

**New Kent County
Planning Commission
Minutes**

Monday, May 19, 2003

Chairman Hathaway called the meeting to order.

Members Present:

Louis Abrams	Present
Jack Chalmers	Present
Mark Daniel	Present
David Frank	Present
Howard Gammon	Present
Jay Hubbard	Present
Milton Hathaway	Present
Julian Lipscomb	Present
Edward Pollard	Present
Marty Sparks	Present
Robert Stroube	Present

Also Present:

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

IN RE: ROLL CALL AND ESTABLISHMENT OF A QUORUM

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

IN RE: MINUTES

Mr. Frank moved that the minutes of the April 22, 2003 meeting be approved, seconded by Mr. Abrams. Motion adopted unanimously by roll call vote.

IN RE: PUBLIC COMMENT

None.

IN RE: UNFINISHED BUSINESS

BY-LAWS: SPECIAL RULES OF ORDER

A list of ten Special Rules of Order were presented at the January meeting by the By-law Review Committee and were intended to be adopted at the March meeting with the revised by-laws. The Rules were, however, overlooked. Mr. Frank made a motion to adopt the Special Rules of order and Mr. Sparks seconded the motion. Mr. Daniel expressed his opinion that the Chairman should retain a neutral position during discussion and that in order to take an active part the Chair should be relinquished to the Vice-Chair. Mr. Daniel made a substitute motion to adopt the Rules with the exception of rule #7. Mr. Pollard seconded the motion. Mr. Frank stated that, historically, the Chairman has been able to participate in discussions without relinquishing the Chair and he saw no reason to change that. Reverend Hathaway added that he felt it was important that the Chair have the benefit to make comments like any other Commission member in order to be able to represent the citizens in his or her district. The substitute motion was defeated by a roll call vote of 1:10 with only Mr. Daniel voting yes. Reverend Hathaway then called for the vote on the original motion; it passed 11:0.

IN RE: PUBLIC HEARINGS

COMPREHENSIVE PLAN

Consider certifying an entirely revised Comprehensive Plan to the Board of Supervisors incorporating background information, goals, objectives, and implementation strategies with both text and maps including resource protection, transportation, public utilities, economic development, housing, and land use

Lamont Myers reviewed the public input process during the revising of the Comprehensive Plan over the last two years. This review included chronologies of the public notices that were advertised and public hearings held.

Mr. Myers outlined the significant revisions to the proposed Plan since the March meeting. The revisions are the result of both Commission and public input and have been incorporated in the draft Comprehensive Plan dated May 1, 2003. He reviewed the 3 areas in which the Commission needed to reach consensus, all of which concern the Land Use Map:

- o Talleyville
- o Bottoms Bridge Area
- o Routes 30/33/632 Corridor

Staff recommended any of the three options for Talleyville, Alternative 1 for the Bottoms Bridge Area, and Alternative 1 for the Routes 30/33/632 Corridor. Staff further recommends that the Commission certify the proposed Comprehensive Plan and forward it to the Board of Supervisors with a recommendation for approval.

Mr. Sparks opened the citizen comment portion of the hearing.

Chuck Rothenberg Representative for the applicant, stated that the proposed Black Creek Reservoir might become an issue for the project. It has been shown on the Comprehensive Plan for a number of years; its purpose would be to supply water to New Kent County and the city of Newport News. There is now only a remote possibility that the reservoir will be approved. He went on to say that, if constructed, it would destroy approximately 88 acres of wetlands and require an enormous amount of money to mitigate

those wetlands. In addition, there is no drainage shed to fill the reservoir and it would take, according to Mr. Rothenberg, 50 years to fill the reservoir to 43% with the water coming from the Pamunkey River. He stated that he was ready to submit a study completed by Resource International that would explain how to use the Pamunkey River as an alternative to the reservoir. He encouraged the Commission to move ahead with the Comprehensive Plan but to defer voting on those sections pertaining to the Black Creek Reservoir and the land use designation for the area that will contain the proposed Farms of New Kent.

