

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

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| 1. <u>ROLL CALL</u><br>Jack Fraley<br>Ingrid Blanton<br>Donald Hunt<br>George Billups<br>Jim Kennedy (arrived late)<br>Mary Jones<br>Wilford Kale | <u>ALSO PRESENT</u><br>Marvin Sowers, Planning Director<br>Leo Rogers, County Attorney<br>Matthew Arcieri, Senior Planner<br>Toya Ricks, Administrative Services Coordinator |
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2.     MINUTES

Mr. Fraley corrected page 4....“vote 5-0 (Kennedy absent; Kale abstained)” and page 11...Fraley “would” support.

Ms. Jones corrected page 3...spelling of “Committee”, “New Town”, “environmental.”

Ms. Blanton corrected page 4...spelling of “environmental” and page 10.....spelling of “Mr. Krapf”.

Mr. Kale motioned to approve the minutes as amended.

Mr. Fraley seconded the motion.

In a unanimous voice vote the minutes were approved as amended (6-0, Kennedy absent).

3.     COMMITTEE AND COMMISSION REPORTS

A.     DEVELOPMENT REVIEW COMMITTEE (DRC)

Mr. Fraley presented the report. The DRC considered 7 cases at its June 1<sup>st</sup> meeting. Six of the cases were deemed routine and unanimously recommended for preliminary approval pending agency comments: Stonehouse - The Fairways, Stat Services, Williamsburg Indoor Sports Complex Expansion, Warhill Sports Complex – Basketball Facility, New Town – Neighborhood Green Site, and the proposed third high school. A follow-up meeting will be held on Wednesday, June 8<sup>th</sup> to discuss concerns about the feasibility of the design for the high school to meet future expansion needs and provide adequate athletic fields.

Mr. Kale motioned to approve the report.

Ms. Blanton seconded the motion.

In a unanimous voice vote the report was approved (6-0, Kennedy absent).

B. OTHER COMMITTEE REPORTS - None

4. PUBLIC HEARINGS

- A. Z-4-05/SUP-7-05 New Town, Langley Federal Credit Union
- B. Z-7-05/MP-5-05 Jamestown Retreat
- C. Z-9-05/MP-6-05 Governor's Grove
- D. Z-8-05 Williamsburg Wicker and Rattan Retail Center
- E. Z-6-05/MP-4-05 Warhill Tract
- F. SUP-4-05 Christian Life Center Tower

Mr. Hunt stated that the applicants for items 4-A through 4-E requested deferral of those cases until the July 11<sup>th</sup> meeting. The applicant for item 4-F requested an indefinite deferral.

Mr. Hunt opened the public hearing.

Mr. Kale stated his concerns about a by-right tower on the Christian Life Center site. He requested staff to investigate any potential problems.

Mr. Sowers talked about the height requirements for towers and stated that staff would investigate the matter.

Mr. Hunt asked if the tower would be camouflaged.

Mr. Sowers said the applicant had not submitted a final design proposal.

Mr. Fraley stated his agreement with Mr. Kale's comments.

Mr. Billups spoke about a previous cell tower application. He suggested that the Commission and Board consider the future of towers in the County and be equitable in applying the policy.

Mr. Hunt stated that with the changes in technology the policy concerning towers continues to be an on-going process.

Mr. Sowers briefed the Commissioners on the history of the Wireless Communications Facilities Policy and related Ordinance.

Mr. Kennedy said the need for such facilities increases as the demand for cellular phones continues to rise.

Mr. Sowers mentioned an Initiating Resolution concerning Wireless Communications Facilities in the R-4 District that the Commissioners would be asked to consider later in the evening.

Hearing no requests to speak, the public hearings were continued to July 11, 2005 except Case No. SUP-4-5 Christian Life Center Tower which was indefinitely deferred.

G. AFD-7-86 Mill Creek – Andrews Addition

Mr. Matthew Arcieri presented the staff report. Eugene and Mary Andrews have applied to add 102.85 acres into the existing Mill Creek Agricultural and Forestal District (AFD). On May 26, 2005 the AFD Advisory Committee recommended approval. Staff also recommended approval.

Mr. Kale asked about the portion of the parcel adjacent to North Riverside Drive.

Mr. Arcieri said the parcel is a flag lot with 25 feet of road frontage on North Riverside Drive.

Ms. Jones asked Mr. Arcieri to explain the AFD program.

