

A REGULAR MEETING OF THE PLANNING COMMISSION OF THE COUNTY OF JAMES CITY, VIRGINIA, WAS HELD ON THE FIRST DAY OF FEBRUARY, NINETEEN HUNDRED AND NINETY-NINE 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, Chair
John Hagee
Don Hunt
Wilford Kale
Alexander Kuras
Willafay McKenna
A. Joe Poole, III

ALSO PRESENT

O. Marvin Sowers, Planning Director
Leo Rogers, Deputy County Attorney
Jill Schmidle, Senior Planner
Chris Johnson, Planner

2. ANNUAL ORGANIZATION MEETING.

Martin Garrett stated the Commission needed to begin with its annual organizational meeting to elect a new Chair and Vice-Chair and turned the meeting over to Marvin Sowers.

Marvin Sowers called for nominations for Chair of the James City County Planning Commission for the year 1999.

Willafay McKenna nominated Martin Garrett, seconded by Joe Poole. There being no further nominations, Willafay McKenna made a motion, seconded by Alex Kuras, to close the nominations. In a unanimous voice vote, Martin Garrett was elected to serve as Chair of the Planning Commission for 1999.

Martin Garrett opened the nominations for Vice-Chair. Alex Kuras nominated Joe Poole, seconded by Willafay McKenna. Alex Kuras moved that nominations be closed. In a unanimous voice vote, Joe Poole was nominated Vice-Chair of the Planning Commission for 1999.

Martin Garrett then appointed members of the Commission to the Development Review Committee and the Policy Review Committee. He appointed Alex Kuras as Chair of the DRC with John Hagee, Joe Poole, and himself to serve as members. He appointed Willafay McKenna as Chair of the Policy Committee with Wilford Kale, Don Hunt, and Joe Poole to serve as members. The final committee was the Leadership Committee which consisted of the Chair and Vice-Chair of the Planning Commission, the Chair of the Policy Committee, and the Chair of the DRC. He suggested that the Leadership Committee meet more often than they have in the past.

3. MINUTES

Upon a motion by Willafay McKenna, seconded by Alex Kuras, the minutes of the January 11, 1999 meeting were approved by unanimous voice vote.

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

Before Jill Schmidle presented the staff report, Martin Garrett commented on a fax he received from Bruce Marshall, representing not the applicant, but Peter Paluszay the original owner of the property, requesting the Commission defer this meeting for one month. He stated the problem here was that Mr. Marshall did not represent the applicant and his request that the Commission defer could not be granted since the Commission had already deferred this case once. He said if the applicant wanted to defer it on

behalf of Mr. Marshall, the Commission would concur. He asked if Jill Schmidle had been in contact with Mr. Marshall prior to the meeting.

Jill Schmidle stated she had left a message with Mr. Marshall but was unable to speak with him regarding this matter.

Martin Garrett asked who was representing the applicant for this case and would they like to defer on Mr. Marshall's request.

Alvin Anderson stated he would like the opportunity to address the Commission to at least frame the issues. He stated that if another month delay would help in resolving the remaining issues, he would endorse that request, but he felt that when the Commission saw what the issues were and the review that staff had done on those issues, the Commission might well come to the same conclusion as the applicant that the parties are at a private impasse not a public impasse.

Martin Garrett asked if it were the desire of the Commission to go forth with this case tonight. The Commission concurred.

Jill Schmidle presented the staff report for a special use permit to construct a 5900 sq. ft. retail shopping center, a 2800 sq. ft. service center, and a 3100 sq. ft. fast food restaurant at 5547 Richmond Road. She stated this case had been deferred for several months to allow the applicant to meet with staff and the owners of Ewell Station Shopping Center to discuss issues concerning entrances and drainage. These issues were outlined in pertinent sections of the report and staff had added several conditions to alleviate some of the concerns of the Ewell Station property owners. Staff found the proposal to be consistent with the surrounding commercial zoning and development and consistent with the Community Commercial designation of the Comprehensive Plan. Staff recommended the Planning Commission approve the special use application with the conditions as outlined in the staff report, including the revised conditions before the Commission.

