voice vote, motion passed.

3. MINUTES

Upon a motion by Willafay McKenna, seconded by Alex Kuras, the minutes of the October 5, 1998 meeting were approved by unanimous voice vote.

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

Jill Schmidle presented the staff report stating that, on October 20, staff met with representatives of J. W. Crossing and Ewell Station to discuss issues and concerns, including entrances and drainage. She stated the applicant requested deferral to the December meeting and staff concurred with their request.

Martin Garrett opened the public hearing. There being no speakers, the hearing remained open.

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

Paul Holt presented the staff report for this case which was deferred from the October 5 meeting. He said staff continued to recommend denial because they believed it would set a precedent for additional commercial activity in the area, that it was inconsistent with the intent of the Comprehensive Plan, and there were general concerns regarding the potential visual and traffic impacts. He added that if the Commission wished to consider this case, staff had proposed conditions as outlined in the report.

Martin Garrett opened the public hearing.

Jim Crabtree, the applicant, explained his intentions to the Commission stating he would be willing to move the flea market behind the building and had the permission of the property owner. He restated that the tables and public facilities would be removed by Monday morning.

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

Willafay McKenna moved to approve this application without the requirements of the landscaping and fencing to screen the us and additional lighting. She felt, with the fencing and landscaping, it would block out an area in the middle of the field and would defeat the purpose of this type of flea market. She said the market wouldn't detract from the area or even set a precedent and felt it was the perfect thing for that property and that was why she made her motion.

Wilford Kale seconded her motion and was also concerned about the requirement of the fence and landscaping.

Leo Rogers spoke on the ordinance requirements stating items 3 and 4 of Ordinance Sec. 24-41 would normally be applied at the time of site plan review. He stated Condition 1 identified and clarified item 4 of the ordinance and, if the Commission wished to make changes to that clarification, they could, but, the ordinance would still require landscape screening and fencing.

Marvin Sowers stated Condition #10 did not require additional lighting, but simply controlled the type of lighting that would be used. He also stated staff would have the ability to interpret the ordinance regarding the fencing and landscaping screening but would not be able to waive the requirements. He said that must only be done through a variance from the Board of Zoning Appeals.

Wilford Kale felt that for a temporary facility, the ordinance requirements should not apply.

Joe Poole stated that the applicant convinced him this proposal was a good one and with the requirement of screening and fencing and the fact the tables would be removed, he would support this application.

Don Hunt stated, if the fencing and landscaping were required for screening, then would it defeat the purpose of the applicant from removing the tables. He suggested they be required to do one or the other and not both.

Alex Kuras suggested the Commission approve Willafay McKenna's motion and that at the time of site plan review the DRC could take a look at the screening.

Martin Garrett informed the applicant that this case would go before the DRC, due to the screening issue, and the DRC would have to abide by the ordinance and then it would be brought back to the Commission for a final vote.

Leo Rogers stated this could go through administrative review if it met the SUP conditions. If the DRC would prefer to see the site plan, then that should be a part of Condition 1.

Martin Garrett stated he would like to see Condition 1 amended to require the site plan be forwarded to the DRC for their review.

Willafay McKenna stated she would like to see as much flexibility as possible in permitting this use on the property. Her motion was for approval with new language for Condition 1 to read: "It would be referred to the DRC for site plan review."

Alex Kuras seconded the motion. In a roll call vote, motion passed 7-0. AYE: McKenna, Hagee, Hunt, Kale, Poole, Kuras, Garrett (7); NAY: (0).

6. AFD-7-98. MILL CREEK AGRICULTURAL AND FORESTAL DISTRICT/COWLES ADDITIONS.

Paul Holt presented the staff report for the addition of property into the Mill Creek Agricultural and Forestal District. He stated the proposed additions were consistent with the surrounding properties and zoning and the Comprehensive Plan. He added that on October 29, the Agricultural and Forestal Advisory Committee recommended that both properties be included by a vote of 6-0. Therefore, staff recommended the Commission approve this application.

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

Willafay McKenna made a motion, seconded by Alex Kuras, to approve the proposed AFD addition. In a roll call vote motion passed 7-0. AYE: McKenna, Hagee, Hunt, Kale, Poole, Kuras, Garrett (7); NAY: (0).

7. CASE NO. ZO-12-98. ZONING ORDINANCE AMENDMENT/SPECIAL REGULATIONS.

Jill Schmidle presented the staff report stating, at the September 2 Planning Commission meeting, the Commission unanimously approved the additional language regarding outdoor sales as recommended by the Business and Industrial Zoning Ordinance Committee. She stated that since that time, it had come to staff's attention that the proposed language could pose some problems with interpretation and enforcement that were unforeseen during the last Commission meeting. The Committee recommended adding a provision to Section 24-41 to further define the requirement for outdoor uses as outlined in the staff report. Staff concurred with the Committee's recommendation and recommended the Commission approve the proposed amendment.

