

A REGULAR MEETING OF THE PLANNING COMMISSION OF THE COUNTY OF JAMES CITY, VIRGINIA, WAS HELD ON THE FIFTH DAY OF NOVEMBER, TWO-THOUSAND AND ONE, AT 5:00 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101-C MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

1. ROLL CALL

Martin Garrett
John Hagee
Don Hunt
Wilford Kale
Joe McCleary
A. Joe Poole

ALSO PRESENT

Leo Rogers, Deputy County Attorney
Greg Dohrman, Assistant County Attorney
John Horne, Development Manager
Marvin Sowers, Planning Director
Paul Holt, Senior Planner
Christopher Johnson, Senior Planner
Tammy Rosario, Senior Planner
Jill Schmidle, Senior Planner
Karen Drake, Planner

2. INTRODUCTION OF NEW STAFF MEMBERS

Marvin Sowers stated that in the Fall, the department lost two staff members, a Development Management Assistant, Charlie Petersen, and a Comprehensive Planner, Ben Thompson. Staff has since hired two replacements, Leah Nelson and David Anderson, who are both graduates of the College of William and Mary. Leah is the new Development Management Assistant and will be working in the front office with Regina Chandler and Carole Giuliano and working directly with customers as well as reviewing subdivisions and site plans. David is the new Planner and will primarily be working in the Comprehensive section but will from time to time be before the Commission on current planning cases.

3. MINUTES

Upon a motion by John Hagee, seconded by Wilford Kale, the minutes of the October 1, 2001, meeting were approved by unanimous voice vote.

4. DEVELOPMENT REVIEW COMMITTEE (DRC)

John Hagee presented the DRC report stating they reviewed four cases. He said one case was a request for an exception to the Subdivision Ordinance to allow for the use of an alternative septic tank system for Wexford Hill Subdivision and another case was for the review of a multi-family unit development for the Greensprings Apartments/Condominiums. He stated the DRC voted to recommend preliminary approval of those two cases. He stated the DRC deferred a request for modifying the News Road buffer to a consistent 45 feet in width for the Powhatan Village Apartment to the November 28th meeting and deferred Prestonwood at Williamsburg Crossing Shopping Center until the November 5th Planning Commission meeting.

In a unanimous voice vote, the Commission approved the DRC report.

5. INITIATION OF AMENDMENTS TO THE ZONING ORDINANCE.

Martin Garrett read the Initiation of the Zoning Ordinance to amend Section 24-17 (Building Face Signs in PUD Districts) of the Zoning Ordinance.

By unanimous voice vote, the Commission recommended approval.

6. SIX-YEAR SECONDARY ROAD PLAN.

Tammy Rosario presented the staff report stating that each year the Virginia Department of Transportation (VDOT) requests the County to review its secondary roads and make recommendations on the priority for allocation of state funds to those roads with the greatest need for improvement. She stated that neither the County nor VDOT staff recommend any change in the priority of projects from last year's plan. Staff recommended the Planning Commission forward a recommendation of approval as outlined in the staff report.

Joe Poole highlighted and noted appreciation for some statements in the report presented by Tammy Rosario. He specifically mentioned two existing two-lane roads that were noted as possible upgrades to four lanes and that this report did not represent a departure from last year's report. He also noted that staff was continuing to monitor traffic on these roads with respect to the recent opening of Route 199. He was encouraged that some of these roads might not be widened unnecessarily to four lanes without hard data on these roads. He also commented that roads outside the PSA were not targeted for significant upgrades which could help discourage development beyond the boundaries of the PSA.

Joe Poole made a recommendation of approval, seconded by John Hagee, and in a unanimous voice vote, motion passed.

7. CASE NO. Z-5-01. FORD'S COLONY AMENDMENT TO THE PROFFERS.

Christopher Johnson presented the staff report stating this case had been deferred at the October 1st meeting and that the applicant was now requesting an indefinite deferral pending discussion with representative of the Williamsburg West Civic Association and adjacent property owners concerning the proffers and design proposals for Section 12. Staff concurred with the applicant's request for indefinite deferral.

