

A REGULAR MEETING OF THE PLANNING COMMISSION OF THE COUNTY OF JAMES CITY, VIRGINIA, WAS HELD ON THE FOURTH DAY OF OCTOBER, 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
Don Hunt
Wilford Kale
Alexander Kuras
Willafay McKenna
A. Joe Poole III

ALSO PRESENT

John T. P. Horne, Development Manager
Marvin Sowers, Director of Planning
Leo Rogers, Deputy County Attorney
Andrew Herrick, Assistant County Attorney
Paul Holt, Senior Planner
Matt Maxwell, Senior Planner
Jill Schmidle, Senior Planner

2. VCPA AWARD

Marvin Sowers presented the 1999 Citizens Award to the Business and Industrial Zoning Ordinance Committee from the Virginia Citizens Planning Association for their work updating the zoning ordinance. Mr. Sowers indicated that this is the second year in a row that the county has been recognized for citizens involved in planning. Mr. Sowers thanked the Commission for supporting the committee in their efforts.

Peggy Wildman, a member of the committee, stated on behalf of the committee, that they were proud to receive the award and look forward to seeing their efforts become a reality. Ms. Wildman thanked the Commission, Alex Kuras, the Board of Supervisors, and Jill Schmidle of the planning staff for their support.

Alex Kuras stated that the committee effort was one of the most outstanding efforts in modifying zoning ordinances.

3. MINUTES

Alex Kuras made a motion to amend section 4 to state that Martin Garrett made the motion with Alex Kuras seconding it.

Willafay McKenna recommended approval as amended and the minutes of the September 8, 1999 meeting were approved by unanimous voice vote.

4. DEVELOPMENT REVIEW COMMITTEE

Alex Kuras presented the report for the DRC meeting held on Wednesday, September 29, stating that the committee deferred a case for landscaping the water tanks and associated buildings at Kristiansand until October 12 at 11:45 on site. The committee recommended approval of two subdivisions, a 30-lot subdivision in Powhatan Secondary, and a 64-lot subdivision in the Villages at Westminster. The committee also recommended approval of a 56,000 Sq. Ft. office/ retail development on the corner of Longhill and Centerville Roads. Alex Kuras stated that the committee approved 19 timeshare units at Williamsburg Plantation that evening. Mr. Kuras made a motion to approve the DRC report. Willafay McKenna seconded the motion. In a unanimous voice vote, the motion passed.

5. CASE NO. SO-1-99. COMPREHENSIVE REVISION TO THE SUBDIVISION ORDINANCE AND CASE NO. ZO-12-99. SIDEWALKS AND MULTI-USE PEDESTRIAN CONNECTIONS.

Paul Holt stated that the case had been deferred from the September 8th meeting to allow for any concerns to be addressed. Paul indicated that the Grab Bag Committee discussed the

proposed changes for a period of three months. Members of the Committee included local engineers and developers, and citizens had the opportunity to attend the meetings and provide input. Paul Holt stated that in response to comments received, staff recommends the following amendments to the proposed ordinances:

Adding to 19-50(c): side slopes of ditches not located within a public street right of way shall not exceed a slope of 3 to 1. In addition, staff recommends changing the minimum longitudinal slope requirement from .5 to .3.

In regards to shared driveway requirements, Paul Holt stated that staff would support requiring minor subdivisions with 2 or more lots to utilize a shared driveway. He added that the proposal includes provisions for the care and maintenance of the driveway as well as assessing the individuals' properties for it's share of adequately administering, maintaining, and replacing the shared driveways. Paul added that staff would also place a maximum lot size requirement in this section as suggested in one of the comment letters.

With regard to monuments, Paul Holt stated that staff recommends deleting the first sentence of the existing section 29-36 in order to clarify the ordinance.

In section 19-48 (e)(4), Paul indicated that staff proposes changing the wording from a sign of at least 24"X36" to a sign that is 24"X36" in size to clarify the ordinance.

In section 19-32(c), driveway slope requirements, Paul Holt stated that staff recommends deleting the proposed change. Staff has determined that additional time is necessary to determine how best to administer the proposal.

Paul Holt concluded by stating that the Grab Bag Committee and staff continue to recommend approval of ordinances with the changes listed.

Alex Kuras asked if the 5 acres mentioned referred to the lot access requirement. Paul Holt replied that it did.

Martin Garrett addressed comments received concerning the proposed changes and asked if they had been addressed in the proposal. Marvin Sowers responded by stating that Alex Kuras's comments were received in time to be included, but that additional comments and changes were received after the deadline. Those comments were addressed in a letter sent October 1, 1999 and a new memo of October 4, 1999 presented at tonight's meeting.

Willafay McKenna suggested that the Commission address the proposal section by section with the exception of a few sections that could be approved without debate. Ms. McKenna motioned to begin with section 19-2.

