

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

1. ROLL CALL

Planning Commissioners

Present:

George Billups
Reese Peck
Jack Fraley
Tony Obadal
Rich Krapf
Chris Henderson
Joe Poole III

Staff Present:

Marvin Sowers, Director of Planning
Adam Kinsman, Deputy County Attorney
David German, Senior Planner
Mike Woolson, Senior Watershed Planner
Brian Elmore, Development Management Assistant
Terry Costello, Development Management Assistant
Jennifer VanDyke, Administrative Services
Coordinator

2. PUBLIC COMMENT

Mr. Fraley opened the public comment period.

Ms. Sarah Kadec, 3504 Hunters Ridge, delivered a summary of a report the James City County Citizen's Coalition had been working on for a year. She stated the report rates long and short terms fixes for flooding and drainage issues, as well as prioritizing these remedies. Ms. Kadec stated that the James City County Citizen's Coalition believed that due to development upstream of Powhatan Creek, including New Town, Monticello Marketplace, and Greensprings, flooding has worsened and will continue to do so. She also stated the County's Stormwater Division has begun fixing some of these issues identified in the report. Ms. Kadec stated fixes were arranged A, B, and C, with "A" being emergency fixes, 'B' being 3-5 year fixes, and "C" being ongoing fixes. She stated the report also identified responsible parties that should be involved in the repairs, including the County, certain developers, HOA's, VDOT, individuals, and other groups. Ms. Kadec stated in addition to the remedies the Coalition has identified, the recommendations that they believe are essential to solving these issues include the budget, and a requirement for new applications in the watershed that a flood abatement control plan be developed. She stated the Coalition felt that establishing implementation teams would be beneficial in carrying out these remedies, and the Coalition hopes the County will take the necessary steps to do so. She stated the Coalition will assist in any way that is needed.

Mr. Fraley thanked Ms. Kadec and the JCC Citizen's Coalition for their work and service.

Mr. Robert Duckett, Director of Public Affairs, Peninsula Housing and Builders Association, sought to provide additional context on development and stormwater issues. Mr. Duckett stated that since development started in the county, developers have followed the regulations and what has been developed is what has been approved. He stated developers

follow regulations put forward by the county, as well as the best engineering standards of the time. Mr. Duckett stated the routine water modeling that is done currently is only because of the advancement of computers and technology. Mr. Duckett felt that it was unfair to criticize the development industry for past developments that were based on past regulations. He stated that for new development 100% percent of the stormwater runoff is treated to some extent under the County's 10 point system. Mr. Duckett stated developers are required to treat runoff greater or equal to what the site creates. As an example, Mr. Duckett stated the Jamestown 1607 neighborhood was built in the 1980s, before the establishment of FEMA's 100-Year Floodplain and before most upstream development. He stated that since the development was built in a floodplain not yet established it most likely would have flood issues in the past as well as its current issues.

Mr. Fraley thanked Mr. Duckett for his comments.

Dr. John Boone, from the Virginia Institute of Marine Science (VIMS) stated his organization has established a water level station at the Jamestown Ferry North Pier that provides constant data to their website. Dr. Boone stated it will have valuable information for anyone concerned with stormwater or emergency management. Dr. Boone stated VIMS will continue to develop flood models and recorded water data will be used to verify those models. Dr. Boone showed an example of a 30-day water cycle diagram that would be displayed on their website. Dr. Boone stated he was already working with County Engineer Darryl Cook, who has data collected since August 2007. Dr. Boone stated there are plans to install a satellite data transmitter that will update web data on a regular basis.

Mr. Fraley thanked Dr. Boone for his comments.

Mr. Henderson asked Dr. Boone if he could share the website address.

Dr. Boone gave the address: www.vims.edu/tidewatch Dr. Boone stated information at the sites includes five NOAA stations around the Chesapeake Bay.

Mr. Bill Spaller, 1556 Harbor Road, addressed the Commission. Mr. Spaller stated he was here as a member of the James City County Concerned Citizens group. He wanted to clarify that his organization along with other concerned citizens are not suggesting that developers are at fault with problems in the County. He stated that he as well as other citizens realize that problems within the County are due to a cumulative impact of development. Mr. Spaller felt that the proposed conceptual plan process, mentioned by Mr. Fraley and others, is a wonderful idea. Mr. Spaller stated that he feels this review allows for review of significant items early in the process. He felt that by obtaining this information sooner, one could understand what the leverage points are in the decision making process. He also felt that obtaining this information up front first will make the process more efficient.

Mr. Fraley thanked Mr. Spaller for his comments and work.

Mr. Fraley closed the public comment section.

