

**King & Queen County  
Planning Commission Minutes  
April 5, 2010**

The King & Queen County Planning Commission met on Monday, April 5, 2010, at 6:00 p.m. in the King & Queen County Courts and Administrations Building in the Courtroom for their regular meeting.

**Planning Commission Members Present:**

Donna Thompson	John Roane
Hunter Richardson ( <i>*arrived 8 minutes late</i> )	Milton Watkins
James “Jimmy” Guess	Wallica Gaines
Robert “Bob” Taylor	

**Also in Attendance:**

Donna Sprouse, Assistant Zoning Administrator

**Call to Order**

Chairman, Robert Taylor called the meeting to order.

**Roll Call/Determination of Quorum**

In the absence of the Secretary, David Campbell, Donna Sprouse took the roll call and determined that a quorum was present.

**Election of Officers**

Mr. Taylor also noted that because of the resignations of Mrs. Pollard and Mr. Litchfield, the Planning Commission needed to reappoint someone to serve on the Dragon Run Steering Committee and Planning District Commission. Mrs. Sprouse stated that she received an email from Mrs. Wallica Gaines stating that she may be interested in serving on the Middle Peninsula Planning District Commission as a Planning Commission Representative. After hearing no other nominations, Mr. Taylor made a motion to appoint Mrs. Wallica Gaines to serve as the Planning Commission Representative on the Middle Peninsula Planning District Commission, seconded by Mr. Watkins.

Voting For: Guess, Taylor, Watkins, Roane, Gaines, Thompson

Voting Against: None

Abstain: None

**March 1, 2010 – Regular Meeting**

After brief review of the minutes, a motion was made by Mr. Watkins and seconded by Mr. Guess to approve the minutes as written.

Voting For: Guess, Taylor, Watkins, Roane, Thompson, Gaines  
Voting Against: None  
Abstain: None

### **Citizen Comment Period**

Mr. Taylor opened the floor for public comment; after hearing no comments, citizen comment period was closed.

*(\*Mr. Hunter Richardson arrived)*

### **New Business**

#### **A. RZ10-01, Larry DeJarnette Gayle, ET ALS – (Public Hearing) Request to rezone from Agricultural to General Business**

Mrs. Sprouse explained that the Planning and Zoning Department received an application on February 22, 2010 from Blackwell Engineering, PLC on behalf of Larry DeJarnette Gayle requesting approval of a Rezoning Application. She noted that the applicant requests the rezoning of .75 acre parcel of County Tax Map Parcel No. 1625-43R-250B from Agricultural (A) to General Business (GB). Mrs. Sprouse added the agent states that the rezoning is necessary so the property is less nonconforming and more marketable for a potential sale as a business use. The agent and owner understand that before the business and/or structure is occupied, a level 2 site plan is required which includes approval from state agencies.

Mrs. Sprouse explained that the property owner provided a list of proffered businesses/uses and requirements that he is willing to proffer so that the rezoning is more appealing. She noted that the property was acquired in good faith and is an existing non-conforming use; the rezoning to business/commercial use will make the parcel less non-conforming. The parcel to the east side of the property in question is presently zoned General Business and the property to the south of the property on the east bound lanes of Route 360, Richmond Tappahannock Highway is also zoned General Business. Mr. Gayle has voluntarily submitted the following proffers/statement...

*Along with the enclosed application for rezoning of the subject property, the following proffers are submitted:*

*It is proffered that:*

- 1. No parking of displays will be permitted within 22.81 ft. of the front property line.*
- 2. All modifications required by VDOT and/or VDH will be provided during the site plan approval process.*
- 3. The following uses will not be allowed:*
  - Adult book and novelty sales*
  - Tattoo or massage parlor*

- *Fortune telling, palm reading, or tarot cards*
- *Building material and supply sales*
- *Dry cleaning and laundering establishments except pick up and drop off will be allowed*
- *Hotel and motel*
- *Laundromat*
- *Parking areas and parking lots, commercial*
- *Theaters, auditoriums, bowling alleys and the like*
- *Winery, commercial*
- *Metal fabrication and assembly*
- *Engines, including remanufacturing*
- *Refuse incinerators*
- *Hospital*
- *Amateur radio antenna higher than the height of the primary structure*
- *Bed and Breakfast*
- *Auto/truck/trailer/mobile home farm equipment—sales, service and repair*
- *Automobile or boat washing facilities-self service*
- *Automobile service station or self serve gasoline station*
- *Boat, motor and marine accessory sales and rental*

Mrs. Sprouse added that on March 15, 2010, the Board of Zoning Appeals unanimously voted to approve the variance request for the existing building. Mr. Gayle was approved for a 9.24' front yard setback and a 44.38' left side yard setback from the existing building to the property lines.

Mr. Taylor opened the public meeting and asked if the applicant would like to speak to the Commission. Mr. Dick Blackwell, with Blackwell Engineering approached the Commission and stated that he was the agent for Mr. Gayle and informed the Commission that years ago this building has always been some sort of business use either a restaurant or printing company.

