

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

1. ROLL CALL

Don Hunt
Mary Jones
George Billups
Jack Fraley
Shereen Hughes
Jim Kennedy

ABSENT

Tony Obadal

STAFF PRESENT

Marvin Sowers, Planning Director
Adam Kinsman, Assistant County Attorney
Jenny Lyttle, Assistant County Attorney
Darryl Cook, Environmental Director
Michael Woolson, Environmental Engineer
Toya Ricks, Administrative Services Coordinator
Matthew Smolnik, Planner
Joel Almquist, Planner
Jose Riberio, Planner
Kathryn Sipes, Planner
David German, Planner
Melissa Brown, Senior Zoning Officer

2. PUBLIC COMMENT

Mr. Fraley invited members of the public to address the Planning Commission.

Hearing no requests the public comment period was closed.

3. MINUTES

A. May 1, 2006 Regular Meeting

Mr. Hunt motioned to approve the minutes.

Ms. Jones seconded the minutes.

In a unanimous voice vote the minutes of the May, 1, 2006 meeting were approved.

4. COMMITTEE AND COMMISSION REPORTS

A. Policy Committee

Mr. Billups asked Ms. Jones to give the report.

Ms. Jones stated that the Policy Committee met on April 8 and 11 to review proposed changes to the Sign Ordinance. She said the Committee voted unanimously to recommend approval of the proposed amendment that will be considered by the Commission later in the meeting. Ms. Jones also stated that the staff report would provide greater detail.

B. Development Review Committee (DRC)

Mr. Kennedy stated that the DRC met on May 31st to consider three (3) cases. He stated that SP-29-06 New Town Block 10 Parcels E & F and a setback waiver for New Town Section 3 & 6 were approved. Mr. Kennedy said S-59-05 Peleg's Point Section 6 was deferred for additional information from the applicant and stated the need to have applicants present at DRC meetings.

Mr. Hunt motioned to approve the report.

Ms. Jones seconded the motion.

In a unanimous voice vote the Development Review Committee report was approved.

C. Better Site Design Group

Mr. Fraley stated that Ms. Hughes had been named as the Planning Commission's liaison to the Better Site Design Committee and asked her for a status report.

Ms. Hughes stated that the Better Site Design Committee was formed to study ways to implement the 24 model principles developed by the Better Site Design Roundtable Report. She stated that the first two (2) meetings were to decide how to go forth with the implementations. She said long and short term goals were set and that all interested parties will be kept informed as the group proceeds.

5. PUBLIC HEARINGS

A. Z-2-06/MP-3-06/SUP-19-06 Mason Park

Mr. Fraley stated that the applicant has requested a deferral.

Mr. Sowers stated that Staff concurs with the request.

Mr. Fraley opened the public hearing.

Hearing no requests the public hearing was continued.

B. SUP-13-06 Unicorn Cottage

Mr. Joel Almquist presented the staff report stating that Ms. Sharon Dennis has applied for a Special Use Permit to construct and operate a child daycare center at 3021 and 3025 Ironbound Road. The property is zoned R-8, Rural Residential and is further identified as parcels (1-67) and (1-67A) on JCC Tax Map No. (47-1). The site is designated as Low Density Residential by the JCC Comprehensive Plan and is located along the Ironbound Road Community Character Corridor. Mr. Almquist also stated that the applicant has agreed to remove all debris on the proposed site and restore the property and develop the site according the Board adopted Primary Principles for the Five Forks area. The applicant has also agreed to provide a vegetated buffer around the perimeter of the property and install a sidewalk along Ironbound Road when deemed necessary by the County. Staff found the proposal consistent with surrounding development, the Comprehensive Plan, the R-8 Zoning District and the Five Forks Primary Principles and recommended approval.

Mr. Kennedy asked why the limit on the number of children was set at 30.

Mr. Almquist said the limit was volunteered by the applicant.

Mr. Kennedy confirmed with Mr. Almquist that the applicant's previous facility was licensed to care for up to 64 children.

Mr. Billups asked if there was a tie in between the previous operation and the currently proposed operation.

Mr. Almquist stated that the previous facility was located on property owned by the Unitarian Church. He explained that proposed day care would be the applicant's private facility.

Mr. Billups asked if the previous facility was owned by the Church or the applicant.

Mr. Almquist stated that he did not know and deferred the question to the applicant.

Mr. Fraley opened the public hearing.

Ms. Sharon Dennis of 528 Neck O Land Road, the applicant, stated that the previous business was privately owned on property leased from the church.