3. MINUTES

- A. FEBRUARY 27, 2008 WORKSESSION MINUTES
- B. MARCH 5, 2008 REGULAR MEETING
- C. MARCH 6, 2008 TRAINING SESSION
- D. MARCH 10, 2008 TRAINING SESSION
- E. MARCH 20, 2008 TRAINING SESSION

Mr. Fraley asked if there were any additions or corrections to the minutes.

Mr. Poole moved for approval.

Mr. Henderson seconded approval.

In a unanimous voice the minutes were approved (7-0).

Mr. Poole thanked the Planning staff for keeping such good records of the meetings.

4. COMMITTEE AND COMMISSION REPORTS

A. Development Review Committee

Mr. Krapf stated minutes from three separate DRC reports were there for review. Mr. Krapf stated, from a March 14, 2008 special meeting, the DRC reviewed S-0039-2006/SP-0069-2006 Powhatan Creek Phase Two. Mr. Krapf stated the special meeting was requested during the regular March meeting to allow new members extra time to review the project prior to discussions with applicant and staff. Mr. Krapf stated the DRC granted preliminary approval subject to the applicant meeting all agency comments.

Mr. Henderson moved adoption of the March 14, 2008 report as presented.

Mr. Poole seconded adoption of the report.

In a roll call vote the March 14, 2008 report was approved. (7-0) AYE: Henderson, Billups, Krapf, Peck, Poole, Obadal, Fraley.

Mr. Krapf gave the second DRC report, from the March 26, 2008 meeting of the DRC, to consider, S-0078-2006/SP-0104-2006 Walnut Grove. Mr. Krapf stated review was required because the subdivision contains more than 50 lots and to grant renewed preliminary approval of the site plan. Mr. Krapf stated on November 1st, 2007, preliminary approval was extended for the subdivision plan to allow more time for the developer to work with the County regarding setback issues, however, the deadline for site plan approval had expired. Mr. Krapf stated by

early March, setback issues were resolved, and the DRC was asked to provide renewed preliminary approval of the site plan, which was voted affirmatively. Mr. Krapf stated also considered was case S-0031-2007 McFarlin Park Driveway Exception. Mr. Krapf stated VDOT concurred with the request for the exception, and the DRC also voted for the exception. Mr. Krapf stated the third case reviewed was S-0055-2006 Burlington Woods Subdivision. Mr. Krapf stated Proffer #7 of the rezoning specified that the location of recreational facilities and equipment be reviewed by the DRC. Mr. Krapf stated DRC approval was also required for placing stormwater features within perimeter buffers. Mr. Krapf stated the DRC granted preliminary approval based on a previous DRC request with the applicant to incorporate a multi-purpose grass field into the recreation area, and in response to Environmental recommendations regarding the placement of stormwater control elements.

Mr. Henderson moved for adoption of the March 26, 2008 DRC report.

Mr. Poole seconded the motion.

In a roll call vote the report was approved. (7-0) AYE: Henderson, Billups, Krapf, Peck, Poole, Obadal, Fraley.

Mr. Krapf stated the third DRC report covered an expedited review meeting on April 2, 2008 to review S-0134-2007 Carter Equipment Lot 3B. Mr. Krapf stated preliminary approval was granted subject to the applicant meeting all outstanding agency comments.

Mr. Fraley asked who attended the expedited review meeting.

Mr. Krapf responded Mr. Poole and himself.

Mr. Henderson moved adoption of the April 2, 2008 DRC report.

Mr. Peck seconded the motion.

In a roll call vote the minutes was approved. (7-0) AYE: Henderson, Billups, Krapf, Peck, Poole, Obadal, Fraley.

Mr. Poole ensured that the DRC had undertaken intense scrutiny of the site plans despite the expedited process. Mr. Poole thanked Mr. Krapf for the DRC reports.

B. Policy Committee

Mr. Peck stated the Policy Committee did not meet during March; however, there were projects the Policy Committee worked on. Mr. Peck stated at the end of February, the Policy Committee expressed a desire to review the Capital Improvement Program process and identified several items needing addressing. Mr. Peck stated as chairman he met with Mr. Bill Porter, Assistant County Administrator, Mr. John McDonald, Manger of FMS, and Mr. Marvin Sowers, Planning Director, to discuss items. Mr. Peck stated in the future, the Policy Committee will include all CIP projects – water, sewer, roads, etc, that are not included in the current process,

and that the committee would be more focused on priorities. He stated the Committee will also separate maintenance projects and focus on major expenditures. He further stated the CIP should also be more closely aligned with the Comprehensive Plan, and conducted in a timelier manner. Mr. Peck stated the Commission and the public should have more time to look at these projects. He stated staff will research other jurisdictions and return a report to the Policy Committee. He stated the Policy Committee will also review the recommendations of the Business Climate Task Force. Mr. Peck stated currently Mr. Jason Purse, Senior Planner, is currently reviewing commercial zoning ordinances, and reviewing special uses that could become permitted uses. He stated updates will be presented to the Policy Committee.

