

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

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| 1. <u>ROLL CALL</u><br>Martin Garrett, Chair<br>Don Hunt<br>Wilford Kale<br>Joe McCleary<br>Joe Poole | <u>ALSO PRESENT</u><br>Leo Rogers, Deputy County Attorney<br>Marvin Sowers, Director of Planning<br>Jill Schmidle, Senior Planner<br>Christopher Johnson, Planner |
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2.     MINUTES

      Upon a motion by Joe Poole, seconded by Joe McCleary, the minutes of the February 5, 2001, meeting were approved by unanimous voice vote.

3     DEVELOPMENT REVIEW COMMITTEE

      Martin Garrett gave the DRC report stating the Committee reviewed the Powhatan Village, which was deferred from last month, and recommended approval of certain requests for waivers, with modifications, and granted preliminary approval subject to the submission of revised plans with enhanced landscaping. He stated the DRC also recommended approval for Skiffes Creek Village, Parcel B; Brandon Woods entrance features; Monticello at Powhatan Apartments, Phase II; Courthouse Green development subdivision; JCC Human Services Building parking lot expansion; and Ironbound Village Master Plan Amendment which were all routine. Joe Poole made a motion, seconded by Wilford Kale. In a unanimous voice vote, the DRC report was approved.

4.     CASE NO. Z-6-00. LOULYNN ACRES (Chesapeake Bank).

      Jill Schmidle presented the staff report stating the applicant had requested deferral of this case until the next Planning Commission meeting of April 2, 2001.

      The Commission concurred.

5.     CASE NO. SUP-2-01. JCSA ROUTE 5 WATER MAIN INSTALLATION.

      Christopher Johnson presented the staff report stating the applicant had requested deferral of this case until the next Planning Commission meeting of April 2, 2001.

      The Commission concurred.

6.     CASE NO. Z-1-01. ENERGY SERVICES GROUP INTERNATIONAL, INC.

      Christopher Johnson presented the staff report stating the applicant had applied to rezone approximately 6.23 acres from R-8, Rural Residential, to M-1, Limited Business/Industrial, with proffers. Staff found that the application was inconsistent with the Low Density Residential land use designation of the Comprehensive Plan and would encourage further commercial and industrial development on adjacent residentially zoned properties with similar characteristics. Staff also found the application undermined efforts to locate industrial uses in planned industrial parks in the surrounding area and hindered efforts to provide sites for low to moderate income housing. Staff recommended denial of this application.

Joe McCleary noted that, in the proffers submitted by the applicant, it stated that, in addition to the welding and machine shop, there could be accessory uses. He asked what those accessory uses could be.

Christopher Johnson stated the applicant had no specific definition submitted to staff but stated that accessory uses were typically subordinate to the active predominant use of the site.

Joe McCleary inquired about the letter from Nancy Swenson who signed herself as president of the Windy Hill Tenants Association and asked if she wrote on behalf of herself or on behalf of the Association.

Christopher Johnson stated he had several conversations with Nancy Swenson and while she was the president of the Association, it was his understanding that the letter submitted was solely on her behalf.

Joe McCleary stated that within that letter she stated she understood and agreed they would only be operating from 7 a.m. to 3 p.m. but when approving a rezoning, the Commission was not only approving for ESG but in perpetuity. He stated that if this were zoned M-1 with the residential area around it there would be nothing to stop a future tenant from operating seven days a week, 24 hours a day, with deliveries or shipments occurring any time during the day or night.

Christopher Johnson stated that the hours of operation mentioned in the letter were not in the proffer agreement. He stated if ESG did not stay with the site, any future operator on the site would not be bound by any statement to limit the hours of operation.

Wilford Kale asked Leo Rogers if this parcel were rezoned and if ESG were to leave this site and there was a new owner and a new concept for the property, would that owner be bound to the proffers made by ESG and what would be their recourse to change these proffers.

Leo Rogers stated that once the property was rezoned, the proffers become binding on the owners and any future owners. He said if a new owner wanted any of these proffers changed, they would have to go through the Planning Commission and Board of Supervisors to amend any changes.

Joe McCleary noted the site was difficult, long and narrow, and with the zoning to M-1, this could present problems if used as a welding and metal fabrication/machine shop. He stated that with this type of shop there would be a lot of bottled gases and with the densely populated residential area asked, if approved, were they not approving a potential hazard to the residents.

Christopher Johnson suggested that he address those issues with the applicant.

Martin Garrett opened the public hearing.