There being no speakers, the public hearing remained open.

8. CASE NO. Z-5-00. NEW TOWN OFFICE BUILDING.

Paul Holt presented the staff report stating the applicant had requested a deferral of this case to the November 5th meeting and has again requested deferral to the December 3rd meeting in order to continue working with the New Town Design Review Board to finalize design details of this project. Staff concurred with this request.

There being no speakers, this case was deferred and the public hearing remained open.

9. CASE NO. SUP-20-01/HW-1-01. JAMES CITY ENERGY PARK-ELECTRICAL GENERATOR PLANT.

Paul Holt presented the staff report stating the applicant had applied for a special use permit to allow for the construction of an electrical generation facility on approximately 53 acres located at the southern end of Blow Flats Road in the Green Mount Industrial Park. He stated that with the special use conditions, as outlined in the staff report, staff believed that the possible negative impacts from the proposed facility would be mitigated to the greatest extent possible, therefore, creating no negative impact on adjacent properties or surrounding uses. Staff found the application consistent with the Comprehensive Plan and met the Zoning Ordinance criteria for granting a height limitation waiver. Staff recommended approval of this application, subject to the conditions as outlined in the staff report.

Gregory Davis, along with his partner, Alvin Anderson, represented the applicant, James City Energy Park, LLC. He stated with him tonight were John Doran of Standish Energy, who is the developer of the energy park, and Keith Latham of Earthtech and Mark Rinaldi of LandMark Design Group, the engineers and planners for the project. He gave a brief history of the applicant stating that if this application were approved for James City County, it would be the eighth such project developed by the applicant. He stated the project generated a number of benefits for the County: the projected real estate and machine and tool tax revenues of \$10,000,000 during the first five years and a \$300,000,000 construction investment with little or no impact on the infrastructure. He explained the process of how the energy plant would work and the fuels that would be used, noting that natural gas would be the primary source with low-sulphur oil being use as a backup only. He stated the master plan and the special use permit conditions developed by staff were prepared in conjunction with the applicant and noted some of those conditions in his presentation. He stated that the balloon test conducted in October was not visible from the surrounding neighborhoods. He concluded his presentation showing an artists rendering of what the applicant expected the plant to look like.

Don Hunt asked about the security for the energy plant in light of everything that has occurred recently.

John Doran stated that typically the perimeter is fenced and monitored by television with access controlled from the central control room but, in light of what has happened, he did not know what the current standards were.

Martin Garrett opened the public hearing.

Jacob Hosen, a student of William and Mary, spoke of his concerns of the power plant. He commented that he understood this proposed plant was one of the cleaner and more efficient ones, however, the power plant would be producing carbon monoxide, nitrogen oxide, sulfur oxide, and particulate pollution that have been shown to have significant health effects for those living near the plant. He also spoke on the noise issue and how adjacent property values would be reduced between 30 and 50 percent. He said, at this time, there were 30 power plants being proposed in the state of Virginia and noted that the applicant had stated that the energy produced from this plant would likely go to the Northeast which would make James City County an importer of air pollution. He requested the Commission to deny this application.

John Edgar, a student of William and Mary, spoke of his concerns about the power plant coming to James City County to produce energy for the Northeast. He quoted the mission statement of the County and asked that they stay true to that mission. He also spoke of his concern as how this power plant would coexist with the tourism industry in the County. He asked that the Commission deny this application.

Peter Maybarduk, a student of William and Mary and a resident, voter, and taxpayer in Williamsburg, spoke in opposition of the proposed special use permit. He stated this region was known for its history and as a tourist destination. He stated that industrial parks and power plants were antithema to the tourist economy and the historical sense of self. He asked that the Commission put its attention towards creative initiatives within Virginia, support tourism, parks, and history, and turn down the permit to construction the power plant.