Mr. Kennedy asked if the applicant was satisfied with the limit on the number of children.

Ms. Dennis indicated her satisfaction.

Mr. Fraley asked if the applicant had any additional comments.

Ms. Dennis stated her plans to make the facility nice for children and to enhance the area.

Ms. Jones asked if the applicant was comfortable with the agreement to construct sidewalks.

Ms. Dennis stated her agreement.

Hearing no other requests to speak the public hearing was closed.

Mr. Kennedy motioned to recommend approval of the application and attached conditions.

Ms. Jones seconded the motion.

In a unanimous roll call vote the application and conditions were recommended for approval (6-0). AYE: Hughes, Kennedy, Billups, Hunt, Jones, Fraley (6); NAY (0). (Obadal absent)

C. SUP-16-06 Hogan Homestead Day Care

Mr. Jose Riberio presented the staff report stating that Ms. Catherine Hogan has applied for a special use permit for the operation of a child day care service at 9219 Richmond Road. The property is zoned A-1, General Agriculture, and is further identified as Parcel No. (4-3) on JCC Tax Map No. (10-1). This property is designated Rural Lands on the Comprehensive Plan Land Use Map.

Mr. Fraley opened the public hearing.

Mr. John Hogan, 233 Nina Lane, represented the applicant and presented the history and overview of the Day Care Center.

Mr. Kennedy asked if the applicant was satisfied with the conditions on the number of children and hours of operation.

Mr. Hogan stated that the center is currently licensed through the State for 12 children but operates at 8 due to County regulations. He said that with the new larger home the center would like the ability to care for up to 12 children.

Mr. Billups asked about food preparation.

Mr. Hogan said the children pack their lunch and snacks.

Mr. Billups asked if there are two (2) exits from the basement.

Mr. Hogan said yes.

Mr. Sowers noted the floor plan diagram on page 39 of the Planning Commission packet.

Ms. Hughes asked if the Health Department had been consulted about the size of the septic field.

Mr. Hogan said that after discussions about the primary use of the home, hours of operation, and number of children the Health Department did not think there would be a problem and recommended the (Authorized On-Site Soil Evaluator) AOSE be consulted. Mr. Hogan stated that any change would require an additional spur on the septic field which would not be a problem.

Ms. Hughes asked if any water conservation efforts were recommended.

Mr. Hogan did not know of any.

Hearing no other requests the public hearing was closed.

Mr. Kennedy motioned to approve the application.

Mr. Hunt seconded the motion.

In a unanimous roll call vote the application was recommended for approval (6-0). AYE: Kennedy, Billups, Hunt, Jones, Hughes, Fraley (6); NAY: (0). (Obadal absent)

D. SUP-17-06 8391 Richmond Road Veterinary Hospital & Indoor Kennel

Mr. Matthew Smolnik presented the staff report stating the Mr. Matthew Burton has applied for a Special Use Permit on the parcels located at 8391 Richmond Road, which is currently zoned A-1, General Agriculture in order to allow for the construction of a veterinary hospital. The property is also known as parcel (1-1) on the JCC Tax Map (12-4). The site is designated as General Industrial by the James City County Comprehensive Plan. Recommended uses for General Industrial land include industrial uses while secondary uses include office uses and a limited amount of commercial development to support the primary use. Staff recommended approval.

Mr. Kennedy asked about the necessity of proposed condition #11 regarding Chloroform Bacteria.

Mr. Smolnik stated that west of the proposed Best Management Pond (BMP) is the outdoor fenced area that is slighter higher in elevation than the BMP. He said the condition will help treat the animal waste that may run into the BMP.

Mr. Kennedy asked about the cost to the applicant.

Mr. Smolnik stated that he did not feel it was too costly and that it should be easily obtainable on the site.

Mr. Kennedy said that kennels do not allow waste to stay in their runs very long and asked about internal waste disposal.

Mr. Smolnik stated that the kennel would be indoors with appropriate disposal systems.

Mr. Billups asked if comments had been received from neighbors.

Mr. Smolnik said no.

Ms. Hughes asked why architectural drawings had not been submitted.

Mr. Smolnik said the applicant had indicated that they wanted to see if the application would be approved before undertaking the cost.

Ms. Hughes said trees currently lining the drive to the existing structure would have to be cleared. She asked about relocating the proposed structure to preserve the trees. Ms. Hughes also noted that the master plan submitted was conceptual.