Martin Garrett asked for clarification that staff was recommending a right turn lane in addition to setting aside land for a double turn at the red light.

Jill Schmidle stated staff was recommending the dedication of the right-of-way along Olde Town for an additional left turn lane and not recommending that an additional left hand turn lane be put in with this proposal. Staff is not supporting the second entrance off Route 60.

Wilford Kale asked that condition #5 be reworded into a positive statement while still accomplishing the intent of the condition.

Willafay McKenna asked why the condition regarding the term of the SUP was changed from 18 months to 36 months.

Jill Schmidle stated that more recent SUP conditions referenced 36 months with 18 months being used in previous proposals some time ago and staff was bringing the condition up to more current standards.

Martin Garrett opened the public hearing.

Alvin Anderson, representing J. W. Crossing, spoke on behalf of his client stating this application had been pending in one form or another since February 23, 1998. He again stated that if they felt that a

delay of a month would result in a resolution of the issues between the parties he would defer but that was not the case. He stated the following issues needed to be resolved between the private parties: The location and number of internal access points within Ewell Station, the stormwater management, and restrictive covenants permitting only one-story buildings. He stated the Jiffy Lube facility did have a basement and therefore, the Paluzsays felt it was not a one-story building. He also stated that the applicant had supported adding an additional condition in which the applicant must provide evidence to the County that they would not be in violation of any of the restrictive covenants before obtaining permits. He felt the single condition that was agreed upon by both the County and Paluzsays was the condition relating to the entrance along Richmond Road (Route 60). He submitted a letter to the Commission dated August 26, 1998 from the Department of Transportation quoting this line from the letter. "After detailed discussions and an exhausted review of our Commercial Entrance Standards, we agree to allow a right in only entrance to serve this site." He added that Dexter Williams, the traffic consultant who prepared this study, was present and would answer any questions. He concluded stating he felt he adequately addressed the issues of concern for the Commission.

Peter Paluzsay of Ewell Station spoke at the request of Bruce Marshall. He requested if the Commission considered this case tonight, that Mr. Marshall be given an opportunity at the next hearing to respond.

Martin Garrett stated the Commission was unable to defer this case again. He felt that the Commission could possibly reach a solution that might be suitable to everyone. He asked Jill Schmidle to come up and explain what was discussed today regarding the entrances.

Jill Schmidle stated one issue regards the location of the two internal access points. Staff met with the applicant and the Paluzsays on two occasions and, at the last meeting, they came to the agreement that a condition would be added that stated that, if the location of the internal entrances changed, the master plan would then go to the Development Review Committee for their review.

Martin Garrett stated if it were to go before the DRC, then Bruce Marshall would have the opportunity to speak on behalf of his client. The remaining issues were stormwater management and the two-story building.

Alex Kuras felt the two-story building covenant issue was a concern only between the developer and Ewell Station.

Marvin Sowers stated staff did not feel the two-story building was a reason in itself to prevent the case from going forward. He felt its resolution was a private and not a public matter.

Martin Garrett asked if a basement was suitable for this location.

Don Hunt stated that Route 60 ran on the highest ridge in the Peninsula and felt there should be no problem with water.

Marvin Sowers stated staff could not really conclude the issue and it would be left up to the courts to make a determination.

Jill Schmidle stated that one of the conditions stated that the Environmental Director must approve any drainage plan prior to preliminary site plan approval for any structure on this site and that also would go to the DRC for review.

Martin Garrett asked if the Commission approved of this condition.

Wilford Kale stated he was disappointed that Bruce Marshall did not have the opportunity to speak before the Commission tonight since he had a request and he apparently had something to say.

John Hagee commented that, in lieu of Bruce Marshall not being able to attend, he felt he could have written a letter outlining his position to the Commission. He also felt there would be significant negative impact on the applicant if it were to be delayed another month.