Katherine Reding, a student of William and Mary, commented on the environmental impacts on the community. She stated Virginia was among a total of 12 states that are among the "Dirty Dozen" in terms of ozone pollution and she felt that a new power plant would only add to the existing pollution problems. She spoke on the effects of the ozone pollution and requested that the Commission deny this application.

Melanie Biscoe, a student of William and Mary, commented on the noise stating that the air compressors would be running 24 hours per day. She had concern about the pollution that the surrounding residents would be exposed to and the fact that their property values would decrease. She felt the Commission should be focusing on industry that was less obtrusive and less noisy, such as, the WalMart Distribution Center. She asked the Commission to deny this application.

Keith Taylor spoke on behalf of John Berkenkamp, Vice Chair of the Industrial Development Authority (IDA) of James City County. He had a copy of John Berkenkamp's presentation which he read. He stated the IDA had worked with the Standish Energy officials for over one year in their search for a merchant power plant site in the Mid-Atlantic states. He stated the plant proposed was a combined cycle plant that would be principally fueled by natural gas with low-sulfur oil as a back-up fuel. He stated the optimal site for such a plant would have a number of unique characteristics, all of which have been found at the proposed site in the Green Mount Industrial Park. He stated the staff report recommended approval and described this type of new generation power plant, its efficiencies, and the many local and state requirements that must be addressed before such a plant can be constructed. He concluded by pointed out the economic impacts that this project would bring to the County and urged the Commission recommend approval of this application.

Mary Pugh, a resident in the area of the proposed project, asked what the plant will look like at night. She said she grew up around Pellico Dam and said lights burned all the time and questioned the impact of the surrounding area.

Paul Holt stated staff proposed a condition where all the lights on the site generally will be of the type that have recessed fixtures and a lighting plan would be submitted to the Planning Director for review.

Joe Shouse an adjacent property owner on Blow Flats Road welcomed this project. He stated that the area was designated for heavy industrial and if projects like this one would not be built, then what would be. He noted there were no comments when the area was rezoned for heavy industry.

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

Joe Poole stated that he never thought he would be on the side of a power plant opposite students of Williams and Mary and said he appreciated their comments. He said he initially had similar concerns himself, but as Mr. Shouse noted this area was targeted for industry. He was comfortable with the conditions in the staff report and noted that he did not see egregious omissions or odors during his visit to the energy plant located in Massachusetts and felt comfortable with this application. He made a motion to recommend approval of this application with the conditions attached.

Wilford Kale asked if staff could reconsider using only Loblolly Pine for the buffer area since they grow spindly and would not serve as a good buffer at ground level.

Paul Holt said staff could propose a mix of some lower growing trees.

Joe McCleary commented that the applicant held a neighborhood meeting last month to brief the local citizens and said that it was interesting to hear that all the neighbors that attended expressed three reservations: Blow Flats Road after construction, Blow Flats Road after construction, and Blow Flats Road after construction. He said he understood that the applicant would have to return the road to its proper condition if there was any damage done during the construction of the site. He also noted there were no concerns about the plant itself amongst the neighbors who attended and based on that meeting, he supported this application.

John Hagee seconded the motion and in a roll call vote, motion passed 6-0. AYE: Poole, Hagee, Hunt, McCleary, Kale, Garrett (6); NAY: (0).

9. CASE NO. Z-6-01/SUP-19-01/HW-2-01. WILLIAMSBURG LANDING EXPANSION.

Jill Schmidle presented the staff report stating the applicant was applying to rezone approximately .95 acres from R-8, Rural Residential District, to R-5, Multi-Family Residential District and was applying for a special use permit request to expand the continuing care retirement community, and a height waiver request to allow an additional 15 feet for the continuing care facility, for a total of 50 feet. Staff found that the proposed rezoning, special use permit, and height waiver were consistent with the surrounding area, the Comprehensive Plan, and previous action by the Board of Supervisors. Staff recommended that the Planning Commission approve this application.

