

AT A WORK SESSION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 28TH DAY OF JUNE 2011, AT 4:00 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

A. CALL TO ORDER

B. ROLL CALL

Mary K. Jones, Chairman, Berkeley District
Bruce C. Goodson, Vice Chair, Roberts District
James G. Kennedy, Stonehouse District
James O. Icenhour, Jr., Powhatan District
John J. McGlennon, Jamestown District

Robert C. Middaugh, County Administrator
Leo P. Rogers, County Attorney

C. BOARD DISCUSSION

Ms. Jones recognized Jack Fraley, Chairman of the Planning Commission.

1. Zoning Ordinance Update

a. Commercial Districts - Ordinance Changes

Ms. Tammy Rosario, Principal Planner, opened the presentation of Commercial Districts to the Board of Supervisors. These ordinances are the result of input from the public, Planning Commission, Policy Committee and Board. Based on input received during this work session, staff will bring a revised version back for further review.

Mr. Chris Johnson, Principal Planner, discussed with the Board of Supervisors the changes of the ordinance based on the Board's direction. The Policy Committee asked for additional discussion at the next Planning Commission meeting on the Development Review Committee triggers, but generally the Planning Commission accepted these ordinance changes.

Mr. Middaugh asked Mr. Johnson to give the Board an overview of what has been done in regards to the ordinance changes.

Mr. Johnson explained the changes are intended to be more flexible and business friendly. He stated that commercial SUPs are viewed as an obstacle. Increasing the size threshold for buildings requiring commercial SUPs from 10,000 to 20,000 square feet would have reduced the number of commercial SUPs over the last 10 years from 25 to 13. Increasing traffic triggers would have decreased the number more, but staff feels this is going too far.

Mr. Goodson mentioned his concerns about the approach of the performance standards in reference to the SUP. He thought the zoning ordinance was going to be more performance based where an SUP would not be necessary if an applicant met certain standards. He discussed the issue about the nonconforming use. Mr. Johnson stated there are other avenues for this policy.

Mr. Goodson asked the County Attorney, Leo Rogers, for his comments about this change. Mr. Rogers it could create non-conforming use to have conditions in the policy and would be less flexible. Mr. Goodson stated he thinks the ordinance does the opposite of its intent to be more flexible and user friendly.

Mr. Johnson mentioned the uses in commercial districts have not triggered many SUPs. In staff's view, taking an individual use that has triggered an SUP and making it by right would have vastly different impacts depending on its location. Mr. Goodson replied he was concerned about including the conditions in the ordinance.

Ms. Jones stated she would support a Board policy, rather than including the conditions in the ordinance, and she asked Mr. Fraley if this was discussed as well with the Policy Committee.

Mr. Fraley stated it had been discussed in the meetings. He mentioned if it isn't in the ordinance it might not have much of an impact.

Ms. Jones asked if Mr. Seymour, Director of Economic Development had any comments or concerns in reference to this ordinance.

Mr. Seymour stated he did not. His concern is to make the process quicker for the applicant. His concern is to make the process better for the applicant whether large or a small business.

Ms. Jones replied the process should be efficient and streamlined, especially for quicker results for small businesses.

Mr. McGlennon stated the County has averaged 2.5 commercial SUPs for the last 10 years and some have been controversial. He is concerned about removing public input from these applications. He does not believe the community as a whole wants fewer opportunities to have input. He supports streamlining the process after approval has been granted.

Mr. Johnson said that there has been discussion about changing the way that the DRC operates, to a strategic and appellate body. This could make the process more efficient for applicants.

Mr. McGlennon mentioned the balance of the applicant and the citizen who wants to have the opportunity to express concerns. He reiterated concern that the proposed ordinance could remove opportunities for public input.

Ms. Jones mentioned the cost associated with an SUP for the applicant. Mr. Johnson said the fee is nominal and the Board has set the fees accordingly.

Mr. McGlennon stated that the advantages of performance standards would be to set them at a level which would dramatically reduce the potential for opposition. He mentioned green building, energy efficiency, architecture and landscaping.

Mr. Hicks mentioned the larger and franchise businesses could meet these criteria. Mr. McGlennon mentioned we don't have many small, local businesses that are requiring SUPs under the current regulations.

Mr. Fraley mentioned the green policy offers incentives for the business owners.

Mr. Icenhour had questions about Section 24-11, exceptions. He mentioned the buildings in any mixed use or planned community would not require an SUP. Mr. Johnson responded if it were commercial. None of the exemptions have changed.

Ms. Jones asked for guidance from the Board about the 20,000 square footage trigger and performance standards in the ordinance or by policy.

Mr. Rogers commented that he recommends putting the performance standards in a policy because it is an SUP and not by right.

The consensus of the Board was to remove performance standards from the ordinance.

Mr. McGlennon asked about the reference to public schools in B1.

Mr. McGlennon asked about the various retail listings and Mr. Johnson stated it maintains a competitive balance with other localities.

Mr. Icenhour stated about permitting firearms service in the various business districts and not being consistent with the districts. Mr. Johnson replied it was based on other localities. Mr. Goodson asked if generally anything allowed in B1 can be allowed in LB. Both LB and B1 should be consistent.

Mr. Fraley noted decisions of staff can be appealed to the DRC.