Tom Gillman, Vice President of ESG, handed out copies of the conceptual plans for rezoning and improvement of property at 8946 Pocahontas Trail to the Planning Commission members and reviewed these materials. He stated that the company had been in business in James City County for over ten years and wished to expand and remain in the County. He explained how this particular site fit their needs. He said he was surprised by staff's recommendation of denial and asked that he be allowed go over the staff report item by item because he did not agree with staff's comments. He stated that ESG had been looking to move and expand the construction division for over one year and considered all the offerings in the immediate vicinity. He stated considerable time and resources had been expended and said he strongly believed he was proposing a solution that would benefit not only the company but the community.

Wilford Kale asked if the applicant had met with the three property owners that front the property on Pocahontas Trail.

Tom Gillman stated there were two property owners, one owning two of the lots and who was at the meeting tonight, and the other owner they had not been able to get in touch with. He said he did not meet with the Windy Hill management but had spoken to the owner and the representative of the Association. He also stated that the type of gas used for welding purposes was Argon which is an inert gas and was not combined with anything. He said that this type of gas was regulated by OSHA and didn't feel there was a need for any proffers pertaining to them.

John Rogers, owner of Spray King and two of the parcels that front the property, spoke in support of this rezoning and stated he had been in the area for over 20 years and had seen the ups and downs. He felt that ESG would clean up the property and asked who would want to build a home on that property.

Mark Rinaldi spoke on behalf of the James City County Industrial Development Authority as the IDA liaison to the Planning Commission. He had prepared written comments which he handed out to the Commission prior to this meeting. In speaking he focused on three aspects of this case: the changing nature of the area in which the site exists, the characteristics of the property and the surrounding land use; and the guidance offered by the Comprehensive Plan. He stated the IDA requested that the Planning Commission consider recommending this project for approval to the Board subject to those reasonable assurances that the Commission felt appropriate. Mark Rinaldi concluded by stating that he was simply here as a spokesman for the IDA, extending its comments and providing a perspective on this case and was not here as an advocate for the applicant.

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

Joe Poole stated, as a Colonial Williamsburg employee, his previous affiliation was working for Williamsburg Developments, Inc. which is a partner in the James River Commerce Center and he did not perceive any conflict but wanted it noted for the record.

Joe Poole stated that while he greatly appreciated ESG's presence in the County and its exemplary facility, he was very cautious in looking to rezone property across the street, in this instance, given most importantly the Comprehensive Plan designation and the existing residential zoning. He did not doubt that it would be an improvement to what was now there, however, he did not believe that those constraints warranted a rezoning at this time.

Martin Garrett commented that the Commission did make site visits prior to public hearings and they were aware of the area and the existing ESG location. He stated his major disagreement with the IDA was the comment referring to this area as transitional. He asked how that could be when the property was squeezed between two residential areas. He stated he agreed with Joe Poole and could not support this application.

Don Hunt agreed that this property was between two residential areas but also stated there were significant problems with having an abandoned lot next to those types of development. He said he saw this proposal as a plus and felt the security of the area would be enhanced and did not feel this would set any type of precedent and supported this application.

Joe McCleary said he thought ESG was a fine corporation and was the type of company that James City County wanted to encourage into the County with good paying and high skilled jobs, but he had to look at what would be developed next to a residential area. He stated if the property was rezoned to M-1, it would be in perpetuity and because there are proffers, then it would not only be rezoned M-1 but it would be rezoned as ESG and it might be impossible for future use for another

tenant and the property may revert back to the same condition once ESG wasn't using the property any more. He could not support this application.

Wilford Kale stated that Virginia laws did not give the Commission the prerogative to rezone for a specific organization or company and stated that if this property could be rezoned for ESG and revert back to R-8 when they left the premises and whoever would take over would have to come back to the Commission for a rezoning, he would have no difficulty in recommending approval of this application. He said the problem was that he looked at this parcel and the surrounding areas and stated it did not fit with everything that was on that side of the road and for that reason, he could not support this application.

Joe Poole made a motion, seconded by Joe McCleary, to deny this application.

In a roll call vote, motion for denial passed (4-1). AYE: McCleary, Kale, Poole, Garrett (4); NAY: Hunt (1).

## 7. CAPITAL IMPROVEMENTS PROGRAM (CIP)

Jill Schmidle presented the report stating that before them tonight were the staff's and the Policy Committee's recommendation for the Capital Improvements Program rankings. She stated the Policy Committee, which consisted of Planning Commission members, met on four occasions in February to discuss the proposed projects and rankings. She stated that for some projects, in addition to the ranking, the Policy Committee included specific recommendations which are outlined in the staff report in bold italics. The Policy Committee and staff recommended that the Commission recommend approval of the Capital Improvements Program rankings. Jill Schmidle said she would be happy to answer any questions of the Commission.