Joe Poole abstained from participating and voting on this case since he was a member of the Williamsburg Landing Board of Trustees.

Alvin Anderson, representing the applicant, gave a brief history of Williamsburg Landing and stated the purpose of this application was to have nothing more than the 9/10th of an acre rezoned to reflect the rezoning of the other 135 acre piece. He stated the conditions of this parcel would be identical to the existing zoning with exceptions of a cash contribution for the nursing and assisted living units that were not currently permitted. He said those contributions would be at the rate of \$500 per unit to total some \$30,000 when the units were built. He continued his presentation and asked for those in support of this application to please stand. He said he be happy to answer any questions of the Commission.

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

Don Hunt made a motion, seconded by Joe McCleary, to recommend approval of this application. In a roll call vote, motion passed 5-0-1. AYE: Hagee, Hunt, McCleary, Kale, Garrett (5); NAY: (0); ABSTAIN: (1).

10. CASE NO. SUP-18-01. WALTRIP COMMUNICATION TOWER.

Paul Holt stated the since the publication of the Planning Commission packets, the applicant had requested a deferral until the December meeting in order to have more time to work with staff and neighbors and to provide additional information from carriers interested in locating on the tower.

Martin Garrett opened the public hearing.

Tim Murphy, president of the Kingspoint Neighborhood Association, voiced the neighborhood's objection to the Commission deferring this application. He said the Association was astounded that the applicant could submit an application that did not address whether the tower would or could meet FAA safety approval since it was adjacent to the airport. He commented that staff had done a wonderful job in reviewing the application and recommended that the Commission deny this application for reasons stated in the staff report.

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

Martin Garrett stated that since the applicant had requested deferral, the Commission should defer this case to the next meeting.

Joe Poole concurred with Tim Murphy's statement about staff's report and found it helpful particularly on its emphasis of the Performance Standards for Wireless Communication Towers.

Don Hunt felt there needed to be a concept as to what the quality of service was for such areas as Kingspoint and felt there should be a balance for service provided against the need for communication towers.

Joe McCleary seconded Joe Poole's comments and understood the concerns of Tim Murphy. He also agreed with the deferral and hoped to hear from the FAA before this came before the Commission next month.

10. CASE NO. SUP-21-01. JOHNSTON DENTAL MEDICAL CLINIC.

Karen Drake presented the staff report stating the applicant had applied for a special use permit to construct and operate a dental medical clinic no larger than 11,000 sq. ft. She stated that the clinic was designed architecturally to resemble a country home with the first floor consisting of 8,500 sq. ft. and the second floor, to be used for office and storage space, of 1,500 sq. ft. Staff found that the proposal was a complimentary use to the surrounding areas. She stated that the architectural design would provide a smooth transition on Richmond Road from the retail and commercial shopping centers to the smaller scale businesses and residential homes. Staff recommended the Commission recommend approval of this application with the conditions as outlined in the staff report.

Greg Davis of Kaufman and Canoles and representing the applicant introduced Steve Wigley of VHB, the project engineer; John Hopkee, of Hopkee and Associates, the architect for the design and elevations; and the construction contractor, Henderson, Inc. He stated the applicant's practice growth had driven him to seek out a new location and said it was his goal to construct a building that would ease the transition into the more village type development of Norge. He pointed out several features of the master plan noting the enhanced buffer area and parking had been, to the greatest extent possible, located in the rear of the building. He noted that a traffic study was not required for this application but, a traffic assessment was preformed and submitted to VDOT and that the level of service "C" would be maintained on Richmond Road. He said the special use permit included enhanced landscaping, a water conservation plan to be approved by JCSA, irrigation wells which would be limited to shallow aquifers that would not contribute to the County's water issues and a sidewalk in front of the property. He stated that St. Olaf's Church and the neighbors to the right of this site supported this application. He requested that the Commission approve this application and would be happy to answer any questions.

Wilford Kale asked Greg Davis to repeat his comments regarding water.