Mr. Smolnik said the master plan will be revised. He said the DRC will have an opportunity to review the plan.

Mr. Fraley asked about approval of the architectural plan.

Mr. Smolnik said the architectural plan will require Planning Director's approval.

Ms. Hughes asked if the large portion of land that will remain clear will be put into a conservation easement.

Mr. Smolnik deferred the question to the applicant.

Mr. Billups asked if the existing structure will be removed.

Mr. Smolnik said yes.

Mr. Billups stated his agreement that the pecan and other fruits trees be preserved.

Mr. Fraley stated his concerns about preservation of the trees.

Mr. Sowers said an additional condition requiring a tree preservation plan could be added.

Mr. Kennedy wanted to hear from the applicant prior to amending the proposed conditions.

Mr. Matthew Burton with DJG represented the applicant stating their agreement to preserve as many trees as possible and to revise the parking layout.

Mr. Hunt asked if the access onto Route 60 will remain in the same location.

Mr. Burton said it may be moved slightly.

Mr. Kennedy asked if it would be intrusive to preserve the trees as discussed.

Mr. Burton said he did not think it would be intrusive to preserve some. He said it would not be feasible to preserve them all without losing functionality of the project.

Mr. Kennedy asked if the applicant had any concerns about proposed condition #11.

Mr. Burton said the applicant was concerned about the costs and the feasibility of meeting the requirement.

Mr. Kennedy asked how the condition came about.

Mr. Smolnik said that it came out of discussions between the Environmental and Planning Staff about the environmental aspects of the site.

Mr. Kennedy asked if the outdoor exercise area would be paved.

Mr. Burton said it would be a grassy area and agreed with Mr. Kennedy that the area will be policed by the operators of the facility for the protection of the employees and other animals.

Mr. Kennedy stated that while he appreciated the intent he wondered if it was absolutely necessary.

Mr. Cook stated that the proposed condition was a recommendation of the Powhatan Watershed Study.

Mr. Kennedy asked if that would require removal of more trees.

Mr. Cook said it is a large site so that there is some flexibility.

Mr. Burton and Mr. Cook discussed features of the BMP that might address the concerns.

Mr. Burton stated their desire to meet the requirements if they can do so with their desired plan.

Ms. Hughes stated her concern that fecal chloroform is a large contributor of contamination of surface waters. She stated that she did not think the proposed condition was unreasonable.

Mr. Burton explained that the location of the BMP was designed to take advantage of the natural slope of the site in collecting stormwater. He stated that he thought the Commission's concerns could be addressed.

Ms. Jones asked about the adequacy of the buffer and landscaping given that the site is in a Community Character Corridor.

Mr. Smolnik said they were adequate.

Mr. Andy Murphy, 920 Ship Point Road, stated that he has operated Boulevard Veterinary Hospital in Newport News since 1974. He stated that other Veterinary Hospitals also have outdoor walking areas that are not called exercise yards because they are not fenced. He said that at his current location the animals are never left alone in these areas and that they are policed regularly. Mr. Murphy explained that architectural drawings had not been submitted due to costs.

Mr. Kennedy motioned to approve the application with the attached conditions.

Mr. Hunt seconded the motion.

The Planning Commission and Mr. Kinsman discussed which conditions were included in the motion.

Ms. Hughes stated her concern about the lack of a final plan.

Ms. Jones stated that she was not concerned with the lack of a final plan.

Mr. Kennedy stated that trees are a crop and are renewable. He said he felt with the amount of buffering the project would still maintain some rural qualities.

Mr. Billups asked for a good faith effort to preserve as many trees as possible.

Mr. Fraley stated that the applicant has made that commitment. He also stated his support for the inclusion of proposed condition #11.

The Commissioners discussed proposed condition #11 and confirmed that the motion would include it.

In a unanimous roll call vote the application was recommended for approval (6-0). AYE: Hughes, Kennedy, Jones, Billups, Hunt, Fraley (6); ANY (0). (Obadal absent)

The Commission recessed for 10 minutes.

The Commission reconvened at 8:10 p.m.