Mr. Taylor asked if there was anyone present in the audience that would like to speak for the proposed rezoning. Hearing none, Mr. Taylor asked if there was anyone that would like to speak against the rezoning request. Ms. Crystal Baylor Satchel stated that her family lives behind the property before the Commission and asked how would the rezoning effect the use of the agricultural lands behind the property. Mr. Taylor stated that this rezoning request will not have any effect on the surrounding use of the agricultural field/land in Essex County. She also asked if the "old Route 360" will be affected or will have any restriction of use if the rezoning request were approved. Mr. Taylor stated that the access used for this property will be taken from "New Route 360". Mr. Taylor read aloud the volunteered proffers that Mr. Gayle's applicant Dick Blackwell presented in hopes of having the rezoning request approved. Ms. Satchel asked if there were any direct or indirect profit if the rezoning request was approved. Mr. Taylor replied that if that were the case, they would have already abstained from the hearing. Ms. Satchel stated that she would hope that is the case. Mr. Taylor stated they would have to abstain if that is the case, for it is the law. Hearing no additional comments, Mr. Taylor closed the public hearing and asked for comments from the Planning Commission. Hearing none, Mr. Taylor stated that he would accept a motion to recommend either approval or denial of the rezoning request. Mr. Watkins made a motion to approve the rezoning request as submitted with the proffers submitted by the owner Mr. Gayle, second by Mr. Guess.

Voting For: Guess, Taylor, Watkins, Roane, Thompson, Richardson  
Voting Against: Gaines  
Abstain: None

**B. CU10-01 & SP10-01, Frances G. Fogg, C/o American Tower Corporation – Request a Joint Public Hearing with the Board of Supervisors**

Mrs. Sprouse stated that this is a request to hold a joint public hearing with the Board of Supervisors. She stated that American Tower Corporation is requesting approval of a conditional use and level 3 site plan to allow the construction of a new 300' tall self supporting wireless communications tower and a 100' x 100' fenced compound area for the tower and associated equipment. The County of King & Queen will house its new radio equipment for E-911 on the proposed tower. Mrs. Sprouse noted that the property is located on State Route 721, Newtown Road, in the Newtown Magisterial District, County Tax Map Parcel No. 1632-77R-691, located just behind 8770 Newtown Road.

Mr. Taylor stated this is simply a request of the Planning Commission to agree to hold a joint public hearing with the Board of Supervisors. Mrs. Sprouse stated that this project will also be placed before the Board of Zoning Appeals on April 19, 2010 for the variance request. The request will have to be contingent on the approval of BZA/Variance approval.

Mr. Taylor stated he will accept a motion to hold a joint public hearing with the Board of Supervisors on May 10, 2010. A motion was made by Mr. Roane and second by Mrs. Gaines to request a joint public hearing for their May 10, 2010 meeting.

Voting For: Guess, Taylor, Watkins, Roane, Thompson, Gaines, Richardson  
Voting Against: None  
Abstain: None

**C. CU10-02 & SP10-02, King & Queen County, C/o American Tower Corporation – Request a Joint Public Hearing with the Board of Supervisors**

Mrs. Sprouse stated that this is another request to hold a joint public hearing with the Board of Supervisors. She stated that American Tower Corporation is requesting approval of a conditional use and level 3 site plan to allow the construction of a replacement 300' tall self supporting wireless communications tower and a 100' x 100' fenced compound area for the tower and associated equipment. The County of King & Queen will house its new radio equipment for E-911 on the proposed tower. Mrs. Sprouse noted that the property is zoned General Business. Other surrounding land uses include government office buildings, a civic organization, residential single family uses & a church.

Mrs. Sprouse explained that this project will also be placed before the Board of Zoning Appeals on April 19, 2010 for a variance request. The request for joint public hearing will have to be contingent on approval of BZA/Variance approval.

Mr. Taylor stated he will accept a motion to hold a public hearing with the Board of Supervisors on May 10, 2010. A motion was made by Mr. Watkins and second by Mrs. Thompson to request a joint public hearing for their May 10, 2010 meeting.

Voting For: Guess, Taylor, Watkins, Roane, Thompson, Gaines, Richardson

Voting Against: None

Abstain: None

**D. CU09-02 & SP09-07, Middle Peninsula Regional Airport – Request a Joint Public Hearing with the Board of Supervisors**

Mrs. Sprouse stated that this may sound familiar for most of the Planning Commission. She stated that the Planning and Zoning Department received an application dated October 2, 2009 from C. E. Yeager with KCI Technologies Inc. on behalf of property owner Middle Peninsula Regional Airport requesting approval of a Conditional Use and Level 3 Site Plan to construct, operate and maintain wireless communications facilities related to FAA's SBS-A DS-B Program for NextGen Air Traffic Control System. Mrs. Sprouse explained that the reason that the previous request for joint public hearing was not held, is because the Planning & Zoning Department had not received all state agency approvals (to be specific, DEQ's approval of the Environmental Plan). Chip Yeager, with ITT was present to answer any questions that the Commission may have. After brief discussion, a motion was made by Mr. Richardson, second by Mr. Watkins to request a joint public hearing with the Board of Supervisors during their May 10, 2010 meeting.