With no further comments by the Commission, Martin Garrett asked Alvin Anderson if he wished to add anything.

Alvin Anderson requested that Dexter Williams, the traffic consultant, come up to address the Richmond Road entrance.

Dexter Williams presented several exhibits regarding driveway spacing along Richmond Road for this site and for existing sites. He stated these exhibits were to help show what the applicant was asking for was consistent with driveway spacing that had been approved so far in the area. He stated that the Department of Transportation had approved their request for an additional entrance on Richmond Road, but staff did have some concerns. He said he would answer any questions of the Commission.

John Hagee asked for an explanation of the VDOT Standards.

Dexter Williams stated general driveway spacing was 50 feet minimum on this curb to curb tangent measurement. He also confirmed that there was a 50 foot minimum for the displays in both the blue and green areas.

Wilford Kale stated his concern was the existing right hand lane into Ewell Station saying that many people use that lane and continue to proceed to the light. He felt the turn lane was too close to the stop light and was concerned if an additional entrance was put in because many accidents already occur due to improper use of the turn lane.

Joe Poole asked if the one-way entry to the site was not an option, how would the site be accessed with the existing entrance off Richmond Road.

Dexter Williams showed the desired access via an exhibit and then pointed out the route the traffic would take if the entrance was not approved.

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

Marvin Sowers commented that he agreed with Wilford Kale with respect to the traffic on Richmond Road. He said traffic volumes were expected to grow tremendously and while it might not be that noticeable of a problem today, it could be in the future, as the road reaches the threshold for widening as projected.

Alex Kuras stated he was involved when this case was approved by the DRC and at that point it was clear that the County policy wanted limited access off of Richmond Road. He did not feel that there should be an additional entrance.

Willafay McKenna stated she did not support the additional entrance off Richmond Road.

Don Hunt stated since the entrance would be a one-way in only, it did not appear to him to be much of a problem.

Alex Kuras made a motion, seconded by Willafay McKenna, to approve this application with staff's comments and corrections.

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

5. CASE NO. SUP-25-98. JCSA RT. 5 WATER SYSTEM IMPROVEMENTS.

Chris Johnson presented the staff report for this application to install approximately 3,860 linear feet of 12-inch water main, in order to create a looped water system that would provide an alternative water source for the Governor's Land-Greensprings Road area and to enhance fire response efforts. Staff recommended approval of this application with the attached conditions.

Martin Garrett opened the public hearing.

John Hagee asked why the proposed application would begin construction in the middle of summer.

Chris Johnson stated that if construction were to occur during the summer, school bus schedules would not need to be altered, as there would be less traffic into and out of Jamestown High School during the summer months.

John Hagee felt that by the 9:00 am construction start up busses would have already arrived at the school and that the departing time would be around 2:30 - 3:00.

Chris Johnson stated that the proposed construction schedule of 9:00 am to 4:00 pm would minimize the impact of traffic interruptions on the community. Work would be performed on segments one at a time and would likely begin at the intersection of Greensprings Road and work toward the school.

Marvin Sowers also commented that summer allows one to compress the time period since there would potentially for better weather than in the fall or spring. He also felt that traffic along that corridor did not have significant seasonal changes except when the schools were open and busses were letting out.

Willafay McKenna asked if this improvement would make it possible for residents closer to Williamsburg Crossing to be able to get off the private well systems.

Larry Foster stated it would not facilitate anyone from getting off private water systems.

Joe Poole asked if the Route 5 canopy would be adversely impacted.

Larry Foster reassured him there would be minimal, if any, impact on the canopy and if any plantings were destroyed they would be replaced with or without the conditions on this application.

Joe Poole, citing Governor's Land, asked if this project would strengthen a case where additional residential development might occur outside the primary service area. He stated he did not want to be a part of that and would not support this application if that were the case.

Larry Foster stated that the purpose of this application was to improve the water flow to the high

demand areas in the summer that are already served.