E. SUP-4-06/MP-1-06 Prime Outlets MP Amendment

Ms. Kathryn Sipes presented the staff report stating that Mr. Greg Davis has applied on behalf of Prime Retail, L.P. to amend the existing master plan and special use permit to allow for a 7,000± square foot expansion of Prime Outlets on their existing site, as well as to incorporate the existing Ewell Station shopping center into Prime Retail and to allow for the construction of an additional 74,000 square feet of retail space adjacent to the existing Ewell Station shopping center. The properties can be identified as parcels (1-28), (1-29), (1-33C), (1-33D), (1-33E) and (1-2) on the JCC Real Estate Tax Map. (33-1). The property is zoned B-1, General Business, with proffers and is designated Community Commercial on the Comprehensive Plan Land Use Map. Lands designated Community Commercial are intended to allow general business activity in areas located within the Primary Service Area while usually having a moderate impact on nearby development. Ms. Sipes stated that the case was deferred at last month's meeting due to concerns regarding environmental impacts, parking, traffic, and aesthetic improvements. She stated that since that time the application has been amended to include improvements to five (5) existing stormwater facilities, financial contributions for off-site environmental mitigation, 237 additional parking spaces by modifying and placing two existing stormwater facilities underground and providing parking on the surface, traffic improvements, signal warrant analysis and evaluation of potential access management strategies, additional landscaping along Richmond Road, Olde Towne Road, and around dumpsters. Staff found that the attached conditions substantially mitigate concerns previously expressed and recommended approval.

Mr. Kennedy asked how the applicant would prevent overflow parking onto Olde Towne Road.

Ms. Sipes said no specific measures were included. She stated that the Virginia Department of Transportation (VDOT) determined that signage would not be appropriate although parking along those streets is not currently allowed.

Mr. Kennedy asked for confirmation that parking is not allowed along the side roads.

Ms. Sipes stated that according to VDOT that is correct.

Mr. Kennedy and Ms. Sipes discussed that fact that parking does take place along the Olde Towne Road corridor and into the neighborhoods.

Mr. Kennedy asked if the James City County Police Department was aware that parking is not permitted.

Mr. Sowers said Staff would contact them to make sure that they are aware.

Mr. Fraley questioned how residents would be made aware that they can no longer park in those areas if VDOT will not allow signage or curb markings.

Mr. Sowers said that Staff or the Board of Supervisors could follow-up with VDOT to post signs if the Planning Commission felt the situation warranted it.

Mr. Kennedy stated his concerns that people will be surprised to learn that they can no longer park in front of their homes when the initial concern was Prime Outlets patrons parking in those areas.

Mr. Hunt asked if Mr. Kennedy was referring to the seven (7) lots along one side of Olde Towne Road.

Mr. Kennedy talked about the history of the Olde Towne Road Corridor and how the parking problem has developed. He asked if curb side parking is allowed on the road going into Chisel Run. Mr. Kennedy also stated his concerns about parking problems in the County in general.

Ms. Hughes asked who would pay for traffic signals on Olde Towne Road if they are warranted.

Ms. Sipes stated that the attached conditions require the applicant to pay for the signal.

Ms. Hughes asked about the accuracy of the current Master Plan in terms of square footage of buildings and wording.

Ms. Sipes said a lot of information has been discussed that has not been added to the Master Plan. She stated that Staff has asked that the Master Plan be revised prior to the Board of Supervisors meeting.

Ms. Hughes asked if the off-site mitigation would take place in Chisel Run.

Ms. Sipes answered yes.

Ms. Hughes asked about the existing site plan for Ewell Station.

Ms. Sipes showed the approved site plan and proposed amendments.

Ms. Hughes asked if the parking along Richmond Road is outside of the Community Character buffer.

Ms. Sipes said it does encroach into the buffer.

Ms. Jones asked if the approved site plan met or exceeded Ordinance Requirements.

Ms. Sipes said it meets requirements.

Ms. Jones asked if parking would be a problem if the project were developed according to the currently approved site plan.

Ms. Sipes said she did not have any data regarding that. She stated that at the time the project was approved it was expected to be more neighborhood commercial.

Mr. Fraley asked if conditions had been met for previous expansions phases.

Ms. Sipes stated that triggers for several of the conditions have not yet been reached. She said Staff is working with the applicant on container planters required in phase 5A and rear parking lot lighting required by phase 6.

Mr. Fraley asked if the County has a Street Tree Policy.

Mr. Sowers said it applies to residential developments. He stated that this case should adhere to the Community Character Policy and Landscape Ordinances.

Mr. Kennedy asked if there is designated employee parking.

Ms. Sipes said no. She said some employee parking has been included in the proposed plan and that analysis of employee parking will be included in the traffic studies.

Mr. Kennedy asked if there are currently areas where employees are required to park.

