

**New Kent County  
Planning Commission  
Minutes**  
Monday, March 18, 2002

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Chairman Mark Daniel called the meeting to order.  
Members Present:

Louis Abrams	Present
David Frank	Present
Reverend Hathaway	Present
Julian Lipscomb	Present
Edward Pollard	Present
Marty Sparks	Present
Robert Stroube	Present
Jay Hubbard	Present
James Wallace	Present
Isabell White	Present
Mark Daniel	Present

Also Present:

George Homewood, Planning Director  
Theresa Carter, Planning Technician  
Phyllis Katz, County Attorney  
Courtney Jones, Environmental Planner  
Lamont Myers, Economic Analyst  
Kenneth Vaughan, Zoning Administrator

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IN RE:           ROLL CALL AND ESTABLISHMENT OF A QUORUM

Chairman Daniel asked for roll call and established that there was a quorum.

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IN RE:           MINUTES

Mr. Daniel moved that the minutes of the February 19, 2002 meeting be approved as submitted. Mr. Abrams seconded the motion. Motion adopted unanimously by voice vote.

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IN RE:           CONFIRM BYLAWS

Mr. Frank made a motion to adopt the By-Laws, which was seconded by Reverend Hathaway. Motion adopted unanimously by voice vote.

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IN RE: PUBLIC COMMENT

None.

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IN RE: UNFINISHED BUSINESS-CONTINUED PUBLIC HEARING

CUP-7-01

Mr. Homewood reported that the applicant, VoiceStream Wireless, withdrew the application and no further action by the Planning Commission was required.

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IN RE: PUBLIC HEARING

ZM-2-02 Beattie Charters L. C.

*Beattie Charters L. C. has applied to rezone 5.046 acres of property from A-1 to M-2. The subject property is located on the south side of Eltham Road (SR 33) approximately 2 miles east of its intersection with New Kent Highway (SR 30 and 249) and is further identified as a portion of tax map parcel 27-11. The County's Land Use Plan designates this area for industrial uses.*

Mr. Homewood gave the staff report and stated that the staff recommends approval.

Mr. Wallace opened the citizen comment. There being no comment, the public portion was closed.

The applicant was asked for a timetable to demolish the old building on the property. Mr. Beattie responded that he planned to take care of that as soon as possible, that the old building would be demolished as soon as the necessary permits are obtained.

Mr. Frank moved to forward the application to the Board of Supervisors with a favorable recommendation. Mr. Sparks seconded. Motion carried by a roll call vote of 11-0-0.

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ZO-1-02

*This application, sponsored by the Planning Commission, requests consideration of an amendment to Section 98-706 of Chapter 98, Zoning, of the New Kent County Code to provide opportunities for a wide variety of entertainment uses in the Equestrian Planned Unit Development to be authorized via a use permit.*

Mr. Homewood gave the staff report and stated that the staff recommends approval.

Mr. Wallace opened the public comment.

Burt Sharmin Lives close to Colonial Downs. Stated that he is concerned about the traffic and noise that Motorcycle Racing and concerts would produce.

Mr. Wallace closed the public portion of the hearing.

After a lengthy discussion in which it was noted that a use permit would be required for any entertainment uses, Mr. Frank moved to adopt Resolution Number PC -6-02. The motion was seconded by Mr. Wallace, and was carried by a roll call vote of 11 -0-0.

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ZO-2-02 Telecommunications Co-locations

*The Planning Commission sponsored this amendment to the Zoning Ordinance in order to facilitate the permitting of certain telecommunications co-locations that are of a mature and form that should be encouraged in the County. These changes arose in response to an application (CUP-1-02), SBA Network Services, Inc.) for a conditional use permit to place a monopole single-tenant wireless Communications Tower inside an existing Dominion Virginia Power electrical transmission tower.*

*The application raised two issues. The first was whether in fact that telecommunications tower was the type that was to be brought before the Board through the formal conditional use permit process. It is a tower under the literal definition of that term in the Zoning Ordinance, but it is not a stand-alone tower-it is a tower constructed within an existing structure. An interpretation of the Zoning Ordinance was that a use permit was required because the pole extended into the ground, thereby meeting the literal definition of a "tower."*

*The second issue is that the Zoning Ordinance requires that the telecommunications tower be engineered to allow no fewer than 4 full antenna arrays. To do so is tantamount to denial because the system in use cannot be so engineered and even if it could, Virginia Power will not permit more than a single array per tower. This is also true in the case of camouflaged towers that are made to look like something else.*

Mr. Homewood gave the staff report and stated that the staff recommends approval of the co-locations and also of camouflaged towers (such as those that appear to be of the trees).