Mr. Arcieri explained that in exchange for a reduction in property taxes a landowner agrees to place certain restrictions on the development of their property.

Mr. Sowers added that it is a tool used by the Board and County to preserve open space, farmland, and woodlands.

Mr. Hunt said that the policy also added protection to landowners against encroachments from easements.

Mr. Kale asked about the location of the Mill Creek District.

Mr. Arcieri showed the District on the location map.

Mr. Hunt opened the public hearing.

Hearing no request to speak, the public hearing was closed.

Mr. Kennedy motioned to approve the application.

Ms. Jones seconded the motion.

In a unanimous roll call vote, the motion passed (7-0). AYE: Hunt, Jones, Fraley, Blanton, Kennedy, Kale, Billups (7); NAY: (0).

H. ZO-3-04 Zoning Ordinance Amendment – Mixed Use Fast Food

Mr. Matthew Arcieri presented the staff report. Mr. Arcieri stated that during a review of recent Mixed Use Rezoning cases Staff discovered the omission of fast food restaurants. In December 2004 the Planning Commission Policy Committee recommended that fast food restaurants be included as a Specially Permitted Use. Staff recommended approval.

Ms. Blanton asked if there had been discussions on drive-thrus.

Mr. Arcieri said he thought the Committee's primary concern was that impacts of fast food restaurants including their drive-thru lanes could not be mitigated through the by-right development process and that Planning Commission and Board review would allow mitigation of such impacts.

Ms. Blanton asked for examples of developments where this has been an issue.

Mr. Arcieri named the current and recently approved Mixed Use Districts.

Ms. Blanton commented on the varying degrees of vehicular, pedestrian, and bicycle traffic among the Districts.

Mr. Arcieri said that he thought the concern was that Districts with less formal design review processes would not be able to mitigate impacts as well as those with a more formal process.

Mr. Billups said that a by-right use would not allow the same amount of control over impacts. He said the SUP process allows for appropriate mitigations based upon the needs of the surrounding area.

Mr. Hunt opened the public hearing.

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

Mr. Kennedy abstained from voting stating his involvement in the restaurant business.

Mr. Fraley motioned to approve the application.

Ms. Blanton seconded the motion.

On a roll call vote, the vote was (6-0-1). AYE: Billups, Kale, Fraley, Blanton, Jones, Hunt (6); NAY:(0); ABSTAIN: Kennedy (1).

I. ZO-3-05 Zoning Ordinance Amendment – Zoning Fee Change

Mr. Arcieri presented the request. Staff prepared a proposal to increase rezoning acreage fees, remove the cap on rezoning fees and to increase fees for residential site plan review. The fee increase was estimated to generate \$30,000 in additional revenue which was included in the Fiscal Year 2006 budget approved by the Board of Supervisors. Staff recommended approval.

Mr. Kennedy asked about the steep increase in fees.

Mr. Arcieri stated that after reviewing all the Division's fees staff felt the rezoning fees and residential site plan were the only ones that could be increased and still be competitive.

Mr. Sowers added that the Division was asked by the Board to identify fees that have some room for adjustment. He stated that the fees were high when compared with surrounding localities. He also stated that the proposed fees were within the range of other Virginia localities that are attempting to recover a larger percentage of staff services for development review.

Mr. Kennedy wanted to know if other localities had a cap on rezoning fees.

Mr. Arcieri did not know if a cap existed in other localities.

Mr. Kennedy felt the proposal was punitive to larger landowners who, after having kept their property rural, might now find themselves having to develop it.

Mr. Arcieri told the Commissioners that the Board asked staff specifically to consider removing the rezoning cap. He stated that he understood the reasoning to be that larger acreage means larger staff workload and resources.

Mr. Billups asked if the purpose of the increase was staff pay or retarding growth. He also stated that he had a problem with charging to compensate for staff services.

Mr. Sowers answered that staff was trying to identify a figure to generate revenue and did not have any goals relative to growth.

Mr. Kennedy confirmed that the increase would fund the \$30,000 newly created half-time position. He also stated that he felt the funds could be found somewhere in the County's \$135.2 million budget.

Ms. Blanton said if fees had to be increased then this proposal was more appropriate than the previous request. She said she agreed with Mr. Kennedy that imposing fees was not an appropriate way to address budgetary needs.

Mr. Fraley agreed with Mr. Kennedy and Ms. Blanton. He said the proposal would make the County extremely non-competitive with Williamsburg and York County especially at the 10 acre level. He asked about a comparison with other localities on residential fees.