Alex Kuras asked, should a large shopping center require re-roofing and block off a section of the parking lot to store materials what would they have to do.

Jill Schmidle stated that any permanent storage would be prohibited and they would need to submit a site plan amendment which indicated where an area of the parking lot would be identified for outdoor operations or storage. Staff would then be able to look at the ordinance and insure that customer parking was met.

Marvin Sowers stated that in this particular case, no site plan or screening would be required, since this was only a repair activity.

Willafay McKenna suggested the language "the use is not a continuous use."

John Hagee asked if a church held a flea market and used part of the parking area, would it be allowed under this ordinance. He asked what other uses the County felt needed to have such restrictions placed upon them.

Marvin Sowers stated the church would not be prohibited from holding a yard sale under this ordinance. The ordinance, as currently written and enforced, would not change regarding said uses. This section of the ordinance addresses uses such as stores putting items like fertilizer, mulch, etc. in areas like parking lots intended for other uses.

Alex Kuras felt there should be some type of provision, such as a special permit, to provide for seasonal sales of pumpkins, etc. and for hardware stores that have a special weekend offer for selling fertilizer, mulch, etc.

Marvin Sowers stated the ordinance doesn't preclude someone from having an area for outdoor sales, such a garden shop that wants to sell goods outside the store, provided their site plan provides a designated area for those outdoor sales. The ordinance keeps the outdoors sales out of areas that are required for parking and landscaping.

A lengthy discussion took place among the Planning Commission members regarding uses, requirements, and limitations of the proposed ordinance.

Some Commissioners suggested allowing greater flexibility for outdoor display of certain items for sale such as plants or for temporary uses versus household items (pictures, furniture, etc.). Staff expressed concerns regarding the difficulty of writing and enforcing such provisions.

John Hagee suggested staff take the ordinance back to the committee.

Jill Schmidle stated the proposal was written in accordance with the interpretation of the present ordinance by the Zoning Administrator. She then stated if it was the wish of the Commission, she would send it back to the committee.

Willafay McKenna requested that the committee review Item 4 to reiterate the concern of the Commission regarding screening. The other Commissioners agreed that Item 4 should be revisited by the Committee.

With concurrence of the Commission, the case was deferred to the December 2 meeting and the public hearing remained open.

8. CASE NO. ZO-15-98. ZONING ORDINANCE AMENDMENT/MIXED USE DISTRICT.

Jill Schmidle presented the staff report stating the Business and Industrial Zoning Committee had reviewed the ordinance and had proposed several revisions as outlined in the staff report. She stated staff supported these revisions and recommended the Planning Commission approve the proposed amendments.

Joe Poole stated he raised the question of museums when this came up before and he was still concerned and asked if the Committee had discussed this issue or made any decision.

Jill Schmidle stated his concern for museums was during the review of the Limited Business District and that the Committee did discuss and recommend deleting museums from LB. She spoke on behalf of the Committee stating that it could also be deleted from the Mixed Use District.

Marvin Sowers suggested the Commission move the museums into the specially permitted use only section of the Mixed Use District, if that was a concern to the Commission.

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 the Mixed Use District, as amended. In a roll call vote, motion passed 7-0. AYE: McKenna, Hagee, Hunt, Kale, Poole, Kuras, Garrett (7); NAY: (0).

9. CASE NO. ZO-16-98. ZONING ORDINANCE AMENDMENT/STREET NAMES.

Paul Holt presented the staff report stating the purpose of the changes were to minimize any confusion among emergency services finding a correct address. Staff recommended the Planning Commission approve the changes as outlined in the staff report.

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

Joe Poole made a motion, seconded by Willafay McKenna, for approval. In a roll call vote motion, passed 7-0. AYE: McKenna, Hagee, Hunt, Kale, Poole, Kuras, Garrett (7); NAY: (0).

10. CASE NO. ZO-17-98. SPECIAL PROVISIONS FOR PUBLIC UTILITIES.

Paul Holt presented the staff report stating staff recommended the Planning Commission approve the changes as outlined in the staff report.

Alex Kuras asked if these changes were creating a double standard for public and private facilities, referring to the Kristiansand Subdivision.

Paul Holt stated that was a different type of facility. He said this was only one section of the ordinance that dealt with public utilities and was generally intended to be applied to the permitted small subdivision pump stations. There were still requirements in each zoning district for large scale facilities such as the Kristiansand Subdivision.

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

Willafay McKenna made a motion, seconded by Alex Kuras, for approval. In a roll call vote, motion passed 7-0. AYE: McKenna, Hagee, Hunt, Kale, Poole, Kuras, Garrett (7); NAY: (0).


11. PLANNING DIRECTOR'S REPORT

Marvin Sowers stated if anyone had any questions regarding the Director's Report , he'd be happy to answer them.

12. ADJOURNMENT

There being no further business, the Planning Commission adjourned at approximately 8:35 P.M.


Martin A. Garrett, Chair


O. Marvin Sowers, Secretary