- Rolf Lusk Recently purchased property for a home site on Route 632. He stated that prior to buying the parcel he was assured by the Planning Department that the property would remain agricultural. He expressed his concern that the surrounding property could be used for industrial purposes.
- Lisa Guthrie New Kent Resident who served on the Comprehensive Plan Citizens Advisory review Committee, gave her support of the proposed plan, and would like Commission to recommend approval.
- John Zeugner Resides in Richmond, works as a certified planner dealing with environmental as well as smart growth issues. Gave his full support of the plan, calling it well-balanced, well thought out and a very good plan overall.
- John Crump New Kent County Commissioner of the Revenue, spoke in support of the Plan. Requested the Commission to consider the citizens already here in New Kent, what their needs and goals are. He expressed concern over the possible use of the Pamunkey River in connection with the proposed Black Creek Reservoir.
- Tom Klein Attorney with Troutman Sanders, LLP representing the Shannon family. Strongly encouraged the approval of Alternative 2 for the Talleyville portion of the Land Use Map. Stated that the property owners will endorse this alternative.
- John Finney Lives on Stage Road, son also lives on Stage Road. Concerned about a racetrack coming to their area, that the Economic Opportunity Land Use designation will allow that type of use. Also concerned that property values will be affected.
- Jim Hopkins Lives on Kentflatts Road, does not approve of the Economic Opportunity designation for that area.
- Gordon Martin Lives on Duck Carvers Road. He is against the subcommittee recommendation of the expanded Economic Opportunity area for the Routes30/33/632 Corridor. He would support the original Economic Opportunity area as found in the December 2002 draft Comprehensive Plan.
- William Lawhorne Lives on Stage Road, stated that he understood the need for economic growth and supports the original plan. He believes that the subcommittee recommendation is wrong and that he is concerned about opportunists coming in and doing things that they should not be able to do.

Ron Sherenko Lives on Stage Road, recently purchased his home as a good place to raise 2 small children, ages 4 and 8. Wants to be able to enjoy his property and would like his neighbors to enjoy their property as well. He does not support the expanded Economic Opportunity recommended by the subcommittee.

Billy Cunningham Concerned that the Village designation does not extend as far as the Nellie Custis Motel and wondered if that had been revised. (Mr. Myers responded that there had been no change, that the Village designation does extend to the motel.)

Jeffery Boothe A partner in Dominion Land Ventures that owns 628 acres near Route 33. Requested that the Commission retain the current designation as defined in the May 9, 1994 Comprehensive Plan as a combination of heavy industrial, light industrial, commercial, and agricultural use. During discussions with County staff, the County identified the 628-acre parcel as suitable for the goals of Dominion Land ventures as well as the County's goal for the area under the Route 33 Area Plan. Based on this information, the property was purchased. Mr. Boothe stated that he understands the need for periodic changes in the Comp Plan, but that it is entirely different to change a Plan designation from Industrial and Commercial to Economic Opportunity as opposed to a change from Industrial and Commercial to Rural Housing. The change to Rural Housing undermines the faith that future landowners may have in Comprehensive Plans. The group had intended to fully support the proposed Comprehensive Plan, but would not be able to support a change to Rural Housing in the Route 33 area.

Patrick Hester Stage Road resident since 1996, concerned about the change in Land Use in his neighborhood to Economic Opportunity and quoted from the April Planning Commission minutes that "...Economic Opportunity is not a downzoning from M-1 but rather an upzoning as it allows more uses than M-1. Other uses could be approved with a conditional use permit." This left Mr. Hester with a feeling that the EO class allows the County more flexibility with regard to allowing almost anything that falls in this category. Wants stress the importance of holding the County accountable to buffer residents from any negative affects of heavy industry. Concerned that the peace and serenity enjoyed by the residents will be lost if adjacent propertied are opened up to almost any type of business.