Leo Rogers stated that the Commission should have the public hearing first before eliminating sections to be discussed. Martin Garrett agreed.

Martin Garrett opened the public hearing.

Mark Rinaldi of 103 Leon Drive, addressed concerns beginning with 19-15 (1) Fees, stating that under his interpretation, all subdivisions require public improvements when referencing improvements in the definition section. Mr. Rinaldi felt it was confusing to have two separate fee structures, one for subdivisions not requiring improvements and one for subdivisions requiring public improvements.

With regard to 19-35 and 19-36, Mark Rinaldi thanked the staff for addressing concerns and had no additional comments.

In Section 19-48(a)(4), phased development and road extensions, Mark Rinaldi felt there was an abundance of signage in the area and felt it was contradictory for the comprehensive plan to suggest fewer signs, and for this section to propose more signs. He further stated that he felt it laudable to specify that signs be 24"x36", not "at least" 24"x36". In addition, he felt there were several unanswered questions including; how long will the signs remain posted? Are the signs permitted by the current sign ordinance? If they are permitted, will they be regulated by the sign ordinance? And, are fees going to be charged?

With regard to Section 19-67(a)(2), the dedication and reservation of land for public purposes, Mr. Rinaldi stated that there is need to have plans in existence for future roadways and other public improvements and insure that the private development that occurs in those areas dedicates or reserves the land for those facilities. He questioned, at what stage do desired roads become meaningful roads; have they been sufficiently engineered to determine where they should go and where they cannot go taking into consideration existing neighborhoods, environmentally sensitive areas, slope and roadway function constraints, etc. Mr. Rinaldi felt the section has merit but needs to be "fleshed out."

Mark Rinaldi addressed 19-71, shared driveway access, by stating that he supported staff and the planning commission on this section.

Mr. Rinaldi's addressed the GIS data submittal policy. He felt the policy discriminated against the smaller firms and startup firms that might want to work in the community. He stated that it was costly and difficult to "come up to speed" with the GIS submission standards. Mark Rinaldi felt it should be encouraged but not required.

Mark Rinaldi's last comment addressed the process for updating the ordinance. He stated that he would have liked to have been involved in the discussions early in the process, but that there were, to his knowledge, no subdivision ordinance committees established for the process.

Martin Garrett asked Mr. Rinaldi to explain his concerns about section 19-51 (1) again. Mr. Rinaldi complied.

Wilford Kale asked Mr. Rinaldi to give an educated opinion regarding the GIS information requirement as to whether or not any firm not currently operating in the county could operate here if they did not have basic GIS requirements. Mark Rinaldi responded that they could design and develop projects with mylar and pen and ink.

Mr. Kale asked Mr. Rinaldi if under the current proposal, could designs be done without GIS. Mark Rinaldi responded by stating that they could do it without GIS but could not without AutoCAD that could be converted to the county's GIS platform of Arc/info or Arcview, a digital product is necessary to meet this requirement.

Norman Mason, from Langley and McDonald, addressed comments concerning 19-29(l), Plat notes for drain field capacity, by stating that as a licensed land surveyor, he is always concerned about additional information being required on plats that may change. His concern was that if it is put on a plat that a given lot can support a certain number of bedrooms, the changes in technology or allowable treatment methods may revise that number up or down. Mr. Mason stated that he had tried to discuss the issue with the local health department but that they were unaware of the ordinance change. Mr. Mason suggested that if a note were required, it should state that the number of allowable bedrooms might be affected by allowable treatment methods or changes in regulations, so down the road, the lot does not become non-conforming.

The next issue Norman Mason brought up was section 19-32 driveway access. Mr. Mason thanked the staff for considering changes.

In regard to section 19-33, utilities under pavement, Mr. Mason stated that he was glad staff was promoting this, although, he did not believe that VDOT would allow it. He stated that VDOT has informed him that they have a pilot in York County, but have no policy or plan for putting it into effect.

Norman Mason stated that Section 19-50, street drainage, is not a great concern. He stated that generally accepted minimum street grades are flatter, less sloped, than what is suggested by the ordinance. The only real concern, he stated, was that given the flat topography in much of the county, this could require that roads are in more cut than might otherwise be necessary, which amounts to more clearing. Every one-foot of cut requires six feet of clearing. In addition, he stated that the side road ditch, particularly in a non-curb and gutter section, is at a different gradient than the pavement surface (centerline gradient). He stated that if the side road ditch is going to a point where there is a culvert under the pavement, it is almost always steeper than the centerline road gradient. If the 0.5% is desired, then perhaps that could be transferred to the side road ditch itself rather than the centerline road gradient.