Mr. Icenhour asked about the change for building coverage limits. Mr. Johnson replied to him that staff felt recommending the increase because the County could still achieve its goals.

b. Draft Economic Opportunity Ordinance

Mr. Jason Purse, Planner, presented the Draft Economic Opportunity (EO) Ordinance before the Board. He mentioned this is not the final draft. He discussed with the Board the differences between Mixed Use (MU) and EO. He said the EO zone requires master planning to maximize economic potential. He said MU allows more residential development and noted that EO does not allow for single family residential. Mr. Purse noted that the height limit is proposed for 75 feet.

Mr. Goodson asked how many stories is a 75 foot building and Mr. Purse replied six stories.

Board members discussed the height of buildings and Ms. Jones replied about the environmental impact of reducing the footprint of buildings and being compatible with York County's EO.

Mr. Kennedy stated he has concerns about increased heights and suggested staying with 60 feet, noting that an applicant can request a height waiver.

Mr. Goodson asked if staff has seen ordinances that legislated the number of stories instead of the height.

Mr. Fraley commented the Policy Committee has not considered 75 feet and recommended 60 feet. He further stated that 75 feet might be acceptable in the middle of a parcel but not on the edge.

Mr. Kennedy discussed developable acreage and asked if everything could be developable acreage.

Mr. Purse stated the definition of developable acreage will come back to the Board and can be updated.

Mr. Kennedy stated that EO is about developable area and Mr. Icenhour mentioned that developable land is very straightforward.

Board and staff discussed further the developable area and the density for residential. Mr. Kennedy mentioned TDR's and placement of roads. Mr. Kennedy asked if the County could control where roads would go.

Mr. Hicks mentioned VDOT would have control over the road and where the road would be placed. He noted that the County does not have to accept VDOT's alignment if private or County funds were used. Mr. McGlennon asked about environmental impacts and Mr. Hicks said the County would have to mitigate environmental impacts. Staff and the Board further discussed roads and flexibility if the County has the flexibility in reference to permits.

Mr. Goodson asked about timing restrictions that would not permit residential development until a certain amount of commercial development occurred. Mr. Purse mentioned staff is reviewing this issue and are looking to put in the ordinance. Staff did not put in since it would limit the developer and could possibly be a proffer.

Mr. McGlennon asked staff how likely is it that a developer would want to utilize the EO zone rather than another.

Mr. Seymour stated an issue to be reviewed is requiring a master plan. The requirement prevents a parcel from being readily marketed, but he still thinks developers would look at the EO zone favorably. This is one tool and it is a little better than before.

Mr. McGlennon asked about the relationship to York County from a developer's point of view. Mr. Seymour stated he does not want James City County to become the residential niche for York County's workforce.

Ms. Jones mentioned the Regional Issues Committee and the Comprehensive Plan updates as opportunities for this discussion.

Mr. Goodson discussed this being an opportunity for a landowner to have their property rezoned. Mr. McGlennon stated he did not understand what is the economic opportunity. Mr. Goodson said he is trying to protect the County from developers turning property into 3 acre subdivisions, which would eliminate the possibility of economic development. The EO zone prevents this type of residential development.

Mr. Icenhour noted that there are over 3,000 acres in the county to be built and this is a long term project. The County should focus efforts on what we already have available that is unfilled. He asked what the limitations are from keeping this from happening.

Mr. Seymour replied that areas set aside for development are a dwindling resource.

Mr. Kennedy stated it is an opportunity for transfer of development rights. It allows the County to prevent development where it should not occur and focus it in areas where it should.

Mr. McGlennon noted that the County still has not addressed the issue of rural lands. He asked where would development be reduced and where would density be increased under a transfer of development rights program. He stated he still does not understand the strategic vision for the EO zone.

Ms. Jones stated she trusted business owners and entrepreneurs, and she sees the EO zone as setting up opportunities for businesses to come into James City County, and businesses want to be a business center for the County.

Mr. McGlennon mentioned he sees different enterprises as having different benefits to the County.

Mr. Fraley discussed the vision of the EO Zone and raised a few issues related to the ordinance such as the construction, tree preservation, pre inventory, inventory, required documents and pre-environmental inventory. He also noted that the Planning Commission believes the entire EO area should address open space and not just on the 15% urban residential core. He also noted that the County needs to be very thoughtful about density.

The Board by consensus agreed that height limits should be 60 feet, that developable acreage is developable acreage, and that the ordinance should be strengthened on phasing of development.

Ms. Rosario mentioned the impact of density on TDR after Mr. Purse has drafted the TDR with direction. Mr. McGlennon asked Ms. Rosario about the timing and she replied based on the schedule of ordinances. Mr. Hicks replied about the schedule and trying to have the EO ordinance before the Board in October and Mr. McGlennon asked why October. Mr. Hicks mentioned trying to complete the ordinance by October in accordance with the Board approved schedule.

Mr. Hicks discussed the issue of transit oriented development and stated he did not believe the density would exist to support it.

Mr. Fraley discussed protecting viewsheds and the Policy Committee asked staff to remove the language because it was not clear how it was going to be protected. He asked if staff could include in to the master planning process.

Mr. Middaugh mentioned protecting the viewshed does not fit in the EO plan and Mr. Hicks mentioned the focus is to develop land. Mr. Fraley said the Comprehensive Plan says attention should be paid to the viewshed on the perimeter. He clarified he was talking about the viewshed from outside the EO zone, not from within.

The Board adjourned until 7 PM.

D. BREAK

At 6:02 p.m., the Board took a break.


Robert C. Middaugh
Clerk to the Board