Ed Tober Read a letter on behalf of Franklin and Brenda Woods who have lived in the Sutton Forest subdivision since 1999. The Woods are vehemently opposed to the Economic Opportunity designation for the Route 33/30 area, calling its use a reckless disregard for the residents along Polish Town Road. Added that the County should not have allowed residences in the area if businesses were intended. Concerned about the impact on property values, as well as the effect from the noise, pollution, and traffic congestion resulting from businesses. Does not support a motor sports park in the area.

Doug Cash Is in the process of buying property in New Kent, enjoys the outdoors, does not want to hear motor cars, does not want to be disturbed by the noise generated by a motor sports park. Action by the Commission will greatly influence his purchase of the property.

Leonard Waltz Owns property on Stage Road, looked at Comprehensive Plan prior to purchasing the property, wants Commission to approve the expanded Economic Opportunity area for the Route 33 area, thinks the County needs the additional revenue industry would bring to that area.

Chris Waltz Has attended meetings concerning the proposed Comprehensive Plan over the last 8 months and wished everyone had been attending. His family has purchased approximately 126 acres on Stage Road classified as Light Industrial in the current Comprehensive Plan. He is in support of the (expanded as per the subcommittee recommendation) April 2003 option for the Route 30/33 area Land Use Map.

Isabel White Unhappy with the Agricultural and Forestal Land Use designation wants to keep things rural but current definition takes away development rights without compensation. Urges the Commission to change all of the property to be designated Agricultural and Forestal to Rural Lands.

Julia Caples Resident on Stage Road since 1989 and has watched the area go through clear cutting to residential development. Hopes that the Commission is taking environmental impacts as well as the historic significance of the area into consideration when assigning the Economic Opportunity Designation to the Route 30/33/632 corridor. Invited the Commission members to come to her home to see what it is like to live next door on a business, and to bring a trash bag.

Scott Warren Polishtown Road resident, his 12 acres is the only parcel in a three-mile radius that has not been logged. Stated that there is only one residence on Route 33 North from I-64 to Eltham and thinks that business and industry already has a place on Route 33 near Basic Construction and proposed Wahrani Industrial Park. Does not want a tire-burning factory across from his home or a racetrack down the street. Would like to see Route 33 developed for industry and business, and not in the areas already populated.

Tom Waltz Stated that without a land use plan that allows commercial applications the county would be forced to raise taxes. Would like to see that property that he owns with his family to be designated as Economic Opportunity and supports the subcommittee recommendation for the route 30/33/632 Corridor. He stated that there were no immediate development plans for their property.

Mr. Sparks closed the public portion of the hearing.

Mr. Chalmers made a motion to adopt Alternative 2 of the Tallevsille portion of the Land Use Map. The motion was seconded by Mr. Gammon. The motion passed with a roll call vote of 11:0.

Mr. Frank made a motion to adopt Alternative 1 for the Bottoms Bridge Area portion of the Land Use Map. Mr. Abrams seconded. The motion passed with a roll call vote of 11:0.

Mr. Myers once again outlined the options for the Route 30/33/632 Corridor, stating that there had been a large amount of written correspondence regarding the Economic Opportunity designation and the area to be covered by the designation which was not intended to be a heavy industrial zone. He reiterated that staff recommended Alternative 1.

Reverend Hathaway called for a short recess at 9:04pm. The Commission reconvened at 9:18pm.

Mr. Chalmers suggested another proposal to the Route 30/33/632 Corridor. His suggestion was to incorporate the Highway Commercial and Light Industrial areas designated by the 1994 Comprehensive Plan and illustrated on the 1999 Generalized Comprehensive Land Use Plan in the vicinity of Route 632 to the east of Route 33 with Alternative 1. There was a short discussion about the residents who had built their homes on land zoned A-1 in this area and the folks who had purchased property designated commercial and industrial with the intention of using it for those purposes. In order to avoid future conflicts such as this, Mr. Myers explained to the members that it is the intent of staff to prepare a new zoning ordinance and to do a comprehensive rezoning of the County to bring it largely in conformance with the Comprehensive Plan Mr. Lipscomb made a motion to adopt a modified Alternative 1 that would incorporate the areas designated in the current Comprehensive Plan as Highway Commercial and Light Industrial that are in the vicinity of Route 632 to the east of Route 33 which will be re-designated as Economic Opportunity. Mr. Pollard seconded the motion, which passed with a roll call vote of 6:5. The vote was as follows:

Louis Abrams	No
Jack Chalmers	Aye
Mark Daniel	Aye
David Frank	Aye
Howard Gammon	Aye
Jay Hubbard	No
Milton Hathaway	No
Julian Lipscomb	Aye
Edward Pollard	Aye
Marty Sparks	No
Robert Stroube	No

Mr. Myers again addressed the Commission concerning a request to extend the Suburban Housing designation in the Lanexa area north of Route 60 and east of Route 647 and Evergreen Road to the Diascund Reservoir. A landowner whose property lies in this area made the request. Mr. Myers stated that staff did not recommend approval for two reasons, the first of which is that staff believes that there is ample suburban housing provided for in the proposed Comprehensive Plan. Secondly, staff is concerned about increased density crossing the Diascund Reservoir.

Dwight Wolf is the contract owner of approximately five hundred acres in the area under discussion. He asked the Commission to approve the request to extend the Suburban Housing designation to include his parcel.

Mr. Frank made a motion to deny the request and leave the Land Use Map as it relates to Lanexa as is. Dr. Stroube seconded and the motion passed 8:3 by a roll call vote. Mr. Daniel, Mr. Lipscomb and Reverend Hathaway cast the three no votes.

Mr. Frank then made a motion to adopt the Comprehensive Plan as amended and to request the Board of Supervisors evaluate any changes to the plan as a result of the engineer's report on the Black Creek Reservoir which the Commission received this night at 6:30 PM. He added that the Planning Department shall prepare a recommendation to the Board of Supervisors. A copy of the engineer's report will be on file in the Planning Department for anyone interested to review and copy. He also noted that this motion has no relevance to the Commission's approval on any plans submitted by the Farms of New Kent. Mr. Chalmers seconded the motion. Motion carried by a roll call vote of 10:1 with Mr. Daniel the dissenting vote.

PUD-1-03: FARMS OF NEW KENT

New Kent Farms, LLC is requesting to rezone approximately 2,800 acres from A-1 (2,200± acres), R-1 (135± acres) and M-2 (445± acres) to Planned Unit Development

Mr. Daniels declared he was abstaining from this discussion of the Farms of New Kent because of involvement in the application and removed himself from the Commission table.

Mr. Homewood gave the staff report that was designed to brief the Commission on the status of the application, which was still under review and not yet complete. He added that while there is information missing from the application, it is not unusual not to have all of the information at this level as more detailed plans are costly and are usually done after approval. He further added that at least one more meeting of the Development Review Committee had been scheduled as well as two mobile work sessions scheduled for May 22 and June 5. These work sessions will incorporate site visits to developments comparable to those proposed by the applicant. He advised the Commission that staff had no recommendation at this point and that no action would be taken at this hearing. The purpose of the public hearing was to allow New Kent County citizens and other interested parties to make comments on the application. There will be one or more public hearings scheduled on the application before the Commission makes a recommendation to the Board of Supervisors.

Chuck Rothenberg, agent for the applicant, addressed the Commission. He stated that he had received pages of very thorough and helpful staff review comments which has generated several pages of responses and agreed that there was still work to be done on the application. He reviewed their efforts to provide information to the public beginning with the Harvest Festival in October 2002 that was wholly sponsored by the applicant. Project representatives have had meetings with the New Kent Chamber of Commerce, West Point Chamber of Commerce, New Kent Ruritans and West Point Ruritans. The applicant also held public information meetings on May 6, 7 and 8, 2003 that were advertised in the New Kent Chronicle. He added that most of the project team was on hand this evening to address comments and answer any questions. Mr. Rothenberg, with the help of Pete Johns, then gave a short presentation on the Farms of New Kent that outlined the project's layout. He relayed to the Commission that Lamont Myers was in the process of completing his review of the applicant's fiscal impact study. Based on this study, according to Mr. Rothenberg, the project would provide more than enough capital to the County to pay for all of the educational impacts created by the project, including operating and capital expenses, for the 675 students residing in the Farms of New Kent. He further stated that the study shows a net positive advantage to the County of \$52 million over a twenty-three year period.