Mr. Mason stated that his greatest concern has to do with section 24-35, multi-use pedestrian connections. He stated that he felt the concept was potentially good, but was unsure as to what would be required. He stated that there is a requirement in the proposed ordinance that this might have to be made accessible to a fire truck. He stated that the increase in road size surpasses what might be considered a pedestrian friendly connection. He added that the ordinance also requires that the multi-use connections be placed at the end of any cul-de-sac over 500'. He stated that there isn't a subdivision he does in the county that does not have cul-de-sacs greater than 500' in length. He stated that if those cul-de-sacs are at the end of a peninsula of high ground surrounded by steep slopes and wetlands, as they typically are, it could mean that they would have to build the connection across the steep slopes and wetlands with destruction involved. He stated this would be contrary to the goals of the Chesapeake Bay Ordinance. He suggested that this section of the proposed ordinance be negated to avoid problem situations.

In addition, Mr. Mason stated that it might be unclear as to where these connections are required. He stated that the proposed ordinance suggests that they have to be in common open space, and given topography, there may be no other place for the connections other than parallel to a roadway. He questioned that if they are parallel to a roadway and if they are required to be in a 50' right-of-way, does that mean that the property line of an adjacent lot is pushed back an additional 30'. He stated that that appears to be contrary to the goal of having lots closer to the street for more neighborly subdivisions.

Norman Mason stated that in the proposed ordinance, it states that in subdivisions with private streets, these connections will be required to a public street. He questioned how that might affect neighborhoods such as Kingsmill and Ford's Colony, might they be required to have such connections to areas beyond the gates. He stated that there would be many residents who would be upset if that were the case.

On section 24-23, submittal requirements, Norman Mason suggested that there be more definition placed on the requirements such as the requirement for a water/ sewer impact study. He questioned how far afield might the impact study have to go, to the nearest fire hydrant for a water pressure study, or all the way back to the Kingsmill tank. If there is a sewer requirement in a new subdivision that drains to an existing pump station two miles down the line, might the study have to go all the way to the pump station. Mr. Mason stated that it is a question of magnitude that is not clearly defined.

Norman Mason stated that he was particularly concerned about the requirements for a fiscal impact study. He stated that he has never seen a study submitted that was acceptable to the Commission and asked that they be given standards and a format for such a study so that it provides the Commission with something of value.

Martin Garrett stated that all Mr. Mason has to do is go to anyone who does impact statements and tell them to give you their honest opinion of the negatives as well as the positives. Mr. Garrett stated that the Commission only sees the positives. Mr. Mason responded by stating that with some sort of format, it would be easier to give the commission the results they expect. Mr. Garrett stated that it was not his job to tell the private sector what to do.

Marvin Sowers asked to respond to Mr. Rinaldi's statement concerning the lack of opportunity for involvement in the ordinance revision process. Mr. Sowers stated that there was a Grab Bag Committee that met for a period of four months on the subdivision ordinance and a representative of the development community was on the committee who was well versed in the subdivision process and also a professional engineer. Mr. Sowers stated that Langley and McDonald receives the Planning Commission packet, which informed them of the subdivision ordinance review process and kept them updated on its progress. Mr. Sowers stated that he felt it unfortunate that Mr. Rinaldi and Mr. Mason did not participate in the process, but that there certainly were opportunities available for them to participate, and that they had received information on what was going on.

There being no further comments, Martin Garrett closed the public hearing.

Willafay McKenna suggested that the proposed ordinance be reviewed section by section and should begin with section 19-2.

In regard to 19-2, the definition section, Willafay McKenna asked to clarify the definition of a septic tank system. Ms. McKenna stated that the definition included a section on treatment and asked if a septic tank system "treated" anything. Don Hunt responded that it's a treatment system because it treats and digests waste. Willafay McKenna motioned to approve the section. Joe Poole seconded the motion. The motion was passed by unanimous voice vote.

Willafay McKenna read the proposed changes in each section and the Commission took a straw vote.

Section 19-4, penalties, was reviewed and received no comments.

Section 19-5, administration and enforcement of chapter, was approved by unanimous voice vote.

Section 19-9, plan and plat preparation, was approved by unanimous voice vote.

Section 19-14, private street declaration, was approved by unanimous voice vote.

When discussion Section 19-15, fees, Alex Kuras asked if there had been problems with the fee distinction. Marvin Sowers responded that there had not been. He added staff defines public improvements as roads and water and sewer. The section was approved by unanimous voice vote.

Section 19-17, special provisions for family subdivisions, was approved by unanimous voice vote.

Section 19-18, exceptions, was approved by unanimous voice vote.