Ms. Sipes said they are encouraged to park in the rear of the buildings but are not required to.

Mr. Fraley opened the public hearing.

Mr. Greg Davis, Kaufman and Canoles, represented the applicant outlining changes in the application since the last Planning Commission meeting. He stated that 2,306 parking spaces have been proposed. He stated that this would be achieved by placing two existing stormwater facilities underground and placing the parking on top. Mr. Davis also detailed the proposed traffic studies and analysis, road and signal improvements, and landscape enhancements. Mr. Davis stated the applicant's request that a height limit be established for the landscaping along Richmond Road and that construction of the parking lots above the Best Management Pond (BMP) not be tied to approval of the site plan that it is currently associated with.

Mr. Kennedy asked what could be done to assure protection from overflow parking into the neighborhoods surrounding the center.

Mr. Davis stated that additional parking spaces, continued analysis of the parking, signage, and a possible trolley system would alleviate parking concerns.

Mr. Kennedy stated his concerns about overflow parking, adequacy of employee designated parking and enforcement, and feasibility of engineering the proposed parking lots.

Mr. Davis stated that engineering plans must still be approved by the County's Engineering and Environmental departments.

Mr. Kennedy asked if the Environmental Division felt the parking plan had any feasibility.

Mr. Darryl Cook said that it is common throughout the Country to place stormwater management under parking surfaces so that the proposal in general is feasible.

Mr. Kennedy asked if Staff could foresee working with the applicant on the proposal.

Mr. Cook answered yes.

Ms. Hughes asked if a cost had been estimated for the environmental mitigation for Chisel Run.

Mr. Cook said the system would have to be designed before an estimate could be given. He said the design could be completed in six months.

Mr. Billups asked for the path of exit for the underground stormwater facility.

Mr. Cook said it would flow in the same direction as it does now which is behind the L. L. Bean side and through the Scotts Pond neighborhood.

Ms. Jones asked if there are other options with similar costs if the rain tanks do not work that would still allow parking to be placed over the BMP.

Mr. Cook said there are several other products available but he was not sure of the costs.

Mr. Hunt asked if there are other areas in James City County where this technology is being used.

Mr. Cook said there are locations in both James City and York Counties where the technology is being used.

Mr. Fraley asked if there were any provisions in the SUP conditions to ensure that the parking lot is constructed.

Ms. Sipes said the SUP conditions require the applicant to submit the engineering to the Environmental Director for approval. She stated that if it cannot be approved the applicant will conduct a parking study and implement the recommended improvements.

Ms. Jones stated that if James City County finds that the engineering is acceptable then the applicant must provide it.

Ms. Sipes said the applicant has given a good faith commitment to provide the parking as proposed if the engineering can be made to work.

Mr. Sowers said the Environmental Director is given sole discretion to determine whether the proposal is feasible from an engineering perspective.

Mr. Kennedy asked how many parking spaces would be lost if the parking lots cannot be installed.

Ms. Sipes answered fewer than 300.

Mr. Kennedy asked how that aligns with Ordinance requirements.

Ms. Sipes said it just meets Ordinance requirements.

Mr. Fraley asked if a new parking study and plan would have to be brought back to the Planning Commission and Board of Supervisors.

Ms. Sipes said yes.

Mr. Fraley asked what building activity would be allowed under the proposed SUP conditions.

Ms. Sipes said that the way the SUP conditions are currently written the County would expect to see plans for the parking lot on the BMP that is closest to Scott's Pond incorporated into the site plan for the 52,000 square foot building with both being constructed within the 5 year term of the site plan.

Mr. Fraley asked what happens if the parking lot design is denied.

Ms. Sipes said a site plan amendment would be required to delete the parking lot from the plan in order for the building to be constructed.

Ms. Fraley confirmed that as the conditions are currently written the two could not be constructed separately.

Ms. Sipes explained that the expectation now is that the building site plan includes the parking with the parking being approved by the Environmental Director.

Mr. Fraley said that if the parking was not approved then the current site plan that includes both would not be operable.

Ms. Sipes said that was correct, that an amended site plan would be required.

Mr. Fraley asked who would have to approve the amended site plan.

Ms. Sipes said the site plan would be considered by the DRC.

Mr. Fraley and Mr. Sowers discussed the procedure for approval of a site plan amendment.

Ms. Hughes asked if the parking study determines that parking is inadequate do they have to recommend a solution and implement.

Ms. Sipes stated that the site plans for the two remaining buildings would have to include the improvements that have been recommended as a part of the study.