Mr. Arcieri said he thought James City County was on the higher end of those fees as well.

Mr. Sowers said that residential site plan fees were calculated differently in the different localities making comparison more difficult.

Mr. Kale asked the rationale behind instituting the \$15,000 rezoning cap initially.

Mr. Sowers assumed it was put in place so as to not be unfair to large landowners and to keep fees more competitive.

Mr. Hunt thought it might have been to limit the punitive nature on large developments.

Mr. Kennedy pointed out the resignation of Senior Planner, Chris Johnson, and other Planners recently. He encouraged the Board to look at the quality of people that are being lost and to start paying staff accordingly and to look at upward mobility for them. Mr. Kennedy recommended the County find a way to fund the \$30,000 half-position and other positions as well.

Ms. Jones also stated her concern with funding a position through fees. She asked what would happen if the fees generate an overage or shortfall or if the position were eliminated.

Mr. Arcieri and Mr. Sowers explained that the funds are deposited into the General Fund which funds all the County departments so that any overage or shortfall would be absorbed into the County budget. Mr. Sowers also said the fees would not be reduced if the position were eliminated absent any Board or Commission action.

Mr. Hunt opened public hearing.

Mr. Robert Duckett, Peninsula Housing and Builders Association (PHBA) Director of Public Affairs, stated that the group was not opposed to increased fees when the increase is tied to the administrative costs of providing a service, but this was not the case. Mr. Duckett recommended the request be denied.

Hearing no other requests, Mr. Hunt closed the public hearing.

Mr. Kennedy said that fee increases, when needed, should be adjusted according to need and included as a part of the budget. He also said he needed more information on other localities, but could consider a cap of \$20,000.

Mr. Billups stated that salaries should be included in the budget. He said he could consider increasing fees if the cap were maintained.

Mr. Kale stated that he did not like the proposal. He suggested a base fee of approximately \$650 with a cap of approximately \$20,000.

Ms. Blanton said she did not think this was an appropriate way to fund the position.

Mr. Fraley motioned to deny the request.

Mr. Kennedy seconded the motion.

The request was denied by a unanimous voice vote. AYE: Billups, Kale, Fraley, Blanton, Jones, Kennedy, Hunt (7); NAY (0).

## 5. PLANNING DIRECTOR'S REPORT

Mr. Marvin Sowers presented the Planning Director's Report. Mr. Sowers stated staff's request for approval of an Initiating Resolution to consider a Zoning Ordinance amendment to permit wireless communications facilities in the R-4 Zoning District with a Special Use Permit.

Mr. Billups and Mr. Sowers discussed possible scenarios.

Mr. Fraley asked if any towers would be allowed by-right or if all towers would require Special Use Permits.

Mr. Arcieri said that the types of towers that are currently allowed by-right would continue to be allowed by-right.

Mr. Kale wanted to know what the amendment would allow.

Mr. Arcieri said that approval of an SUP by the Board would allow wireless communications facilities in excess of 120 feet.

Mr. Sowers said the amendment would make the District consistent with other Master Planned Communities.

Ms. Blanton clarified that Commissioners were only considering the Initiating Resolution.

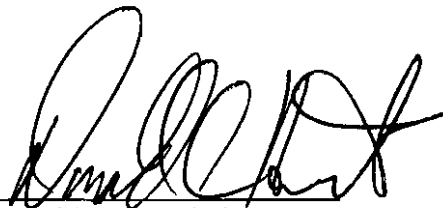
In a voice vote the resolution passed (6-1). AYE: Hunt, Jones, Blanton, Fraley, Billups, Kennedy (6); NAY: Kale (1).

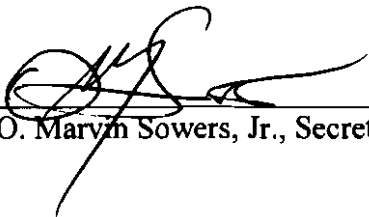
Mr. Sowers informed the Commissioners that three new staff members have been hired to fill recent vacancies and that recruiting was underway for two up-coming vacancies.

Mr. Billups pointed out that one of the up-coming vacancies was a new position that the Board approved and funded.

7. ADJOURNMENT

There being no further business, the Planning Commission meeting was adjourned at 9:04 p.m.

  
Donald Hunt, Chairman

  
O. Marvin Sowers, Jr., Secretary