When discussing Section 19-20, master plan, Alex Kuras asked that if the Commission approves a master plan, do the proposed changes allow the Commission to deny a section of the plan. He added that it was his understanding that once a master plan had been approved, it became a binding commitment. Marvin Sowers stated that the proposed changes are to allow the staff and DRC a better idea of what the subdivision will look like over the years but that an approved master plan is not a binding plan. Alex Kuras suggested the section be reworded to

state "review of a non-binding master plan," otherwise, Mr. Kuras stated that it could be misinterpreted to apply to a PUD master plan. The Commission agreed. Paul Holt suggested that if the language were added, it might inhibit the Commission. Martin Garrett stated that the DRC has always permitted master plans to be changed as long as the overall density is not changed. Willafay McKenna stated that she felt uncomfortable with the wording "for multi-phase subdivision." Alex Kuras agreed by saying that almost all large subdivisions approved are multi-phased and if a general master plan is approved, then it is up to the DRC to follow the master plan. Martin Garrett added that if the master plan is changed then it has to come before the DRC anyway. Marvin Sowers stated that perhaps the Commission is mixing a rezoning master plan with a subdivision master plan, and that this proposal is a general guide that is really not binding as opposed to something seen as part of a rezoning. Willafay McKenna asked why it is reviewed if it is not binding. Marvin Sowers stated that it is reviewed to make sure things are appropriately sized, such as water lines, sewer lines, and roads, and so everyone knows what is coming down the road. Martin Garrett questioned whether the wording could be changed to say "conceptual" plans. Marvin Sowers stated that might avoid some confusion. The Commission agreed. Paul Holt suggested that the wording be changed to state, review of a master plan submitted under the requirements of this section does not constitute final subdivision approval. Willford Kale suggested that wording changes be made and brought back to the Commission at the next meeting. The Commission agreed.

Section 19-21, classification of subdivisions, was unanimously approved by voice vote.

Section 19-22, procedure for review of minor subdivisions, was unanimously approved by voice vote.

Section 19-23, procedure for review of major subdivisions, was unanimously approved by voice vote.

Section 19-24, procedure for review of major subdivisions of fewer than 50 lots, was unanimously approved by voice vote.

Section 19-25, effective approval of preliminary plan, was unanimously approved by voice vote.

Section 19-27, preliminary plan submittal requirements, was unanimously approved by voice vote.

Section 19-28, preliminary plan townhouse and condominium subdivisions, was unanimously approved by voice vote.

When discussing Section 19-29, final plan submittal requirements, Joe Poole asked if it was still a requirement to include flood plain information on plans. Paul Holt stated that there was a separate flood plain ordinance that included the requirement. In reference to requirements for individual sewer, Willafay McKenna asked if the number of bedrooms was a valid measure of the sewer capacity. Paul Holt stated that the Health Department considered it a better determinate of the number of people versus counting the bathrooms. He gave the example of older homes with five bedrooms but only one bath. Paul Holt explained that this request came from the Health Department, and stated that it was just an informational note and not a requirement. Paul Holt explained that the addition of the note would help to educate potential home buyers/ builders about size restrictions due to drain field capacity. Alex Kuras stated that he felt it could be misleading if a person purchased a home and the plans stated that a certain number of bedrooms were allowable, and for some reason, the number decreased, the home buyer might feel slighted. Joe Poole agreed with Mr. Kuras and stated that while well intentioned, he saw no need to have the note included due to the changes in technology and Health Department standards. Joe Poole suggested striking (I) completely. Marvin Sowers stated that one of the fundamental purposes of the subdivision ordinance is to protect lot buyers and this was the intent of the provision. The Commission agreed to strike it.

In section 19-29 (m), Alex Kuras raised concerns about the new requirement for GIS capability. Paul Holt stated that this section only applies to major subdivisions where public improvements have to be engineered and not to small subdivisions. Secondly, Paul stated that it is only a policy, and there is flexibility. Ms. KcKenna stated that it is written that it is mandatory, and that is more than a policy. Paul Holt replied that again, it only applies to major subdivisions, and if a developer has a problem with it, they can always apply for a waiver from the DRC. He further stated that it would be extremely difficult to meet the other requirements working by hand only. Martin Garrett stated that as long as the section stating the developer may appeal to the DRC is included, he has no problem with the requirement. Marvin Sowers stated that a provision could be written in. Joe Poole stated that CAD design work is common in the industry and he felt it difficult to believe that someone who was involved in the design of a major subdivision would not have the tools. The Commission agreed. There being no further comments, the section was unanimously approved, with amendments, by voice vote.

Section 19-30, procedure for approval of final plans, was unanimously approved by voice vote.

For Section 19-32(c), staff recommended the Commission defer voting on this section. The Planning Commission unanimously voted to defer by voice vote.