Mrs. Schroder, representing Historic Route 5, spoke of their concern for protecting the canopy along Route 5 including the holly and dogwood trees under the power lines.

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

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

6. CASE NO. ZO-8-98. LIMITED BUSINESS DISTRICT AMENDMENT.

Jill Schmidle introduced Alex Kuras, a member of the Business and Industrial Zoning Ordinance Update Committee, who would be making the presentation on behalf of the committee.

Alex Kuras introduced Joe McCleary, another member of the committee. He stated this was a very active committee, meeting weekly for over one year and continued to meet. He said the committee met for weeks on this particular ordinance trying to determine the scope and approach of the issue. He stated the Comprehensive Plan, which inferred a new Neighborhood/Commercial district, was the driving force for the committee. He gave a brief history on the Limited Business District stating that the district was separated from the B-1 District in the mid 80's to protect some sensitive areas and be friendly to nearby residential areas. This was done by removing intense uses, such as fast food restaurants and hotels, and by moving service stations and convenience to the special use category. In determining the approach toward a Neighborhood/Commercial District, the committee first concentrated on Jamestown Road in preparation for 2007. It was quickly determined that if it was good for Jamestown Road, it would be good for other Neighborhood/Commercial areas. The next attempt was to draft a Neighborhood/Commercial District, but that became very similar to the existing Limited Business District. The committee then determined to have a special requirement section for Neighborhood/Commercial areas in the Limited Business Ordinance. This section had no effect on permitted uses but in the special use category it eliminated service stations, convenience stores, and flea markets in areas designated Neighborhood/Commercial or Low-density Residential in the Comprehensive Plan. The topic of eliminating service stations and convenience stores was briskly debated by the committee and passed by a slim majority of 4-3. Another significant change in this ordinance was requiring a SUP for buildings over 2,500 square feet. The previous requirement was 10,000 square feet. Additional requirements were outlined including special requirements for signs and landscaping. He stated other design standards were listed in a separate policy that was not part of the ordinance, but referenced in the ordinance. The requirements were designed to de-emphasized bulk and the commercial look, especially in large buildings. These included items such as facade designs, materials, colors, and character of design. An attempt to include these provisions directly into the ordinance failed, due to legal complications. The committee's original draft included only Limited Business/Neighborhood Commercial areas, but upon staff's review, they returned the draft with an inclusion of all Limited Business/Neighborhood Commercial areas designated for Low-density Residential on the Comprehensive Plan. He stated the committee concurred with staff's recommendation. He concluded by commending the Commission and staff for starting this committee system for the review of the ordinance and for the committee members who meet weekly. It was time consuming and often fraught with frustration. However, it proved again the value of industry and public input.

John Hagee asked Alex Kuras to elaborate on the committee's discussion of convenience stores.

Alex Kuras stated the committee had a heated discussion as to the need for flexibility. He stated

he felt that service stations and convenience stores should be left in since they were in the special use permit category. He felt it would be a much easier process to have it in the ordinance rather than to rezone a property especially if there was a lot of support. He said the committee's discussion was whether it should be left in under the SUP or deleted entirely.

John Hagee questioned Item #3 in the proposed Design Standards and the specific description of semi-transparent stains.

Alex Kuras stated the intent was not to have any garish colors but preferred colors that complimented the character of the areas.

John Hagee stated he had a lot of experience with semi-transparent stains and it can make for a very shabby looking building after weathering. He suggested semi-solid or solid stains.

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

John Hagee made a motion, seconded by Alex Kuras, to amend Item #3 of the Neighborhood Commercial Design Standards by eliminating the last sentence.

Joe Poole questioned the definition of pastel colors. A brief discussion took place and Martin Garrett suggested staff rewrite Item #3 to suite the intentions of the Commission.

John Hagee asked about the situation of the convenience stores. He felt convenience stores should be included in the Limited Business designated Neighborhood Commercial with an SUP requirement. He felt if someone couldn't go to their neighborhood store to obtain a loaf of bread or quart of milk, what else would someone want in a Neighborhood Commercial area.