Greg Davis stated the concern was they were looking at an application where staff and the applicant felt enhanced landscaping was advantageous. He said a prohibition on irrigation was difficult for the applicant to except and staff drafted the condition which would limit any irrigation well on the property to a shallow aquifer.

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

Joe Poole made a motion, with the assurance that the Planning Director would see that these elevations were as closely met by the architect as possible. Wilford Kale seconded this motion. In a roll call vote, motion passed (6-0). AYE: Poole, Hagee, Hunt, McCleary, Kale, Garrett (6); NAY: (0).

11. CASE NO. Z-4-01/SUP-17-01. PRESTONWOOD AT WILLIAMSBURG CROSSING.

Karen Drake presented the staff report stating the applicant requested to amend the existing special use permit for Williamsburg Crossing and to rezone approximately 11.2 acres from B-1, General Business, to Mixed Use to accommodate 170 townhouse units. She noted that the applicant had applied for a rezoning request in June of 1999 for the same property with a similar residential development. She stated the applicant withdrew that request after the Commission denied the application. Staff believed the proposed townhouse community and the revisions to the Master Plan presented tonight were generally consistent with the property's Mixed Use designation but did not meet the zoning ordinance requirement of a 50-foot perimeter buffer in the Mixed Use District. Staff also noted there were unresolved issues such as, parking, buffering, lack of sidewalks, school mitigation, affordable housing and proffers were not presented in legal format. Staff recommended the Commission deny this application, but should the Commission choose to approve this case, staff recommended placing the listed conditions in the staff report on the approval.

John Hagee asked what needed to be done to ensure construction of a comprehensive sidewalk system for pedestrian movement within the shopping center.

Karen Drake stated there were several issues since some of the sidewalks proposed would be built on land not part of this application and the sidewalk proffer only applied to the 11.2 acre site.

John Horne stated the matter could be resolved by amending the application to take in other property owned by the applicant.

John Hagee inquired where were the excess parking spaces that would be converted to open space.

Karen Drake stated that throughout the entire master plan of the 11.2 acres, there were 110 extra parking spaces above the requirements of the zoning ordinance, but the location or number of spaces to be eliminated had not been identified or guaranteed.

Marvin Sowers stated that the amount of parking spaces, as compared to LaFontaine, were considerably more and staff requested documentation from the applicant as to why they were providing more spaces and have not gotten a response.

John Hagee stated that if there wasn't a need for those parking spaces, than the preference would be for green areas.

Karen Drake said the areas could be either green areas or open space, however, the way the proffers are written at this time it is left up to the applicant.

Marvin Sowers stated that staff was also concerned with density and the applicant was requesting 15 units per acre compared to 12 units per acre at LaFontaine.

Martin Garrett opened the public hearing.

Richard Gordon of Tanner, Mulkey & Gordon representing the applicant, University Square Associates stated that the Commission had before them a preliminary site plan and until the applicant knew if he could develop this project, he could not afford the expense of getting the elevations and design for the actual development itself. He noted that some of the items in the plan needed to be modified, such as, the required buffer area. He noted one thing that would not change is the fact that these units would be all built with a corner to the line so no outside unit would be parallel with the perimeter line. He stated the emergency access had been addressed preliminarily and said there would be no access, either vehicular or planned pedestrian access, from the project to Winston

Terrace. He stated the applicant did not agree with the minimum standards set by the County with regard to parking. He stated the applicant was involved with LaFontaine and Bristol Commons and when selling units, not only do you need parking for the occupants, but you also need parking for the guests. He said the proffer could be amended to provide not more than 10% more parking than otherwise would be required by the ordinance. He said an issue that has been in discussion with the County is the sidewalks and the applicant differed with staff in regard to what had been proffered and whether or not it meets staff's criteria. He said his applicant disagreed that a sidewalk should be placed along Kings Way to the intersection of Road A and then along Road A to Prestonwood. One reason was there wasn't an adequate place to put a sidewalk along Road A due to the detention pond and the fact that there was no lighting and felt it would be a safety issue. He noted staff could have required this sidewalk when Riverside built its complex noting there are no sidewalks along Riverside's entrance areas. He felt that the disagreement was unwarranted and unfounded and said that they had provided sidewalks to integrate Prestonwood with the remainder of the Williamsburg Crossing Shopping Center as requested by staff. Richard Gordon concluded his with a brief discussion of the buffer areas and said he would answer any questions of the Commission.

