

SPECIAL USE PERMIT-7-00. Hertzler Clearing and Grading

Staff Report for the September 12, 2000, Board of Supervisors Public Hearing

This report is prepared by the James City County Planning Division to provide information to the Planning Commission and Board of Supervisors to assist them in making a recommendation on this application. It may be useful to members of the general public interested in this application.

PUBLIC HEARINGS Building C Board Room; County Government Center
Planning Commission: June 5, 2000, (deferred); July 5, 2000, (deferred)
August 7, 2000, 7:00 p.m.(approved)
Board of Supervisors: September 12, 2000, 7:00 p.m.

SUMMARY FACTS

Applicant/Landowner: Mr. Steven L. Hertzler

Proposed Use: Contractor's warehouse and office, storage and repair of heavy equipment, and the manufacture and sale of wood products.

Location: 9537 Barnes Road; Stonehouse District

Tax Map and Parcel No.: (4-3)(1-12A)

Primary Service Area: Outside

Parcel Size: 28.6 acres

Existing Zoning: A-1, General Agricultural

Comprehensive Plan: Rural Lands

Surrounding Zoning: North: A-1, General Agricultural
South: B-1, General Business
East: A-1, General Agricultural
West: A-1, General Agricultural

Staff Contact: Christopher M. Johnson - Phone 253-6685

STAFF RECOMMENDATION:

Staff finds the proposal, with conditions, generally consistent with the surrounding zoning and development and generally consistent with the Comprehensive Plan. Staff recommends the Board of Supervisors approve this application with the conditions found in the staff report. At its August 7, 2000, meeting, the Planning Commission concurred with staff and voted to recommend approval of this application by a vote of 6 to 0, with one absence.

Description of Project

Mr. Steven L. Hertzler has applied for a special use permit to allow the construction of a contractor's warehouse and office, the storage and repair of heavy equipment, and the manufacture of wood products at 9537 Barnes Road. The property is zoned A-1, General Agricultural, and is further identified as Parcel No. (1-12A) on James City County Real Estate Tax Map No. (4-3). The applicant's father currently resides in a mobile home located on the site. The applicant owns and operates a clearing and grading business which currently has six full-time employees but has had as many as eight employees within the past year. If approved, this special use permit would allow the construction of a 5,000-square foot office/warehouse, the storage and repair of Hertzler Clearing and Grading vehicles and heavy equipment, the storage of cleared stumps and wood material, and the grinding of stumps and wood material into mulch. Approximately seven acres (one quarter of the 28.6-acre site) is proposed to be cleared for this operation. A tub grinder would be leased periodically and brought to the site to grind accumulated stumps and wood materials into mulch on a 2.5-acre wood storage, manufacturing and processing area. The applicant has stated that because of the high concentration of dirt in the mulch, it is not suitable for resale. **A condition has been added which eliminates the sale of wood, mulch, and wood materials on the site. A condition has also been added that restricts the transportation of wood, mulch or wood materials onto or off of the property to those vehicles registered to Hertzler Clearing and Grading and restricts both the number of vehicles used as part of the operation and the number used to transport materials onto or off of the property.**

Description of the Grinder Apparatus

The type of grinder to be used on this property periodically is a Moorbark tub grinder, Model 1300. The 36-ton grinder measures 38 feet in length and 13 feet in height and is powered by a 750 horsepower Caterpillar engine. The production rate varies depending on the type of material being processed but it is capable of grinding 320-cubic yards per hour. Stumps, wood, and wood debris are loaded into a large rotating tub which moves the wood over a hammer mill. Heavy hammers tear the wood to bits utilizing a grinding motion. When the bits are small enough, they fall through a screen onto a conveyer and the mulch is then stockpiled. A tractor would spread the mulch out on clear areas. The grinder achieves a three to one reduction from raw materials to the end product.

Field Visit/Sound Test

On May 12, 2000, several Planning Commission members and Mr. Kennedy joined staff on a visit to the property for the purpose of viewing the tub grinder and conducting sound tests from adjacent residential properties. The tub grinder was not located at the point where it would ultimately be used as that area has yet to be cleared. Staff and the applicant tried to locate the grinder in a manner which would best approximate the distance and sound levels adjacent residential properties would encounter if a special use permit is granted for this operation. It should be noted that if approved the grinder would be approximately the same distance from one of the residences as it was from one of the test sites. A map is included as an attachment that identifies the locations where sound tests were observed and lists the recorded noise levels. Readings taken at the nearby residential test sites when the grinder was not in operation ranged from 50 dBA to 56 dBA with the primary source of background noise coming from Interstate 64. The readings taken at the various residential test sites with the grinder in operation ranged from 55 dBA to 60 dBA. Staff conducted sound tests in advance of the official test to compare results and did not observe any appreciable difference in decibel levels between the two tests.