Mr. Fraley added that the original site plan would also have to be amended and approved by the DRC.

Ms. Hughes commended the applicant for making significant environmental improvements to the site as well as their stated good faith commitment to make financial contributions for mitigation for Chisel Run. She stated her concerns about the applicant's request to limit the height of landscaping along the corridor. She said she would not support the request.

Mr. Fraley asked about the applicant's uneasiness about timing of the site plan and parking lots.

Mr. Davis stated that the applicant's concerns about the length of time necessary for design of the parking lot and receiving County approval. He said the site plan for the building has already been submitted to the County for review. Mr. Davis also stated that under the proposed conditions the

expansion could not move forward if the parking lot is deemed infeasible.

Mr. Fraley confirmed that the applicant's desire is to begin construction on the buildings as soon after receiving SUP and site plan approval as possible.

Mr. Davis said this was correct. He stated that if it were determined that the parking lots were not feasible due to engineering reasons then the applicant cannot proceed with the buildings under the proposed condition.

Mr. Fraley stated that the other consideration is that the County could end up with a 52,000 square foot and 21,000 square foot building without any additional parking.

Mr. Davis stated that the parking would still meet County's Ordinances.

Mr. Fraley said it would not address the Planning Commissioners' concerns.

Mr. Kennedy stated his concerns with parking as well as a height limit on landscaping and the lack of an adequate plan to address Chisel Run, King Henry and Queen Mary Court and Olde Towne Road. He asked about the fairness of allowing a waiver for this applicant.

Mr. Davis answered that the Ordinance does not require an upgrade to the landscaping on Richmond Road. He said the Staff's suggestion for a condition requiring the landscaping was going above and beyond any legal requirement.

Mr. Kennedy asked what requirements other business along the Richmond Road were required to meet.

Mr. Sowers stated that new developments were required to comply with current Ordinance regulations with an ultimate mature height much greater than the limit the applicant is requesting.

Mr. Kennedy asked if there is a precedent for waivers to the heights.

Mr. Sowers answered no and that usually more landscaping is being required due to Richmond Road being a Community Character Corridor.

Mr. Fraley added that the applicant could develop Ewell Station under its current Master Plan and not need to make enhancements. He stated that when an applicant has requested a SUP then the Commission always looks at bringing the development up to existing Ordinances.

Mr. Kennedy asked if height waiver would come before the DRC.

Mr. Sowers said a modification request could be made to the DRC.

Mr. Fraley added that it could also be reviewed by the Landscape Planner depending on the request.

Mr. Sowers said some are reviewed administratively but this plan would need to go to the DRC.

Mr. Kennedy asked that if it does come before the DRC that any Board of Supervisors comments be considered.

Mr. Davis stated that the applicant is eager to receive guidance from the Planning Commission and preferred a recommendation tonight on both the application and conditions as opposed to deferral.

Mr. Ray Basley, 4060 S. Riverside Drive, stated his concerns about inadequate parking at the site as well as the inadequacies with the County's method for determining parking requirements. He recommended denial of the application until a better parking solution and traffic flow are developed.

Mr. Fraley confirmed that the Parking Ordinance required 5 parking spaces per 1,000 square feet of space and does not specify retail space.

Mr. Ray Bearfield, 103 Druid Drive, stated his concerns about community character protection and congestion. He requested a recommendation for denial.

Mr. Dave McGinnis, 3408 Chadsworth Circle, stated his concerns about the character of the area, neighborhood impacts, the numbers of accesses into the facility and inadequacy of the Parking Ordinance.

Mr. Jay Everson, 103 Branscomb Boulevard, cited a study of the distance traveled and length of stay of Prime Outlet customers stating that standard parking requirements do not significantly address this project. He also stated his concerns about the U-turn necessary to access Route 199.

Mr. Bobby Singley, 423 N. Boundary Boulevard, a commercial real estate broker representing an adjacent property owner stated his client's support of the plan. He commended the applicant for additional parking.

Hearing no other requests the public hearing was closed.

Mr. Fraley read comments from Commissioner Anthony Obadal stating Mr. Obadal's concerns about parking and the method used to calculate parking requirements. Mr. Obadal, in the statement, requested a vote by proxy.

Mr. Kinsman stated that the Virginia Freedom of Information Act specifically prohibits voting at a meeting other than when one is physically present.