During a short discussion before opening the public hearing, Reverend Hathaway expressed his concern about a privately owned parcel near I-64 that could be landlocked. Mr. Rothenberg responded that the parcel already suffered with limited access and that access would improve when roads are developed in the project.

Mr. Sparks opened the public portion of the hearing.

Lisa Guthrie New Kent County resident, presented the Commission members with a copy of her statement. She has reservations about this rezoning that allows for approximately four thousand new residences. She is also concerned of the financial, social, cultural and environmental cost considerations of unbridled growth that will affect the quality of life in New Kent. She added that the project is not in conformity with the proposed Comprehensive Plan.

John Zeugner Richmond resident, works as a certified planner, stated that this project would be akin to dropping a baby Short Pump into the middle of the intersection of Route 106 and Highway 249. He added that this would have unequitable benefits to the community and great benefits to some people who may not even know where New Kent County is. Application has a lot of questions that need to be answered.

John Crump New Kent County resident and Commissioner of Revenue, expressed his desire to learn more details about the project. He requested a briefing on the fiscal analysis. He stated that the County receives approximately 30% of the general fund revenue is generated from businesses. There are thousands of parcels in the county already zoned for residences and over 300 parcels zoned for business, with only a small percentage of those parcels having business conducted on them. The Comprehensive Plan addresses the need to balance business growth with residential.

Steve Peterson Lives on Emmaus Church Road, just west of Land Bay III. His historic farm, Iden, was featured on the Garden Tour this year and the five hundred visitors in a single day illustrate the interest in the County's historic and cultural resources. He stated that he bought his property after thoroughly researching the Comprehensive Plan and zoning ordinance. The property is zoned A-1. He has grave reservations concerning the application and he does not believe it is consistent with the Comprehensive Plan. He went on to say that the proposal is a tract-housing subdivision, that it would not improve the County, does not benefit County residents, and it would be detrimental to the monetary and historic value of the County. A copy of his statement was placed at each Commissioner's seat prior to the meeting.

Melvin Belcher New Kent resident, lives on Pontefract Drive, and is currently building a new house on Route 106 across from the proposed project. He thinks that the plan has too many units. According to his calculations there would be one unit for every .73 acres which includes road, setbacks, wetland, community areas, and possibly the golf course. A more reasonable plan would call for 1,200 units on 5-acre home sites and up to 800 apartment units. He added that the plan would create water and school problems. The plan does not give any minimum dollar value for the homes to be constructed, which is a concern because homes of less value should not be built next door to existing higher value homes. He also asked what the impacts would be if the homes do not sell. He went on to add that the roads should be developed before the units are built and that the buffers between the proposed and existing homes need to be at least 200 feet instead of 25 feet. A copy of his statement was placed at each Commissioner's seat prior to the meeting.

Dale Wolcott Lives on Route 249 across from the parcel containing the grapevines. Invited the Commission to come and view the grapevines, then envision the 3,900 homes that would surround them.

Doug Houston New Kent resident for 24 years. He stated that the land would be developed eventually and that he would rather see growth in one small area rather than spread out with 15- and 25-acre lots. He believes that the 15- and 25-acre lot subdivisions detract from the rural nature of the County. He would like to see a guarantee that what is promised by the applicant is what is received.

Isabel Davis White Advised the Commission that they do not need to approve this project, that there are enough homes right now and businesses are needed. She also stated that the Commission's desire to designate the land near the Pamunkey as Agricultural and Forestal thereby taking away the rights of the property owners and giving an approval to this project is wrong and is "taking away from one group and giving to another".

Allen Christian Lives on Olivet Church Road, asked what would happen to Highway 249's two lanes when Route 106 is improved to 4 lanes. He stated that there are already a lot of homes on 249 and traffic in the mornings and evenings. He is concerned about the traffic that will be created when the four lanes merge in to two lanes.