John Hagee asked if the applicant was familiar with the conditions staff prepared should the Commission chose to approve this application.

Richard Gordon said there was a problem with condition #3, the buffer area along Route 199, because it had nothing to due with this site but did have something to do with the parcels that would be developed along Route 199.

Calvin Davis, the applicant, said he did not have a problem putting some type of verbage regarding Route 199 because all the parcels along Route 199 must submit a site plan to the DRC and at the time of contract, he would let the buyer be made aware of the sidewalks and landscaping that would be necessary along Route199.

John Hagee asked Marvin Sowers if there was already an ordinance requirement regarding buffers for Route 199.

Marvin Sowers stated there was only a minimal requirement and that special use permit conditions cover things that the County could not otherwise achieve through the zoning ordinance and it was staff's opinion that this would probably be the last opportunity to obtain such conditions.

John Hagee asked what could be done considering the zoning along Route 199.

Marvin Sowers said the applicant would have to adhere to site plan and zoning ordinance requirements.

John Horne stated the special use permit was an amendment to the entire property and the rezoning was only for the 11.2 acres of Prestonwood. The Route 199 buffer that was being debated was the same buffer that was already required by the existing SUP.

Wilford Kale asked Karen Drake about the contradiction noted in the staff report and said he was concerned about the Winston Terrace Subdivision.

Karen Drake stated that in the first part of the proffer the applicant stated that the buffer would remain undisturbed and further down the applicant stated that the buffer would be cleared. Staff felt that given this contradiction it would lead to discrepancies when development plans were submitted.

Marvin Sowers stated that on the binding master plan corners of the buildings were right on the 50' buffer and as a practical matter there would need to be at least a 10' to 15' construction zone setback from the buffer by necessity and the applicant won't be able to build the plan as shown.

Calvin Davis stated he had spoken to his architect and they have agreed to move the building 5' away from the 50' buffer and not allow anything other than dead trees and weeds to be cleared then go in and plant trees that would help buffer these townhomes from Winston Terrace.

Wilford Kale stated he was worried about the contradiction stated in the proffers that had not been satisfied.

Calvin Davis said he would agree not to disturb the 50' buffer area.

A resident of Winston Terrace asked why a commercial site was being rezoned to a residential site. She understood that there was no commercial interest in this property because of traffic problems. She said since there was only one entrance into the shopping area, the residents of Prestonwood would have to travel along the hospital road or go through the shopping center. She said this was not Bristol Commons or LaFontaine and felt this neighborhood would be tucked away against Winston Terrace and questioned how well these townhomes would sell. She said a concern was that if there was not enough interest, the prices would go down and the future of the neighborhood was unsure. She asked that the Commission deny this application.

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

John Hagee said he did not have a problem with the residential usage in the mixed use area but did have concern about the 10' perimeter buffer and disturbance in the 50' buffer. He felt it was very important to have the pedestrian sidewalks within the multi-family network and access to the retail and office spaces. He said he also had some concern about the density.

Martin Garret agreed with John Hagee on the density issue and at this time could not approve this application.

Joe Poole said he appreciated the proximity of the area but felt there was a disconnect as there was in the applicant's 1999 application as to what's better for the larger community and could not approve this application.

Joe McCleary agreed with the comments of both Joe Poole and John Hagee and also recognized that this was a difficult parcel of land. He stated that what was needed was a more creative plan that addressed this particular piece of land.

Wilford Kale agreed with the previous Commission members and said he still had concerns with the site.