With regard to Section 19-33, location of utilities, Alex Kuras stated that he has a problem with placing utilities under the pavement, due to the need to dig up the streets to fix a problem. Paul Holt stated that utilities under pavement applies only to street cross-sections where there is curb and gutter, where there are ditch sections, which seem to be more common, staff would like to see the utilities between the edge of the pavement and the front half of the ditch. Marvin Sowers stated that the trade off is the beauty of the subdivision due to the ability to see more trees or plant trees closer to the road to create a canopy, versus practical reasons for not having utilities underground. Joe Poole asked if the Grab Bag Committee received feedback from Mr. Elliot about this issue. Paul Holt replied by stating that Mr. Elliot does not want to support this but the VDOT subdivision street regulations give the authority to the localities. Alex Kuras restated his objections to the proposal. Marvin Sowers stated that staff would like the Commission and BOS to let VDOT know that they support the proposal. He suggested that the Commission not decide against it simply because VDOT does not support it. Joe Poole stated that the proposal was an admiral goal for aesthetic purposes and that he supports it with the caveat that if it is not received well by VDOT, that the Commission come back and adjust it. With no further comments the Commission voted to approve it with Alex Kuras maintaining his objection. Section 19-33 was approved by voice vote. Aye (5), No (1).

Section 19-34, locations and specifications for monuments, was unanimously approved by voice vote.

With regard to Section 19-35, lot corner monuments, Paul Holt stated that most surveyors would like pins to be located 3" to 9" below ground so that when mowing and tilling, the pins will not be disturbed. The section was unanimously approved by voice vote.

Section 19-36, monuments, general requirements, was unanimously approved by voice vote.

Section 19-37, easements, was unanimously approved by voice vote.

Section 19-38, lot size, was unanimously approved by voice vote.

In regard to Section 19-39, lot arrangements, design, and shape, Paul Holt stated that since the Commission had deferred Section 19-32, staff requests striking the proposed changes in that section until the section could be revised along with Section 19-32. The Commission agreed to leave the ordinance as is.

Section 19-40, lot location, was unanimously approved by voice vote.

Leo Rogers suggested that before continuing with the ordinance changes, perhaps the Commission should move on to the other public hearings in which citizens were present to speak and defer the case on the agenda to a later time. The committee agreed.

Martin Garrett suggested a five-minute break before continuing with the Prime Outlet Expansion, Phase V, public hearing.

6. CASE NO. Z-8-99; Z-9-99; SUP-23-99. PRIME OUTLETS EXPANSION, PHASE V

Paul Holt presented a request from Alvin Anderson, on behalf of Prime Outlets LLC, The Kingdom Hall of Jehovah's Witnesses, and Travco Hotel group, for a Special Use Permit to allow for an approximately 67,000 Sq. Ft. expansion of Prime Outlets. He stated that Mr. Anderson has also applied to amend the existing proffers for the Jehovah's Witness property and the current proffers for the phase IV Prime Outlet site, formerly known as the McCormick property. Paul Holt stated that Prime Outlets currently consists of 292,450 Sq. Ft. of retail area and 1315 parking spaces. The current proposal requests a 16,725 building addition and 98 new parking spaces in the southern area of the shopping complex identified as parcel A. A 19,000 Sq. Ft. addition with 139 new spaces and 8 new bus parking spaces and 31,350 Sq. Ft. building addition are proposed for the northern area of the site, identified as parcel B. Paul Holt stated that the Jehovah's Witness facility is being relocated to a new site on Mooretown Road to accommodate the proposed expansions in parcel B. Paul described the surrounding parcels and their zonings. Paul stated that as part of the proposal, Prime Outlets is planning a 35' wide transitional screening buffer along the northern property line. The screening buffer would separate the new expansion from the single-family homes in the R-2 zoned property. The buffer would consist of a 2' and 3' high berm and landscaping planted at a 133% of the county landscape ordinance standards. In response to security concerns raised by an adjacent property owner, Prime Outlets is proposing to provide an 8' tall fence with a special use permit condition that requires the fence to be vinyl coated and be located several feet off the property line to allow for adequate landscaping. With regard to traffic conditions, Paul described the current and proposed traffic conditions, the forecasted peak hour trips and the proposed traffic improvements, including the addition of a new traffic signal, to account for the additional traffic generated and to allow the traffic to function at adequate levels. Paul Holt stated that the Comprehensive Plan designates the property as community commercial but staff finds the proposal compatible with surrounding zoning and the impacts to be substantially mitigated. Paul stated that staff recommends approval of the proposal with the attached proffers.

Martin Garrett opened the public hearing.

Alvin Anderson addressed the history of Prime Outlets and stated that until 1997, the areas from Old Towne Road toward Lightfoot were designated low-density residential on the comprehensive plan. However the zoning for that area was designated B1. In the mid 1980's, the McCormick property was rezoned along with the Jehovah's Witness property. Mr. Anderson stated that even though the property is zoned B-1, the county adopted the 1997 Comprehensive Plan that designates the property as community commercial. Mr. Anderson stated that the designation community commercial is a guide, not locked in stone, which suggests an area of 200,000 sq. ft., but when property is currently zoned to accommodate development, other factors should be examined. Mr. Anderson informed the Commission that the plans for Prime Retail are time sensitive, due to the wishes to have the expansion ready for the Christmas shopping season of next year.