Mr. Sparks closed the public portion of the meeting.

There was no discussion among the Commission members. Reverend Hathaway stated that all of the comments would be taken under consideration.

RE: NEW BUSINESS

NEW KENT COURTHOUSE SIDEWALK TEA-21 APPLICATION

Consider applying to the Commonwealth Transportation Board for a Transportation Enhancement Grant to construct, landscape, and illuminate using ornamental streetlights approximately 800 feet of pedestrian sidewalk along the south side of SR 249 (New Kent Highway) in front of New Kent Middle School and New Kent Primary School. The purpose of the application is to remove the primary public pedestrian linkage from immediate adjacency to the two schools to improve school security and student and public safety. The estimated cost of all of the improvements is approximately \$175,000 of which 80% or \$140,000 would come from federal TEA-21 funds.

Mr. Homewood presented the request to approve a draft application for a Transportation Enhancement Grant through the TEA-21 process. The grant will provide the majority of the funding to extend the sidewalk in front of New Kent Middle School and New Kent Primary School. Mr. Homewood requested that the Commission certify that the sidewalk is in conformity with the Comprehensive Plan. He stated that staff believes the sidewalk is in conformity with both the old and newly recommended Comprehensive Plan.

Dr. Stroube moved to adopt PC-11-03 and forward the application to the Board of Supervisors. Mr. Gammon seconded. The motion passed unanimously with a roll call vote.

RE: CHAIRMAN'S REPORT

Reverend Hathaway stated that the proceedings over the course of the evening demonstrated the aggressive schedule ahead of the Commission. He reminded the group that traditionally there had not been an August meeting and that there was a request not to have the August meeting this year. Mr. Homewood requested that the Commission make a decision so those applicants that may be affected could be notified. The members decided to remain flexible and leave it up to staff to make the decision whether or not to have the August meeting based on the workload.

RE: RRPDC REPORT

Mr. Daniel reported that he did attend the last RRPDC meeting and that he would make his notes available to anyone interested. He stated that there were some RRPDC personnel decisions to be made that he would like to review with Mr. Homewood and compare the RRPDC's policy to that of the County's.

RE: COMMISSIONER'S REPORT

None given.

RE: STAFF REPORT

Mr. Homewood stated that two applications had been received that would come before the Commission. The first was a use permit request from Colonial Downs to operate a motorcycle race at their facility. This would be heard at the June meeting. The second application would be the next Planned Unit Development, called Patriot's Landing, and would be located in Bottoms Bridge. The application was submitted by East West Partners. It includes 250 single family detached homes, 200 apartments, 80 townhomes and condominiums, 110 to 120 active adult units, as well as 160,000 square feet of retail space and 110,000 square feet of office space. This probably will not be before the Commission until the September meeting. It will also include a Community Development Authority application that, if approved, would be the catalyst for water and sewer in the Bottoms Bridge area.

Mr. Homewood then directed attention to the two quick reference guides to parliamentary procedure and Robert's Rules of Order. He encouraged the members to review the guides prior to each meeting. Also provided was an Urban Land Institute publication that offered a different viewpoint on what is and what is not multi-family housing.

Mr. Homewood then spoke about a zoning interpretation that he issued as Zoning Administrator with respect to the impact on existing platted lots of dedicated right-of-way to the Virginia Department of Transportation for the purpose of bringing roads into the state maintenance system. The interpretation of the ordinance is that there is nothing in the County's ordinance that is going to have a negative impact on a property owner if they dedicate the right-of-way to enable the private street to become a public road.

A mobile work session will be held on Thursday, May 22, 2003. The purpose of the work session is to conduct a site visit at the Currituck Club located in Corolla, North Carolina.

A second mobile work session will be held on Thursday, June 5, 2003. The purpose of this work session is to conduct a site visit at the Four Seasons At Historic Virginia located in Prince William County, VA.

The next regular meeting is scheduled at 7:00 p.m. on Monday, June 16, 2003 in the Boardroom of the County Administration Building.

ADJOURNMENT