Wilford Kale made a motion, seconded by Joe Poole, to deny this application. In a roll call vote, motion to deny passed (5-1). AYE: Poole, Hagee, Kale, McCleary, Garret (5); NAY: Hunt (1).

12. CASE NO. SUP-22-01. JCSA GROUNDWATER TREATMENT FACILITY

Christopher Johnson presented the staff report stating the applicant requested a special use permit to allow for the construction of a Groundwater Treatment Facility. He stated the proposed facility of approximately 15,000 sq. ft. would allow the County to produce up to five million gallons of treated water per day and would be funded with a combination of connection fees, utility revenue funds, and debt financing. He stated the applicant was bringing this application forward in an effort to expedite the engineering and construction process once the required groundwater withdrawal permits have been issued. Staff found this application consistent with the surrounding zoning and development and the Comprehensive Plan. Staff recommended the Commission recommend approval of this application as outlined in the staff report.

Joe McCleary asked if staff had any idea as to what this plant would look like.

Christopher Johnson stated elevations had not been produced at this time. Staff visited the Lee Hall facility and were told by the applicant that the facility would look similar in size and scale but architecturally there were no elevations. He said conditions were included to address those issues at the time of site plan review. He added that the conceptual plan presented had a foot print of 150' long and 100' wide and noted that the facility at Lee Hall was approximately 45' in height in order to accommodate a two-ton-maintenance crane.

Marvin Sowers said that everything was contained within the 15,000 sq. ft. building with the exception of the storage tanks. He also stated that condition #6 could be amended to read the DRC rather than the Planning Director if the Planning Commission wishes to have input into the building's design.

Joe McCleary stated he felt that the project would not be terribly ugly but would like to have some idea as to what it would like.

Wilford Kale had as much concern about the County building on the property and its relationship to Chanco's Grant as he did on the previous application for Winston Terrace. He wanted to know how the property would be cleared and how it would affect Chanco's Grant property owners.

Martin Garret moved that the elevation plans be brought to the DRC for approval.

Joe Poole said he was disappointed that there was no site plan or elevations and said he did not want to see this go to the DRC at this time and requested that the Commission see more information before they take action on this SUP. He felt the County should meet the same standards as other applicants.

Christopher Johnson deferred the Commission's concern to the applicant, Larry Foster.

Larry Foster, General Manager of JCSA, explained that they were trying to accelerate the process to get the facility designed and built. He stated they were about halfway through selecting an engineer who would provide architectural support and said they didn't want the expense of hiring an engineer and getting drawings until they had a level of comfort that all permits would be received. He stated he had no problem with changing the SUP condition that would allow the DRC to review elevations.

Martin Garret stated they were in a position where the Commission wanted to see it before it went through the SUP process.

Larry Foster said it would be at least six months before it could be brought back to the Commission if they wanted to see architectural renderings.

John Hagee stated that the sensitivities the applicant mentioned were the same ones that every applicant that comes before the Commission had and he did not feel it was correct for the County to do something different then what we expect from other applicants.

John Horne asked if the Commission had any sense to the appropriateness to the site or any sensitivities to the location of the structure on the site that might give Larry Foster additional comfort. He also asked if the applicant could proceed with the process stating that basically what the applicant wanted to know was if he could put this project on the site.

Larry Foster stated that was the main thrust to make sure that this would be a permitted use on the property.

Joe McCleary stated that the Commission would approve a desalinization plant because there was no choice but they wanted to have an idea of what it would look like before it was approved in order to protect the County and its citizens.

Joe Poole suggested deferral of this case to the December 3rd meeting and suggested a site visit to the Lee Hall plant.

Martin Garret opened the public hearing.

Mary Pugh, a resident of Chanco's Grant and adjacent property owner to the proposed site, thanked the Commission for their concern about approving a project they had not seen. She said she appreciated the fact for the need of such a facility but also wanted to know what she would be seeing and hearing.