Mr. Fraley thanked Mr. Peck for this report and leadership.

C. Comprehensive Plan Update

Mr. Fraley stated that a member of the Community Participation Team is present to address the Planning Commission. He introduced Mr. Tom Fitzpatrick, a W&M law student and resident of Powhatan Village.

Mr. Fitzpatrick stated the CPT has been busy for the past month, starting with the Speaker's Bureau, the Community Conversation meetings, and setting up listening stations throughout the county. Mr. Fitzpatrick stated the first Community Conversation was April 1, 2008 and was attended by approximately 30 citizens. He stated there are three more Community Conversations: the next April 14, 2008 at the James City County Community Center, from 11:30am to 1pm; April 17, 2008 at Warhill High School at 6:30pm; and April 24, 2008 at James River Elementary at 6:30pm. Mr. Fitzpatrick stated he hoped more citizens would attend these meetings to give their input and encouraged citizens to come out. Mr. Fitzpatrick stated other opportunities exist to give input and receive information such as the Comprehensive Plan website www.jccplans.org, pre-stamped comment cards, tri fold brochures, newspaper ads, flyers, and TV48. He stated listening stations were at the Croaker Library, Government Center Buildings, Recreation Center, College of W&M, and several sites listed on the website. He stated the Speaker's Bureau has also been doing a number of presentations. Mr. Fitzpatrick stated if anyone wants a member of the CPT to come to their organization, they can contact Christy Parrish at the County Planning office at 253-6685. He stated the hotline number is 259-4990.

Mr. Fraley thanked Mr. Fitzpatrick for his comments.

5. PUBLIC HEARINGS

A. Z-0008-2007 / MP-0006-2007 Ford's Colony Section 37

Mr. Sowers stated staff's concurrence with the applicant's request for a deferral to the May 7, 2008 Planning Commission meeting.

Mr. Fraley opened the public hearing and asked for public comment. There being none, he left the public hearing open.

Mr. Henderson made a motion to approve the deferral with a second from Mr. Krapf.

In a roll call vote the deferral was approved. (7-0) AYE: Henderson, Billups, Krapf, Peck, Poole, Obadal, Fraley.

6. PLANNING DIRECTOR'S REPORT

Mr. Sowers stated that the Land Use Application Process is now open and will close on June 30, 2008. He stated this is one of the most important components of the Comprehensive Plan. He stated this allows land owners to change their land use designation with regard to the Comprehensive Plan. Mr. Sowers stated the Board of Supervisors would take final action on these applications. Mr. Sowers stated that this is a land use plan designation, and stated that a property could still require a Special Use Permit or a Rezoning to develop it for a desired use. Mr. Sowers stated interested citizens could stop by the Planning Office or call 253-6685 for an application.

Mr. Peck asked Mr. Sowers if the Land Use application would be the first step of a rezoning process.

Mr. Sowers stated a Land Use application would be the first step of a rezoning process, allowing staff to look at factors such as traffic and environmental impacts. Mr. Sowers encouraged people interested in changing their land use designation to submit an application.

Mr. Peck asked if a citizen misses the deadline, when the next opportunity will come to change their land use designation.

Mr. Sowers stated historically Land Use changes have only been done during the Comprehensive Plan process every five years.

Mr. Peck asked if someone was considering developing their property, is it recommended that they start with this process.

Mr. Sowers stated that it is highly recommended that property owners start the process now.

Mr. Henderson asked if there was any cost to an applicant making a submittal.

Mr. Sowers stated there was no cost associated with the Land Use application.

7. COMMISSION DISCUSSION AND REQUESTS

Mr. Poole stated his disappointment in the heavy clearing at Settler's Market and areas that were cleared that should not have been. He stated he lobbied hard for stands of trees to remain in place. He stated it is important to maintain the identity unique to Williamsburg. He stated clearing was an incremental process and he would continue to lobby for the preservation

of tree stands, whether it is in commercial, industrial or residential areas.

Mr. Poole mentioned signage and stated that even though no new signage regulation was discussed, neon and obnoxious lighting should not be allowed. He felt that with technology today such signage could be avoided. Mr. Poole does not consider neon and bright signs business friendly, and considers them environmentally and culturally destructive. Mr. Poole stated he will work hard as a DRC member, Planning Commission member, and citizen to preserve the unique qualities of this community.

Mr. Fraley asked staff to review the Settler's Market DRC plan, as the applicant was requested to save some tree strands, while there were others the applicant could not. Mr. Fraley stated the applicant was asked to clear and plant. He asked staff to research and verify that this has been done.