According to the Occupational Safety and Health Administration (OSHA), continued exposure to noise over 85 dBA will eventually harm hearing. While OSHA has no mandated definition for what constitutes a substantial increase over existing sound levels, state highway departments typically use either a 10 dBA increase or a 15 dBA increase in noise levels to define "a substantial increase" in existing noise levels. Neither

the Department of Environmental Quality (DEQ) and the Environmental Protection Agency (EPA) specifically define what constitutes a substantial increase. **The measured noise level increase falls well within this acceptable range of increase typically used by state highway departments.** Examples of noises which might be typically observed in a rural setting include freeway traffic 70 dBA, a tractor 90 dBA, a leafblower 110 dBA, a power lawn mower 65-95 dBA, and an ambulance siren 120 dBA. As a comparison, a decibel reading of 84 dBA was observed from a distance of approximately 200 feet when the tub grinder was in operation.

Surrounding Zoning and Development

The property is bordered on the west by Interstate 64 and further to the west by the Racefield subdivision which is zoned A-1, General Agricultural. Single-family homes and undeveloped properties are located to the north and east of the site and are also zoned A-1. The undeveloped and wooded 185-acre Hazelwood Farms property to the south of the site across Barnes Road is zoned B-1, General Business. Examples of by-right uses for B-1 include automobile service stations, professional office buildings, lumber and building supply stores, restaurants, schools, retail and service stores, and wholesale and warehouse facilities. As the Stonehouse planned community continues to develop, the B-1 properties south of Barnes Road will face increasing development pressure. **Staff finds the proposal, with conditions, consistent with the surrounding zoning and development.**

Physical Features and Environmental Considerations

The 28.6-acre site is relatively flat and wooded. A stormwater management facility may be required southeast of the proposed warehouse/office due to impervious areas associated with the construction of approximately 500 feet of entrance road. Most of the entrance road area collects to a low point in topography about midpoint between Barnes Road and the proposed site and would bypass the site's primary stormwater management facility located in the interior of the site. **A condition has been added which requires the Environmental Director's approval of an erosion and sediment control and stormwater runoff management plan prior to final site plan approval. This plan would also address the method of containment for the materials in the wood processing area and stabilization of the berms.** A stormwater pollution prevention plan must comply with County erosion and sediment control and stormwater management plan requirements established by the County's Erosion and Sediment Control and Chesapeake Bay Preservation Ordinances.

The proposed facility would require a construction and demolition debris landfill permit from the Virginia Department of Environmental Quality (DEQ). DEQ requires local approval of a land use before they will review an application for a permit. Condition No. 2 requires that the applicant acquire all State permits prior to final site plan approval. Wood product storage and processing may also require a general Virginia Pollutant Discharge Elimination System (VPDES) permit for Discharges of Storm Water associated with Industrial Activity from DEQ.

Transportation

Access to the property would be from Barnes Road (Route 601). Barnes Road is included in the FY 2000-2005 Six-Year Secondary Road Plan; however, the Virginia Department of Transportation (VDOT) has indicated that the "spot" improvements recommended for portions of Barnes Road to improve drainage and grading should not impact this site. VDOT has also indicated that a commercial entrance will be required for the site. **Given the low trip volume anticipated at the site, VDOT does not anticipate the need for turn lanes. VDOT did not identify road width as an issue in its preliminary review of this proposal.**

Three pickup trucks, two dump trucks, a single-axle chip truck, a log trailer, and a low-boy trailer are presently registered to Hertzler Clearing and Grading. The applicant has stated that the pickup trucks make an average of one to two trips per day to and from the site and typically go home with employees each night. Both of the trailers and the single-axle chip truck would typically make one trip per day each to and from a job site. The dump trucks make an average of three to four trips per day to and from the site. Staff estimates that the number of vehicle trips to and from the site will be approximately 24 to 34 per day. **Given the relatively low trip volume generated by the development and the fact that all traffic improvements are required to be installed or bonded prior to the issuance of an occupancy permit (Condition No. 10), staff feels that the traffic impacts generated by this proposal will have a minimal effect on the surrounding community.**

Fire Potential

Concern was expressed by residents in the surrounding community over the potential for mulch and debris waste fires. The Fire Department reviewed a conceptual plan for the proposal and concluded that fire response would not be a problem provided reasonable access is provided to the site. This would typically be reviewed by the Fire Department during the site plan review process. **The Deputy Fire Marshall reported no significant problems with similar rural properties in the past and stated that existing resources would be able to control a fire on the site.** The Fire Marshall stated in a subsequent analysis of the proposal that the department was not concerned about having a single entrance to the site.