Joe Poole stated that there have been discussions concerning more retail in our area, and with regard to current economic concerns, wondered if there is any trepidation for staffing the new stores and what the employment projections would be.

Wilford Kale stated that he had spoken with Alvin Anderson several weeks ago and wanted to publicly state that he was concerned about bus parking and hoped that appropriate signage

would be placed within the facility for the satellite parking areas.

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

Wilford Kale made a motion to approve the proposal with the proposed proffers and staff recommendations. Alex Kuras seconded the motion.

Joe Poole stated that while he recognized that Prime Retail has been a good neighbor, he is concerned about the community commercial designation for the property on the Comprehensive Plan which limits the square footage to 200,000 sq. ft. Mr. Poole stated that he is not in support of the proposal at this time, and the county should examine the cumulative effects of more retail.

Willafay McKenna responded that the way Prime Outlets are divided set it apart and there is not the sense of one large gigantic mall. She stated that the Outlets are unique and she plans to support the application. Ms. McKenna added that the county has been pushing Richmond Road as a major commercial area for many years and the road is designed to handle the traffic.

Martin Garrett commented that with regard to employment issues, if businesses want to remain in business, wages will have to be raised, which is what the County wants.

Wilford Kale stated that he was not here when the Comprehensive Plan was adopted, but that he believes that there were already more than 200,000 sq. ft. of development when the designation was given in 1997. He stated that the Outlet Center has been excellent community citizens and that the project could not have been developed better.

Alex Kuras stated that the Outlet center brings in revenue from outside the County and the Comprehensive Plan is worded "should be" instead of "shall be" with regard to the size restrictions, which gives leeway.

Don Hunt added that the County has two high schools that graduate a fairly large class every year and the County has a responsibility to provide jobs for the kids.

In a roll call vote, the motion passed. AYE: McKenna, Kale, Garrett, Hunt, and Kuras. (5) NAY: Poole (1)

7. CASE NO. Z-6-99. WILLIAMSBURG COMMONS AT WILLIAMSBURG CROSSING

Matthew Maxwell presented a proposal to rezone 12 acres from B-1, General Business, to Mixed Use to allow the construction of 170 townhouse units. The property is located within the Williamsburg Crossing Shopping Center behind the Food Lion and adjacent to the Winston Terrace Subdivision and Riverside Medical. Matthew Maxwell stated that staff recommends the Commission defer the case until the November 1st Planning Commission meeting. The deferral would give the applicant time to file a formal proffer statement and host a public information meeting which is currently being planned.

Martin Garrett opened the public hearing.

Martin Garrett stated that he hopes the staff can come up with a very compelling reason to want the development, because if not, he would not be in support of the proposal.

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

8. CASE NO. SUP 14-99. JCSA WATER MAIN & SEWER FORCE MAIN

Matthew Maxwell presented the staff report for a revised special use permit that was approved by the Commission at their August 2 meeting. The current plan now contained a pressure

reducing station. Staff met with concerned citizens and walked the Powhatan Creek Corridor. Matthew Maxwell briefly discussed some of the key issues including the need for a new station and the desired location. Questions were raised at the previous PC meeting as to why the Commission should approve the station now when it would not be needed for another 15 to 20 years. Mr. Maxwell explained that HRSD and JCSA are spending over \$2.5 million and cannot risk not having the site available with the proper permits when the time comes to construct the station.

Matthew Maxwell explained that the JCSA explored many alternatives for the new main before selecting the proposed route and would let Larry Foster and Danny Poe explain the Service Authority's decision.

Matthew Maxwell explained that staff has amended the perimeter buffer requirement to require that the Development Review Committee review and approve any requested reductions rather than the Planning Director. Mr. Maxwell indicated that it was important to note that the site will be buffered on the western and southern boundaries of the site by an undisturbed conservation area as required by the binding master plan for the Hiden property.

In regard to building architecture, staff recommended that a condition be placed on the special use permit that requires the pressure reducing station be designed and constructed to look like a single family structure. Both HRSD and JCSA have agreed to this condition.

Matthew Maxwell stated that staff finds the proposal to be consistent with the 1997 Comprehensive Plan and with previous actions by the Board of Supervisors. Staff recommended the Planning Commission approve the revised special use permit with the conditions outlined in the staff report.

Martin Garrett addressed Larry Foster for questions and Mr. Foster deferred to Danny Poe, the project manager for the project.