Mr. Wallace opened the public portion of the hearing. There being no comment, the public portion was closed.

In regards to camouflaging and any heights above the tree line, several members indicated that visuals would be helpful, and that case-by-case public comment may be necessary. The discussion centered on page 3, item 17 1 a. (2) of the proposed resolution PC-5-02 *facilities that are constructed to be camouflaged and which, in fact, harmonize with the existing landscape, structures, and views provided that the height does not exceed 125' and/or does not exceed the average height of the perceived tree line from the road by more than 12.5% whichever is the lesser height.*

Mr. Frank moved to adopt Resolution Number PC-5-02 with the exception of paragraph 17 1 a. (2), to recommend approval of the proposed amendment to the Zoning Ordinance but not authorizing the use of camouflaged towers in the County. Mr. Sparks seconded the motion. The roll call vote was 10-1-0 with Ms. White voting no.

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CUP-2-02: Colonial Downs Ancillary Uses

*Colonial Downs has requested a use permit to authorize a large number of ancillary activities at the facilities located at Colonial Downs including the following: Antique Shows, Automobile Exhibitions, Automobile Racing, Automobile Test Drive Demos, Balloon Shows, Bicycle and BMX Racing, Camping, Circus, Concerts, Conferences, Conventions, Craft Shows, Exhibitions, Expos, Fairs, Festivals, Fireworks, Flea Markets, Gun Shows, Horse Shows, Laser Light Shows, Marathon Races, Motorcycle Racing, Polo Matches, Rodeo, Dog Shows, Horse Shows, Skydiving Exhibitions, Sporting Events, Trade Shows/Sales (Auto, RV, Boat, etc.), Weddings, Private Parties, Wrestling/Boxing. The subject property is located at 10500 Colonial Downs Parkway and is further identified as tax parcel 33-6. The property is zoned Equestrian Planned Unit Development.*

Mr. Homewood gave the staff report and stated that the staff recommends approval.

Mr. Daniel asked if the applicant had removed the Motor Racing, to which Mr. Homewood replied that the applicant had removed it from this request. The applicant, Jerry Monahan, Senior Vice President of Colonial Downs indicated that he had the full support and endorsement from neighboring Brickshire. He chose to withdraw Motorcycle Racing in order to move the application along. Mr. Hubbard inquired about security at the events to which Mr. Monahan replied that Colonial Downs has a 24-hour security staff, which was supplemented with local law enforcement such as off duty County police officers and the New Kent County Sheriff's Department.

Mr. Wallace opened the public portion of the hearing.

Phillip Felts Represents the New Kent County Fair Association. This is the third year that the association has used the Colonial Downs facilities. He stated that the problems associated with using the local high school for the event, such as traffic, were nonexistent at Colonial Downs, and that with the additional space, they will expand this year. The Association offered its support of the application.

Mr. Wallace closed the public portion of the hearing.

After a brief discussion, Mr. Lipscomb made a motion to add a requirement *that a pari-mutuel horseracing license is current and valid*, to adopt Resolution Number PC-2-02, which forwards the application to the Board of Supervisors with a favorable recommendation. Mr. Frank seconded the motion. The roll call vote was 9-2-0. Mr. Wallace and Mr. Hubbard voted no.

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IN RE: NEW BUSINESS

S-1-02: Deerlake Subdivision, Section B

*G & G Limited has submitted an application for subdivision plan approval for a 36.122-acre portion of a 137.5-acre parcel to be developed as 44 residential lots under the terms of the R-1 zoning district. The subject property is located on the east side of SR 612 (Tunstall Road) immediately north of Section A of Deerlake and further identified as a portion of tax map parcel 10-51.*

The Planning Department was awaiting comments from the Health Department and the Virginia Department of Transportation and could not move forward until those comments had been received.

No action by the Planning Commission was required.

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IN RE: CHAIRMAN'S REPORT

None given.

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IN RE: RRPDC REPORT

None given.

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IN RE: STAFF REPORT

Lamont Meyers provided copies of his March 14, 2002 memorandum to George Homewood, Review of County Code, and his Outline of Draft Zoning Matrix. After reviewing the material with the Commission members, it was decided that any discussion or comments will heard at the next Planning Commission meeting.

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IN RE: MEETING SCHEDULE

Mr. Homewood announced the next regular meeting is scheduled at 6:00 p.m. on Monday, April 15, 2002, in the Board Room of the County Administration Building at which time there will be a number of presentations. Reverend Hathaway requested that future meetings (after April) not begin prior to 7 p.m.

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ADJOURNMENT