Public Utilities

The property lies outside the Primary Service Area (PSA). The site is served by an on-site well and an on-site treatment and disposal system.

Comprehensive Plan

Land Use Designation

The property is designated as Rural Lands on the Comprehensive Plan Land Use Map. Rural Lands are areas containing farms, forests, and scattered houses, exclusively outside the Primary Service Area, where a lower level of public service delivery exists or where utilities and urban services do not exist and are not planned for the future. Appropriate primary uses include agricultural and forestal activities and certain recreational and public uses which may require a spacious site and which are compatible with the natural and rural setting. Most retail and commercial uses which will serve Rural Lands will be located at planned commercial locations on major thoroughfares inside the PSA. However, a few of the smaller uses and uses which require a specialized location may be located and approved on a case by case review, provided such uses are compatible with the natural and rural character of the area, in accordance with the Development Standards of the Comprehensive Plan. These uses should be located in a manner that minimizes effects on agricultural and forestal activities, and located where public services and facilities, especially roads, can adequately accommodate them.

Several conditions attached to this application require Environmental Director or Planning Director approval or Development Review Committee review in order to insure that the potential impacts of this development on adjacent properties are mitigated and the rural character of the surrounding area is preserved to the largest extent possible. **The unique location of the site adjacent to Interstate 64 mitigates many of the factors such as noise, dust, and odor which would be magnified if a more remote location had been proposed.** A condition has also been added which limits the project size to no more than 25 percent of the site without prior Board of Supervisors approval. This condition, in addition to requiring Board of Supervisors approval of any proposed expansion of the facility or specially permitted use which is not specified in this application, insures that the project scale is consistent with the surrounding natural and rural character of the area. **This proposal is consistent with the Rural Lands designation.**

Land Use Standards

Rural Land Use standards call for the natural, wooded, and rural character of the County to be preserved with particular attention given to locating structures and uses outside of sensitive areas, maintaining existing topography, vegetation, and tree lines to the maximum extent possible and limiting the height of structures to an elevation below the height of surrounding mature trees. This proposal would maintain an undisturbed 150-foot buffer along the eastern property line nearest adjacent residential homes and an undisturbed 50-foot buffer along the western property line bordering Interstate 64. A second rural land use standard seeks to minimize visual impact from public roads and not disturb agricultural/forestral uses. This proposal seeks to retain the wooded rural character of the site to the greatest extent possible by locating all operations interior to the site and by requiring the clearing of only 25 percent of the site. In addition, the use does not prevent most of the site from being returned to forestry use should the wood processing and manufacturing operation cease. The proposed use is similar to a forestry type use in that it involves handling and cutting of timber and the use of heavy trucks and equipment.

The noise generated on the site through the daily operations of trucks and equipment are typical for rural areas. The tub grinder itself makes less noise than a tractor. Unlike an agricultural operation, the tub grinder which would be used on the site will only be necessary when the applicant has accumulated sufficient material on site to justify the expense of leasing the equipment. The applicant anticipates that this will only occur every other month and use of the grinder will only be necessary for a few days at a time. The typical daily noise volume generated on adjoining areas will not be significantly different than the noise levels generated by the Interstate on any given day. **This proposal meets these land use standards.**

RECOMMENDATION

The Planning Commission conducted three public hearings on this application and received a significant number of comments at each of the hearings. A substantial amount of written information was received from citizens and interested parties and has been included as attachments to this report. **Significant changes were made to the conditions over the course of the three public hearings to address questions and concerns raised by Commission members and citizens.** Several conditions were added and others were revised to clarify areas of concern raised during the public hearings. Staff consulted with several agencies who would be required to review a site plan for this proposal should the Board of Supervisors approve this application and incorporated language into the conditions which addressed their areas of concern. At the request of the Planning Commission, several conditions were revised to require Planning Commission approval of such items as the location of the 2.5-acre wood material storage area, the location of the tub grinder, and the maximum height of stored wood materials. **It is important to note that several of the recommended additions and changes to the conditions rely heavily upon the good faith of the applicant to comply with the terms of the restrictions.** Staff would find it difficult to adequately monitor conditions which limit source material, limit the transport of material to vehicles registered to Hertzler Clearing and Grading, restrict the height of materials stored on the site, and eliminate the use of groundwater and chemicals in the decomposition process. **Condition No. 14 would allow staff to rescind the special use permit if any of the conditions were proven to have been violated.**

Staff finds the proposal, with the attached conditions, generally consistent with the surrounding zoning and development and generally consistent with the Comprehensive Plan. Staff recommends the Board of Supervisors approve this application with the conditions found in the attached resolution. At its August 7, 2000, meeting, the Planning Commission concurred with staff and voted to recommend approval of this application by a vote of 6 to 0, with one absence.