Mr. Poe presented a map to help illustrate the alternatives the JCSA explored for the project. Mr. Poe indicated the location of the current lift stations, 1-2 which is north of Route 5 and west of Powhatan Creek, and 1-1 which is on Jamestown Road and is adjacent to Powhatan Creek and indicated the service areas for each of the current stations. Mr. Poe explained that currently, everything collected and conveyed to lift station 1-2 is re-pumped into a force main about 300' south to a gravity line that then flows to lift station 1-1. All the flow is re-pumped and goes through a 16" force main along Jamestown Road to an HRSD force main on Route 199. Mr. Poe indicated that the capacity of the stations and force mains would be exceeded in the near future.

Mr. Poe then explained the alternatives that were explored. The JCSA and HRSD agreed that the best option would be to construct a 30" force main that would start at Powhatan Creek, follow the Monticello Avenue Extended right of way to Monticello Marketplace, run beside Mid-County Park to Ironbound Road, extend down Indigo Dam Road, and through existing JCSA easements to Strawberry Plains Road where it can then tie into an existing 24" HRSD force main. This would allow the construction of the 30" force main with the next phase of the road project within the construction limits of the right-of-way with no additional clearing necessary.

Mr. Poe explained that the JCSA has met with residents on Indigo Dam Road and settled concerns. He explained that the current proposal would eliminate some of the environmental impact by pumping flow directly into an HRSD force main and decrease the load off of lift station 1-1 and eliminate the need for station 1-1 and the force main to be upgraded. Mr. Poe explained that the JCSA has an agreement with HRSD to construct the HRSD portion of the force main. He further indicated that the current option would cost approximately \$1 million less than other investigated options. Additionally, there are environmental benefits to the current

proposal and the Service Authority will take all the necessary erosion measures by seeding and mulching after restoration. He further stated that if there were any slopes, EC2 matting would be used to prevent further erosion.

Alex Kuras asked if any of the easements would be located under pavement.

Mr. Poe answered that a portion would be under pavement on Indigo Dam Road due to lack of alternatives. He explained that the majority would be outside the pavement and sidewalk areas.

Mr. Garrett then opened the public hearing.

Ann Hewitt, a resident of Powhatan Creek, thanked staff for all information provided, and agreed with the need to upgrade the mains and stations. Ms. Hewitt concurred that the proposal is the best alternative but disagreed that it provided the least overall impact to the environment. Ms. Hewitt addressed concerns for a conservation management plan and inquired as to what monitoring guarantees would be provided. Her second concern addressed the 40' and 20' administrative buffer that could be disturbed. Ms. Hewitt requested a "real" buffer be provided that keeps with the definition of a buffer. Lastly, Ann Hewitt addressed concerns about wetland destruction for more development. Ms. Hewitt asked if the county intends to destroy the remainder of Powhatan Creek watershed, where the concept of managed growth fits in, and what happens to the residents of Powhatan Creek. Ms. Hewitt closed her comments by stating that she does not oppose the new force main, but does oppose the misleading content of the application and the complete build-out scenario. She asked the Commission to weigh the long-range impact of the line and to have a meaningful conservation program, like a watershed roundtable to assure that everyone is equally represented.

Mr. Garrett stated that it was his understanding that the current proposal was the least likely to impact the environment of any of the alternatives.

Ann Hewitt responded by saying that in terms of the force main, yes, it provided the least impact. Her concern however, was that the proposal opened up the watershed to future development and plans exist to develop the whole watershed.

Mr. Poe responded by stating that the improvements are necessary to accommodate already approved development. The future developments, as referred to by Ms. Hewitt, are projections made by the JCSA and include overestimates for potential flows. These projections are taken into account in order to avoid future problems and upgrades.

Alex Kuras stated that he agreed with the proposal and its preparation for future development.

Boots Johnson, of 210 Red Oak Landing Road in the Jamestown District, thanked the staff for the assistance they provided. Ms. Johnson agreed that the best planning had been done given the alternative sites to select from. Boots Johnson raised concerns in relation to dealing with VDOT concerning the modes and methods that they consider allowable. She indicated the residents want to obtain a livability in the area and a conservation and preservation of as much of the area as possible. Ms. Johnson stated that she sees no reason to cut down 50' of trees in order to provide for the proposal. She stated that it is contradictory to sanction activity in our area that actively harms the water quality, the ability to recharge ground water systems, and harms the living biota in the area that we depend on to provide us with a livable environment. She stated that 25 years ago, in 1975, when the first plan was adopted, one of the main objectives was to have a plan where we use the land according to its unique characteristics and what the land could support. She stated that we have constructed our land, and have forced it to support whatever development we have chosen to do.

There being no further comments, Mr. Garret closed the public hearing.

Willafay McKenna questioned the 18th provision that states that upon determination from the Virginia Department of Conservation and Recreation Division of Natural Heritage that a natural resource inventory is warranted, how does the process begin?