Alex Kuras commented that Powhatan Plantation was proposing a convenience store stating the ordinance would not affect them because they were not in a Limited Business District. He felt the principal was the same and they were proposing it because of demand from the people who stay there. He said he was one committee member who supported the convenience stores.

Willafay McKenna stated she understood the argument but felt part of the problem was convenience stores had a connotation and association with certain developers of these stores that they were not marketing to local the neighborhood market but to areas of high traffic volume. She felt that a local store should not be completely excluded if someone wanted to run that type of business but agreed with the committee that she would not want to have a 7-Eleven in every one of these Limited Business areas.

Joe Poole stated he could accept a convenience store without fuel sales. His concerns regarding the service stations were the canopy, lighting, and hours of operation.

Martin Garrett stated that the only final control the County had was with SUPs. He said he would like to see SUP requirements on just about everything.

John Hagee asked how the Commission could modify the ordinance.

Alex Kuras suggested he make a motion to permit convenience stores and service stations with an SUP.

Jill Schmidle stated that the discussion and concerns among the Commission members were the

same discussion and concerns the committee had undertaken itself. She stated the reason that the convenience stores and service stations were eliminated was the fact that it explicitly referenced in the Comprehensive Plan that automobile service stations and 24-hour convenience stores were not recommended in these areas.

Jill Schmidle clarified the proposal by stating that convenience stores and service stations would remain with an SUP in the Limited Business District. In areas zoned LB but designated Neighborhood Commercial or Low-Density Residential convenience stores and service stations would not be permitted at all in the committee's ordinance.

John Hagee said that in the Comprehensive Plan it stated that convenience stores with limited hours of operation were permitted.

Jill Schmidle said if he continued reading further it stated what was not permitted were 24-hour convenience stores and the committee felt there was no way to distinguish this in the ordinance so they chose to delete them entirely.

John Hagee felt that if an SUP was required there would be control and they could consider the Comprehensive Plan. He asked how that could be accomplished.

Marvin Sowers stated this could be accomplished by deleting text on page 35 "in areas not designated Neighborhood Commercial or Low-Density Residential on the Comprehensive Plan" which would allow for an SUP for a convenience store in an LB, then in one of the standards, a consideration dealing with the hours of operation could be added.

Joe Poole stated the only way he could go along with that change would be if fuel sales were prohibited. He did not feel comfortable changing what the committee had come up with.

Martin Garrett had some concern that the Commission was discussing something for a short period of time which the committee had discussed for hours. He was supportive of the committee's recommendation.

John Hagee felt that just because the committee came up with something did not mean the Commission had to take the same position.

Joe McCleary, a member of the Business and Industrial Zoning Update Committee, stated they recognized that the Commission may not always agree with what they recommend and the committee had no problem with that. He said this was probably the most contentious discussion the committee has had and Alex Kuras was correct that the vote was close. He added that it was the three citizen members that recommended against allowing service stations and convenience stores. One of the developers on the committee continually brought up the example of the infamous 7-Eleven store along Jamestown Road and that seemed to be the nightmare that the members were recognizing when they voted against it. He stated he too remembered the mom and pop stores but as the County develops with a vast number and variety of stores, that type of store had virtually gone away.

John Hagee stated it seemed to be that the aesthetics was the concern rather than the function of the business.

Joe McCleary concurred with John Hagee's comment and added that, as the Commission was willing to vote against the committee, the committee was willing to tell the Commission that they didn't trust

them entirely.

John Hagee asked Joe McCleary to explain his comment.

Joe McCleary stated that if the committee gave the Commission the SUP authority, the committee would not always be assured that it would be handled appropriately.

John Hagee questioned that since there were three citizen committee members who didn't trust the Planning Commission so the Commission should go ahead and approve this as written even though it's not right.

Joe McCleary stated it was entirely up to the Commission. He was only there to explain the thought process.

John Hagee asked what the committee considered as appropriate in the Neighborhood Commercial if not a convenience store.