Should the Board of Supervisors wish to approve this special use permit, staff and the Planning Commission recommends the following conditions:

1. Construction on this project shall commence within 24 months from the date of approval of this special use permit or this permit shall become void. Construction shall be defined as securing permits for land disturbance, building construction, clearing and excavation, and the pouring of footings.
2. An erosion and sediment control and runoff management plan shall be approved by the Environmental Director prior to final site plan approval. This plan shall also address the method of containment for the materials in the wood processing area and stabilization of the berms. All required State permits shall be acquired prior to final site plan approval.
3. This permit shall allow the construction of a 5,000-square foot office/warehouse, the storage and repair of Hertzler Clearing and Grading vehicles and heavy equipment, the storage of cleared stumps and wood material, and the grinding of stumps and wood material into mulch. The total disturbed area for this project, including the location of the office/warehouse, vehicle and equipment storage and repair area, and 2.5-acre wood storage, manufacturing, and processing area, shall not exceed 25 percent of the site, except with prior approval of the Board of Supervisors. No portion of the project shall be located within 400 feet of Barnes Road with the exception of the entrance road.
4. The location of the disturbed area shall be approved by the Director of Planning or his designee prior to final site plan approval.
5. The storage, manufacturing, and processing of wood, mulch and wood materials shall be limited to a 2.5-acre area identified on a site plan to be approved by the Development Review Committee. The use of groundwater or chemicals shall not be used to aid in the decomposition of material.
6. The sale of wood, mulch, or wood materials shall not be permitted on the site.
7. The use or operation of the tub grinder shall be permitted only between the hours of 8:00 a.m. and 6:00 p.m., Monday through Saturday. Stumps and other accumulated material contained within the 2.5-acre area for storage, manufacturing, and processing of wood, mulch and wood materials shall be ground into mulch a minimum of four times and a maximum of six times per calendar year. Operation of the tub grinder shall be limited to a maximum of 15 days per calendar year with a minimum of 30 days elapsing between each usage. The applicant shall be required to submit written notification to the Planning Director a minimum of one week prior to each usage of the tub grinder.
8. The tub grinder shall be located so as to minimize potential adverse impacts on adjacent properties including, but not limited to noise, dust, debris, and odor. The final location for the tub grinder shall be shown on a site plan to be approved by the Development Review Committee.
9. A minimum 150-foot undisturbed buffer shall be provided along the eastern property line and a minimum 50-foot buffer shall be provided along the western property line adjacent to Interstate 64. The buffers shall contain enhanced landscaping, so that the required number of plant material equals at least 133 percent of the County's Landscape Ordinance requirements with at least 33 percent of the required number of trees being evergreen. The landscaping plan shall be approved by the Director of Planning or his designee prior to final site plan approval.
10. All traffic improvements required by the Virginia Department of Transportation or the Development Review Committee along Barnes Road (Route 601) shall be installed or bonded prior to issuance of a certificate of occupancy for any structure on the site.

11. The storage and repair of vehicles and heavy equipment on the site shall be limited to vehicles and equipment registered to Hertzler Clearing and Grading. No vehicles shall be allowed to transport wood, mulch, or wood materials onto or off of the property except those registered to Hertzler Clearing and Grading. No more than ten vehicles shall be used as part of this commercial operation and no more than four shall be used to transport materials onto or off of the property.
12. Source material to be transported onto the property for storage, manufacturing, and processing shall be limited to materials cleared, gathered, or removed from Hertzler Clearing and Grading residential and commercial job sites.
13. A maximum height for accumulated stumps, mulch, and other wood materials contained within the 2.5-acre wood storage, manufacturing, and processing area shall be identified on a site plan containing a line of sight cross section to be approved by the Development Review Committee. The line of site cross section shall also identify the finished grade of the 2.5-acre wood storage, manufacturing, and processing area.
14. This special use permit is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

Christopher M. Johnson

CONCUR:

O. Marvin Sowers, Jr.

CMJ/gb
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Attachments:

1. Unapproved Planning Commission Minutes of the August 7, 2000, meeting
2. Planning Commission Minutes of the July 5, 2000, meeting
3. Planning Commission Minutes of the June 5, 2000, meeting
4. Location Map
5. Planning Commission Rural Lands Transition Policy
6. Noise Levels in our Environment Fact Sheet; source: League for the Hard of Hearing
7. Sound Test Sites and Results, May 12, 2000
8. Memorandum received from Deputy Fire Marshall Joe Davis, June 15, 2000
9. Resolution