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

Joe Poole moved to defer this case with the expectation that the Commission would get a schematic site plan and some type representation of a building plan in order to see the impact on adjacent property owners.

Joe McCleary seconded the motion and in a roll call vote, motion passed. AYE: Poole, Hagee, Hunt, McCleary, Kale, Garret (6); NAY: (0).

13. CASE NO. Z-3-01/SUP-19-01. NEW TOWN - SECTIONS 2 & 4

Paul Holt presented the staff report stating this project was first presented to the Commission at the October 1st meeting. Staff found that several of the proffers, dated October 19, 2001, did not fully mitigate the impacts and did not meet the recommendations of the established County policies. Staff has had many discussions with the applicant regarding the proffers and staff's findings. He stated a number of proffer changes were crucial for staff's support of this case as outlined in the staff report. Staff did not recommend approval of this application, but noted that the applicant had expressed a strong desire to have this case voted on by the Board of Supervisors by the end of the calendar year. Paul Holt stated, should the Commission be supportive to the applicant's request, the Commission would have to act on this case tonight. Staff's recommendation of approval would be contingent upon receiving revised, signed proffers which adequately addressed the deficiencies noted in the staff report and which adequately addressed any issues identified by the Commission. Paul Holt noted that staff had reviewed the latest set of proffers, dated November 1, 2001, and on a preliminary basis they appeared to significantly and substantially address all of staff's outstanding comments.

Martin Garrett asked Paul Holt to rephrase the last segment in order to let everyone understand that staff had reviewed new proffers.

Paul Holt stated that staff had indeed reviewed the latest set of proffers, dated November 1, 2001, and did find that they appeared to significantly and substantially address all of staff's outstanding comments.

Martin Garrett opened the public hearing.

Alvin Anderson of Kaufman and Canoles, together with his partner Paul Gerheart, and representing New Town Associates, wanted to thank the Commission not only for the time they allowed for himself and Paul Milano to speak but also for the extensive question and answer period that followed at last month's meeting. He stated that this was probably the most critical piece of New Town, consisting of about 257 acres of property. He gave a brief history of the review process that

will take place when projects for this area are submitted for site plan review as well as a brief look at the award winning design of New Town, the fiscal impacts and traffic. He spoke of the concern for the proffer regarding the New Town's Homeowners Association stating that the County would prefer that the Association own the community spaces and develop and maintain these spaces. He stated the property Association was willing to do that but the Associations must obtain liability insurance and part and parcel of obtaining this insurance is being able to ask people who shouldn't be there to leave if they are there. He said that the most recent language, which was not part of the proffers that the Commission has seen, was reviewed by staff. He stated the proffer basically would allow any business invitee, business guest, visitor to any residential units, or any commercial facilities in New Town to use those areas. He felt that this addressed the issue of staff.

Wilford Kale asked the applicant why the desire to have this completed by this calendar year.

Alvin Anderson stated that because of the mix of residential and non-residential areas, New Town has taken a lot of time and effort in trying to get a critical mass going and with tremendous interest and level of commitments at this point of time, it was the opinion of the Staubach Company that momentum was important.

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

Martin Garrett stated that having asked Paul Holt to read twice the statement that he wanted, he made a motion to pass this application on to the Board of Supervisors.

Joe Poole seconded the motion and in a roll call vote, motion passed (6-0). AYE: Poole, Hagee, Hunt, McCleary, Kale, Garrett (6); NAY: (0).


14. PLANNING DIRECTOR'S REPORT

Marvin Sowers stated the National Park Service had proposed closing a portion of Centerville Road between Route 5 and Monticello Avenue in order to develop the Green Springs property for 2007. He said the County and NPS will be holding a citizens meeting on November 14th at 7 p.m. in the James Blair Middle School Auditorium.

15. ADJOURNMENT

There being no further business, the November 5, 2001, meeting adjourned at approximately 9:10 p.m.


Martin A. Garrett, Chair


Marvin Sowers, Secretary