Wilford Kale commended Jill Schmidle and Carole Giuliano for the attentive staff work for the Policy Committee in both preparation of materials and then in carrying through from meeting to meeting to get additional information requested by the Committee. He asked the Commission to look at the bold faced items, which he felt explained what the Committee did and why they considered moving some of the projects as they did. He stated they made changes which they felt were very important, speaking specifically about the District Park which they moved from High to Medium, in order to give priority to other projects with safety-related issues.

Joe McCleary mentioned that they moved the Police Radio System up from Medium to High because they felt by delaying that project, the price would just continue to increase.

Martin Garrett commended the members of the Policy Committee for a job well done.

Joe Poole raised some concerns regarding the fact that at one of the Policy meetings, when looking at components of Building J, the Policy Committee did not have an overall site plan of the property to review the new board room and facilities to accompany it. He stated that without a site plan, which we expect other applicants to provide, he felt this project was reviewed in a hap-hazard manner. He also commented on the underground utility wiring project, which he supported as a concept, but looking at the cost, felt there were greater things that could be accomplished at a lesser cost.

Wilford Kale said there was one item not listed in which there had been numerous discussions and that was an athletic facility which would accommodate all high schools especially if the County was faced with looking for a third high school. He stated the new Superintendent of Schools, Dave Martin, and the Division Superintendent, Joe Grebb, had a discussion with the Committee on how they were looking at new capital projects. He said they also had a presentation

by John Carnifax of Parks and Recreation about their discussions about the possibility of having a large athletic field in one of the park complexes.

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

Joe Poole made a motion, seconded by Wilford Kale, to approve the CIP. In a roll call vote, motion passed (5-0). AYE: McCleary, Hunt, Kale, Poole, Garrett (5); NAY: (0).

## 8. RESOLUTION OF INITIATION

Marvin Sowers stated there was a standard resolution in their packet that staff was required to bring before the Commission whenever there was a need for a zoning ordinance amendment. He stated this particular request was to add provisions to the Mixed Use Ordinance to allow for private streets and approval of this resolution would permit staff to present the ordinance amendment to the Commission at its April 2, 2001, meeting. He recommended the adoption of this resolution.

Martin Garrett seconded the motion and in a unanimous voice vote, motion passed.

Martin Garrett stated the DRC encountered a particular problem due to the ordinance that stated that landscape setbacks from corridors could be averaged. He said they reviewed an apartment complex on News Road behind Target and he pointed out the area in which the developer could average out, which allowed him to put the apartments closer to the road. Martin Garrett felt that was not the intention of what the Commission was looking at during the review of the landscape ordinance. He asked if staff would review of the ordinance and present something to the Commission.

Joe Poole stated it was the intent of the Commission to keep the buffer side of the improvements closest to the right-of-way and that there be an average from the building face to the right-of-way, not mid-way from the building to the right-of-way.

Martin Garrett, with the approval of the Commission, requested that staff look into this matter.

## 9. PLANNING DIRECTOR'S REPORT

Marvin Sowers stated that U.S. Homes, the applicant for a rezoning case that will be heard at the May 7, 2001, Commission meeting, had invited staff, the Commission and Board to tour its Prince William County residential development. He stated the tour will be on Wednesday, April 4, 2001, and they would be leaving the County complex at 8:00 a.m. and return by 6:00 p.m.

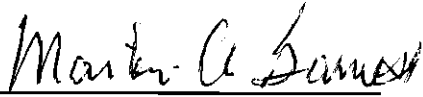
Marvin Sowers also stated that a memo entitled Timbering Buffer Ordinance Amendments had been given to them prior to the meeting and he asked them to review it prior to the next Planning Commission meeting. He stated about two years ago, the previous Board looked at making some changes to this ordinance in order to discourage timbering within the required buffers along public roads. He stated, due to recent violations of the timber ordinance, the new Board has asked staff to go back and revisit the ordinance. He said revisions to the ordinance will be presented at the April 2, 2001, Planning Commission. He said if they had any questions regarding the changes, to please contact him.

Joe Poole briefly commented that he attended the Board work session of February 21, 2001, on the Purchase of Development Rights Program and was very encouraged while listening to County staff, members of the Rural Lands Committee, and Melvin Atkinson of Virginia Beach who administers its program.

10. ADJOURNMENT

MARCA/ps

There being no further business, the ~~February~~ <sup>February</sup> 5, 2001, Planning Commission meeting adjourned at approximately 8:30 p.m.



Martin A Garrett, Chair



O. Marvin Sowers, Jr., Secretary