Matthew Maxwell responded that staff would send a copy of the submitted site plan to the Department for their review and they would make a determination as to whether a study is warranted.

Ms. McKenna asked if citizen input could initiate the process.

Mr. Maxwell replied that the Department would consider public input as well as the facts of the environmental impact.

Marvin Sowers stated that it would become a site plan requirement and in the event of citizen input, would go to the Developmental Review Committee as well.

Alex Kuras stated that the previous route for this project has already been approved, and perhaps the Commission has expanded its discussions further than needed. Mr. Kuras made a motion to approve the staff recommendation. He stated that the proposed facility is well isolated from residential areas, is well buffered, and he could think of no better place to put it. He added that landscaping would be reviewed in the future.

Joe Poole seconded the motion and added that he agreed with Ms. Hewitt about protecting the undisturbed buffer areas. He also stated that sometimes enhanced landscaping has more beneficial environmental effects than an undisturbed buffer and felt that Condition 16 addressed his concerns sufficiently.

Willafay McKenna asked that condition 18 be amended to state that we will seek a determination from the Virginia Department of Conservation and Recreation Division and will push for an inventory and the management plans to go with it. She stated that reason being the watershed is the primary watershed that serves the entire county and it is the creek that we had the problem with in the hurricane and the 100-year rainstorm.

Alex Kuras responded that the wording be amended to state that a "determination will be sought."

Alex Kuras asked that his motion be amended to include his recommendation. Joe Poole seconded the motion.

In a roll call vote, the motion passed. AYE: McKenna, Kale, Poole, Garrett, Hunt, and Kuras. (6)
NAY: (0)

9. CASE NO. ZO-11-99. SUBMITTAL REQUIREMENT FOR REZONINGS AND SPECIAL USE PERMIT REQUESTS

Paul Holt stated that at the September 8, 1999 meeting, the Commission asked for additional examples of what types of uses trigger the need for a commercial use special use permit based on a peak hour trip generation of 100 vehicles an hour. He indicated that in the September staff report, an example was given that a typical 2000 sq. ft. fast food restaurant would have a substantial impact on adjoining roadways. Such a facility generates approximately 120 peak hour trips and would not currently trigger the need for a commercial special use permit. Paul Holt emphasized that the requirement applies to commercial uses only and there are many uses that are currently exempt from the commercial SUP requirements. He added that many of the smaller commercial uses that may have a substantial traffic impact fall under the threshold for requiring a commercial SUP. He stated that other typical uses such as specialty retail store,

discount store, general retail, automobile care centers, and quality restaurants would all pass the 10,000 Sq. Ft. threshold before reaching the 100 peak hour trips.

Paul Holt stated that on a second issue, as it is currently proposed, a community impact statement containing a conceptual storm water management plan would be required with any rezoning or SUP proposal. Paul indicated that staff recommends changing the language of the criteria to that listed in the staff report to provide more flexibility while reducing the amount of detailed engineering which must be performed prior to any public hearing.

In closing, Paul Holt stated staff had reviewed the existing requirements and noted that one of the currently exempt uses from the commercial SUP requirement are buildings predominately used as warehouse distribution centers, offices, or for other industrial or manufacturing purposes. Paul stated that staff believes that the term "predominately" may be too vague and proposes that for the purposes of this exemption, "predominately" shall mean 85% of the total sq. ft. of the project or more. Paul stated that the Grab Bag Committee and staff continue to recommend approval of the ordinance with the changes noted.

Marvin Sowers suggested that the Commission discuss only the parts that had comments from the public and address those unless the Commission members themselves have other concerns.

Mr. Sowers referred to the staff report from the September 8th meeting to sections 24-11 and 24-13 and indicated staff had received no comments for those sections. In regards to section 24-23, submittal requirements, Mr. Sowers stated that there were substantial comments. Marvin Sowers suggested that the commission vote on sections 24-11 and 24-13 tonight and hold off on 24-23 for a later time.

Martin Garrett opened the public hearing on sections 24-11 and 24-13.

There being no comments, the public hearing was closed.

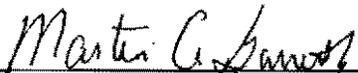
Joe Poole made a motion to approve sections 24-10, 24-11 and 24-13 as proposed by staff. Alex Kuras seconded the motion.

In a roll call vote, the motion passed. AYE: McKenna, Hunt, Kale, Poole, Kuras, and Garrett (6)
NAY: (0)

10. PLANNING DIRECTOR'S REPORT

Marvin Sowers reminded the Commission that there is to be a special meeting on October 12th at 12:00 noon in the Boardroom to receive training on their new role in the Spot Blight Abatement program.

There being no further business, the Planning Commission recessed its meeting to October 12, 1999 at 12:00 noon in the Boardroom.



Martin A. Garrett, Chair



O. Marvin Sowers, Jr. Secretary