Mr. Kennedy stated his concerns about residential impacts, ambiguity of and discrepancy in enforcement of the parking ordinance and elimination of the neighborhood commercial aspect of Ewell Station and higher traffic generation. He stated his desire to see commentary from the Board on heights limits for landscaping and timing of the parking lots if the case is approved and that the community would be worse off if the parking is not feasible. He stated he is undecided and would like to hear from other Commissioners.

Mr. Hunt asked how many parking spaces above the Ordinance requirements were being proposed.

Ms. Sipes answered 14% or 289 spaces.

Mr. Hunt stated his support for the application with the attached conditions based on the applicant's good faith effort to increase parking.

Mr. Billups said he was satisfied with the proposed parking as long as the conditions remain as written. He also stated that the request represented a new expansion and therefore it is not unreasonable to require landscaping that meets current standards.

Mr. Fraley clarified that as the SUP conditions are written the applicant cannot develop the property if the parking lot is not approved because the site plan referenced earlier includes the 52,000

square foot building and the parking with them being constructed simultaneously.

Ms. Sipes answered yes.

Mr. Fraley stated that in that case the applicant could not proceed under the proposed SUP conditions unless the parking lot was separated out which would require approval of the DRC.

Ms. Jones agreed with Mr. Billups. She stated her support for the project and conditions as proposed by Staff.

Ms. Hughes stated her pleasure with the proposed environmental improvements. She also stated her concern that the proposed parking may not be adequate. She said she would vote to deny the application.

Mr. Fraley contrasted what would be allowed by the currently approved site plan for Ewell Station versus the benefits of the SUP request under consideration. He stated his willingness to modify the conditions to allow to applicant to get started on construction prior to approval of the parking lot but would also support the application and SUP conditions as written.

Mr. Kennedy also stated his willingness to allow some construction of the buildings prior to approval of the parking lot.

Mr. Fraley stated that it was his opinion that the applicant wished to receive a recommendation tonight on the application and conditions as written.

Mr. Davis said it would be cumbersome to negotiate the terms of the conditions tonight. He stated his desire to have an expression from the Planning Commission that such an amendment to Staff's proposed condition would be supported by the Commission.

Mr. Kinsman said the Commission could express its desire but not negotiate the condition at this time.

Mr. Billups stated that he would not vote for any construction without the additional parking at the same time in order to not compound the existing problem.

Mr. Hunt said that in the interest of simplicity the Commission should vote on the proposal as is.

Mr. Fraley noted that four of the Commissioners would be sympathetic to such a modification of the conditions to allow some portion of the development to proceed before the parking over the BMPs is provided.

Mr. Hunt motioned to recommend approval of the application and attached conditions as written by Staff.

Ms. Jones seconded the motion.

In a roll call vote the application and attached conditions were recommended for approval (5-1). AYE: Kennedy, Billups, Hunt, Jones, Fraley (5); NAY: Hughes (1). (Obadal absent)

F. ZO-7-05 Zoning Ordinance Amendment – Sign Ordinance

Mr. David German presented the staff report stating that the Division had received a request to amend James City County Code by amending Section 24-66, Definitions; Section 24-70, Freestanding

signs; Section 24-73, Special regulations for certain signs and Section 24-75, Prohibited signs of the zoning ordinance; to permit pedestrian-oriented signage in Mixed-Use Districts governed by a binding master plan, established architectural design guidelines and a design review board. The amendments would permit additional types of building-mounted signage (e.g., “blade” signs) and pedestrian-oriented directional signage to provide greater visibility for pedestrian traffic in the district. The amendments would not increase the total allowable square footage of signage allowed a particular building. Mr. German stated that the Policy Committee voted 3-0 to recommend approval of the amendment.

Mr. Kennedy stated his objection that the banner-related portion of the amendment specifically benefits shopping centers over 25,000 square feet in size, and pointed out that flags on small businesses were prohibited. He referred to a newspaper editorial about what governments do to promote specific businesses in certain areas like New Town and Prime Outlets. Mr. Kennedy said he would vote against the amendment because it discriminates against small business.

Ms. Jones stated that the Policy Committee could look at the proposed Sign Ordinance amendments as they relate to small businesses.

Mr. Kennedy stated that he understood the need to limit signage in order to avoid the appearance of clutter. He stated that his concern was the circumvention of those ordinances by the proposed amendments, designed to specifically benefit New Town, as well as Prime Outlets and Monticello Marketplace, because those shopping centers are over 25,000 square feet in size.

Mr. Fraley asked Mr. Kennedy if he felt Staff should be directed to look at the limitations on small businesses.