Joe McCleary stated various things that were a convenience for the person who needed them that were appropriate to be in a neighborhood but did not offer specifics.

John Hagee asked if a dry cleaner wanted to come in and build something that looked like the 7-Eleven, where are we then?

Joe McCleary stated that was specifically why the committee put in the guidance that would control how a building would look and it was also a balance about traffic.

John Hagee felt strongly that convenience stores should be allowed in Neighborhood Commercial.

Joe Poole doubted seriously that the gated neighborhoods in the community would want a convenience store at their entry. He stated perhaps this Commission would be very judicious in enforcing an SUP to insure that no adverse impacts could occur to adjacent residential properties, but our successors may not be as cautious. He did not feel there was a compelling case to provide convenience stores in this ordinance.

Willafay McKenna reminded the Commission members that when 7-Eleven first opened their operating hours were 7 am to 11 pm and they had no fuel sites. She also asked the members if they were familiar with the small store on Jamestown where you could purchase milk, a sandwich, or coffee. She asked if they came in to apply for a permit would they be considered a convenience store. If so, she would not want to eliminate that type of store.

Don Hunt stated another issue with service stations today were the Department of Energy standards being so strict on underground storage tanks, he felt there wouldn't be many people applying unless they were a big volume business.

John Hagee recommended the deletion of the italicized words in the automobile service stations and convenience stores which would allow service stations and convenience stores with an SUP.

Alex Kuras suggested modifying the standards to include hours of operation.

Leo Rogers stated if the Commission wanted to designate hours then they would be set in stone

Alex Kuras stated the hours would not be placed in the ordinance but in the Design Standards.

John Hagee asked for a straw vote before he continued because if this was going to be defeated, there was no point in continuing.

Wilford Kale suggested this be divided out into three sections and voted on separately because as a whole he would vote in opposition. He said he did not want to remove the restrictions from the service stations but was in favor of removing the restrictions from the convenience store.

Alex Kuras made a motion to delete the text from both the automobile service stations and convenience stores and to have staff modify the operating guidelines to the Design Standards.

Willafay McKenna suggested that the Commission amend singly and vote them up or down, then vote on the entire ordinance.

The Commission concurred.

The first vote was to strike the italicized wording following "automobile service stations, with an AYE vote indicating they would be permitted by a special use permit in all Limited Business Districts. In a roll call vote, motion failed 3-4. AYE: Hagee, Hunt, Kuras (3); NAY: McKenna, Kale, Poole, Garrett (4).

The second vote was to strike the italicized wording following "convenience stores," with an AYE vote indicating they would be permitted by a special use permit in all Limited Business Districts. In a roll call vote, motion passed 4-3. AYE: Hagee, Hunt, Kale, Kuras (4); NAY: McKenna, Poole, Garrett (3).

The third vote was to add a provision restricting convenience store operating hours in the Design Standards. In a roll call vote, motion passed 7-0. AYE: McKenna, Hagee, Hunt, Kale, Poole, Kuras, Garrett (7); NAY:(0).

Alex Kuras made a motion, seconded by Willafay McKenna, to approve the ordinance as amended. In a roll call vote, motion passed (6-1). AYE: McKenna, Hagee, Hunt, Kale, Kuras, Garrett (6); NAY: Poole (1).

7. PLANNING DIRECTOR'S REPORT.

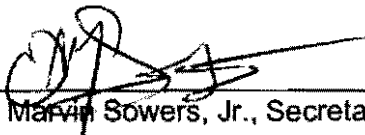
Marvin Sowers stated the report was on page 45 of the Commission packet and if anyone had any questions regarding the Director's Report, he'd be happy to answer them. He informed the Commission members that they would be receiving copies of the minutes in advance of the meeting packet to allow more time for their review and comments.

8. ADJOURNMENT

There being no further business, the Planning Commission adjourned at approximately 9:00 P.M.



Martin A. Garrett, Chair



O. Marvin Sowers, Jr., Secretary