Voting For: Guess, Taylor, Watkins, Roane, Thompson, Gaines, Richardson

Voting Against: None

Abstain: None

**E. ZA10-02, Zoning Text Amendment – Article 4, Table 4.1 – Request a Joint Public Hearing with the Board of Supervisors**

Mrs. Sprouse explained that this is a zoning text amendment request by the King & Queen County Planning and Zoning Department. Mrs. Sprouse explained that this request is to allow for the construction of radio, television, and other communications transmitting or receiving towers and stations in the General Business zoning district by approved Conditional Use Permit & Level 3 Site Plan. She explained that currently such towers are only permitted in Agricultural and Industrial by approved Conditional Use Permit and Level 3 Site Plan. Mrs. Gaines expressed concern that there is nothing about the plans that conforms to the ordinance requirements and what the Board wants and feels that all towers must meet those requirements. She also suggested that there be a tower plan perhaps in the Comprehensive Plan, depicting where towers are preferred to be constructed or approved. After further discussion among the Planning Commission members, a motion was made by Mr. Roane, second by Mr. Watkins to request a joint public hearing with the Board of Supervisors during their May 10, 2010 meeting.

Voting For: Guess, Taylor, Watkins, Roane, Thompson, Gaines, Richardson

Voting Against: None

Abstain: None

**F. Open Discussion- Review Current Erosion & Sediment Control/Land disturbance Permit Fees for After the Fact Construction and/or Penalties.**

Mrs. Sprouse explained that the King & Queen County Environmental Codes Compliance Officer, Philip Thompson asked if the Planning Commission could review the Erosion & Sediment/Land Disturbance permit fees and determine if it is feasible to charge an “after the fact” fee for those who clear without first obtaining a permit. After discussion among the Planning Commission, it was agreed that a proactive solution to the problem would be educating the public, not increasing the fees. It was also agreed that it would be beneficial if there could be something included in the tax bills each year to inform the citizens that they must obtain proper permits before clearing an area larger than 2500 sq. ft. Mr. Taylor noted that several years ago it had been done as a friendly reminder about purchasing dog tags and one year included information about land disturbance requirements. It was also suggested to hold workshops or meetings open to the public to also help with educating the public of the requirements. The consensus was ratified by all saying “Aye”.

**Unfinished Business**

**A. Proposed FY11 – FY15 Capital Improvement Plan (Review & Board set a date for Public Hearing)**

Mr. Taylor asked Mrs. Sprouse to go over the next item on the agenda under Unfinished Business. Mrs. Sprouse explained that what they have before them is a revised Capital Improvement Plan (CIP) and Proffers based on the revised CIP. She noted that according to the State Code of Virginia §15.2-2239, local Planning Commission are to prepare and submit annually capital improvement programs to the governing body or official charged with preparation of the budget. The Planning Commission noted that if the Board of Supervisors should have questions or should need any assistance from the Planning Commission, to please submit them back to the Planning Commission. There was some question about whether the Board of Supervisors was looking for direction from the Planning Commission. Without further questions or direction from the Board or Staff at this time, the Planning Commission wishes to defer a recommendation of approval or denial; however asks the Board to hold a public hearing if they deem necessary. The consensus was ratified by all saying “Aye”.

**Commissioner’s Comments**

Mrs. Thompson stated the Planning Commission was very supportive in Wallica and she attending the CPEAV Planning Commissioners Training Session, but had no idea of the homework that was involved. She also noted that the workshop was very informative and she enjoyed it.

Mrs. Gaines stated that the CPEAV Planning Commissioners Training Session was very informative.

Mr. Taylor added that here lately that the Board of Supervisors has accepted the Planning Commission's recommendations and that is a good thing. He noted that Mrs. Gaines and Mrs. Thompson probably saw that during their training that a lot of localities don't have the relationship that the Planning Commission has with the Board of Supervisors. He said that the Planning Commission puts in a lot of hard work, however he feels that things are being done (such as the sign ordinance) that is contradictive to what was recently done to the ordinance. He also noted that it seems that there is an awful lot of construction going on with no permits being posted so he assumes that the work is being done without permits. Mr. Taylor asked Mrs. Sprouse how the Planning & Building Department knows of these situations beyond citizen complaints.

Mrs. Sprouse stated that most illegal activity is captured during citizen complaints and either by the Environmental Codes Compliance Officer during his mandatory site inspections of land disturbance activity and/or Building Official during building inspections for new construction. She also noted that some of items are also addressed during a reassessment.

Mr. Taylor stated that the next Planning Commission meeting is scheduled for May 3, 2010 at 6 p.m. in the Courtroom. He also added that the Joint Public Hearings with the Board of Supervisors will be set for May 10, 2010 at 7 p.m. in the Courtroom.

### **Adjournment**

There being no further business, a motion was made by Mr. Watkins to adjourn the meeting. Adjournment was ratified by all saying "Aye".

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Robert Taylor, Chairman