Mr. Kennedy gave examples of other policies he felt were not applied consistently. He also asked if the proposed blade signs would be allowed in addition to building face signs.

Ms. Melissa Brown, Senior Zoning Officer, stated that the square footage of the blade and building face signs would be added together when calculating total allowable sign square footage, and that the overall permitted square footage was not being increased.

Mr. Kennedy asked if New Town businesses would be required to change their signs in order to meet the new ordinance requirement.

Ms. Brown stated that it would not be a requirement, but businesses desiring to add blade signage would be able to, if they so desired.

Mr. Kennedy asked if the blade signs that currently exist in Prime Outlets are in addition to their allowable signage.

Ms. Brown said that these signs are not included in allowable sign square footage totals because they are not visible from the Route 60 right-of-way or adjacent properties.

Mr. Kennedy indicated that some of the blade signs can be seen from the right-of-way. He stated that there should be uniformity in applying and enforcing regulations.

Mr. Fraley confirmed that appeals to the Sign Ordinance could be made to the Board of Zoning Appeals.

Mr. German stated that the 25,000 square foot threshold included in the definition of *shopping center* should be thought of as a starting point that could be changed or amended.

Mr. Kennedy asked if the banner signs at Monticello Marketplace are in violation of the County Ordinance.

Ms. Brown stated that they are not because they do not have the shopping center's name on them.

Mr. Kennedy stated that Prime Outlets has banner signage with its name.

Ms. Brown said if Prime Outlets has their name on the banner then they are in violation.

Mr. Fraley asked if Ms. Brown's office was the enforcement agency on signs.

Ms. Brown answered yes and stated that her office is in contact with the Prime Outlets regularly regarding signage that must be removed.

Mr. Kennedy stated that there are 100 banner signs at Prime Outlets that have been in place for over 5 years.

Mr. Billups said he thought the amendment would be specific to New Town. He also agreed with Mr. Kennedy that everyone should be treated fairly with uniform enforcement.

Ms. Hughes stated the Policy Committee was not aware of the issue of business size. She said she understood Mr. Kennedy's concerns and asked for solutions.

Mr. Kennedy said he was not upset with Staff but with what he believes is inconsistency in application.

Mr. Fraley opened the public hearing.

Hearing no requests the public hearing was closed.

Ms. Jones motioned to recommend approval of the amendment.

Ms. Hughes seconded the motion.

In a roll call vote the amendment was recommended for approval (4-2). AYE: Hughes, Billups, Jones, Fraley (4); NAY: Kennedy, Hunt (2). (Obadal absent)

6. PLANNING DIRECTOR'S REPORT

Mr. Sowers presented the report highlighting the inclusion of Board of Supervisors results on cases forwarded by the Planning Commission. Mr. Sowers congratulated Mr. Obadal, Ms. Hughes, and Fraley on graduation from the Virginia Certified Planning Commissioners Program.

Mr. Fraley stated that the Board of Supervisors has approved a request from the Commission to begin a review of Residential Ordinances and assigned the responsibility to the Policy Committee.

Mr. Sowers stated that Staff was ready to assist the Policy Committee.

Mr. Kinsman introduced Jennifer Lyttle, Assistant County Attorney, to the Planning Commission.

Mr. Kennedy stated his desire that the Parking Ordinance be reviewed.

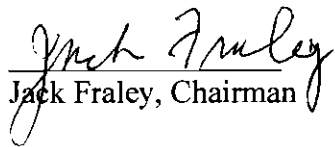
Mr. Fraley asked that the Parking Ordinance also be reviewed by the Policy Committee.

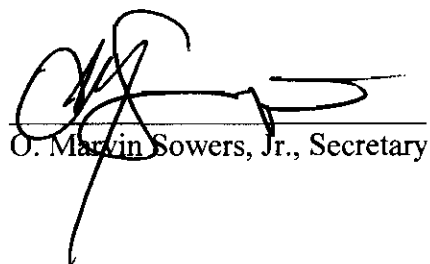
Ms. Hughes said that parking lot capacity and design is one of the first tasks of the Better Site Design Committee and welcomed a simultaneous review by the Policy Committee.

Mr. Billups asked that Ms. Jones lead that review on behalf of the Policy Committee.

7. ADJOURNMENT

There being no further business, the Planning Commission meeting adjourned at 11:00 p.m.


Jack Fraley, Chairman


O. Marvin Sowers, Jr., Secretary