Mr. Sowers stated staff would research this and report back to the Commission.

Mr. Henderson asked which section of Settler's Market that these comments are referring to.

Mr. Fraley stated it was the mixed use component of Settler's Market.

Mr. Obadal stated sign standards were a Planning Commission issue with regards to New Town. He stated it might prove beneficial to review these standards.

Mr. Fraley stated New Town has its own design standards.

Mr. Sowers stated that all New Town development went before the New Town Design Board and that the Commission saw a package with signage and height regulations.

Mr. Poole commended Mr. Sowers and the Planning staff for excellent staff reports.

Mr. Billups stated two concerns he wished to clarify. Mr. Billups asked for clarification whether the expedited review DRC meeting took place with only two members of the Committee present.

Mr. Krapf stated there was an explanation for having only two members present.

Mr. Billups stated that while three members of the DRC were required to make a recommendation, he had concerns about a recommendation made by only two members of the DRC. Mr. Billups stated he thought it was important to have three people before any recommendation could be made.

Mr. Billups stated regarding Mr. Fitzpatrick's speaking before the Commission, that a regular member of the CPT should address the Commission, and that CPT comments to the Commission should go through the CPT chair. He stated he did not want to subvert the CPT's leadership.

Mr. Billups asked Mr. Kinsman for his view on having only two members of the Commission at a DRC meeting.

Mr. Kinsman stated the DRC is a subset of the Planning Commission that only makes recommendations to the whole Planning Commission. Mr. Kinsman stated having only two members of the DRC present was not legally deficient, because all seven members of the Planning Commission are present when actions are taken.

Mr. Billups felt that at least a majority of the DRC members should meet in order to make a recommendation to the larger board.

Mr. Sowers stated the case in question was handled under the County's Expedited Review Process, which allows fewer than the full DRC to make a recommendation. Mr. Sowers stated the rule had been in effect to help businesses get through the process much quicker. Mr. Sowers stated the Board made an addition to the Code to allow a subset of the DRC to meet. Mr. Sowers stated historically two members have met, although the Code is not specific how many members need to be present.

Mr. Billups asked if these two members had the power to make an administrative decision. Mr. Billups stated the policies of the expedited DRC meetings should be clarified.

Mr. Kinsman stated the Planning Commission's by-laws do not spell out how many members need to be present for an expedited meeting. Mr. Kinsman stated the by-laws only state that committees are composed of at least four members. He stated in the beginning months of the year, the committee varied between four and six members. Mr. Kinsman stated for more clarity, the by-laws could be updated.

Mr. Krapf stated that while two members are sufficient for expedited cases, Mr. Billups made a good point. Mr. Krapf stated that during his tenure as chair of the DRC, the committee has had five members. Mr. Krapf stated that from this point forward, even during expedited cases, he will make sure there is a quorum present, with at least three members present.

Mr. Billups stated he wished to clarify that point for himself in a public setting.

Mr. Krapf stated for this year, at least three people will be available for expedited cases.

Mr. Poole further stated that it would be beneficial for all members of the DRC to be made aware of any expedited review. He also stated that this information should be made available to all Planning Commissioners since it is a public meeting.

Mr. Billups stated that regarding the CPT, when CPT members are meeting with the Planning Commission on a monthly basis, the Planning Commission should go through the CPT Chairperson, as opposed to the Planning Commission selecting a CPT delegate to speak.

Mr. Fraley stated he asked for volunteers to speak at the CPT meeting, and Mr. Fitzpatrick volunteered to speak at the Commission meeting.

Mr. Henderson wished to thank staff, especially those that participated in the training sessions. Mr. Henderson thanked Ms. Shereen Hughes for giving a presentation to the new members of the Planning Commission on site plans and soils analysis. He asked Mr. Fraley if there would be a work session based on the James City County Concerned Citizen's stormwater report. Mr. Henderson stated he wished for the Planning Commission to evaluate some of the James City County Concerned Citizen's recommendations. Mr. Henderson asked Mr. Sowers if Planning staff was clarifying language on Ordinance 24-283. Mr. Henderson asked if any changes to the ordinance would go before either the Planning Commission or the Board of Supervisors.

Mr. Sowers stated any ordinance changes would start with the Policy Committee.

Mr. Obadal stated he agreed with Mr. Henderson's suggestion on reviewing the James City County Concerned Citizen's Report. Mr. Obadal asked if any changes to Ordinance 24-283 would represent a change in ordinance.

Mr. Sowers stated the Board had already adopted an initiating resolution to put the changes before staff. Mr. Sowers stated any changes would start in Policy Committee, and then be presented to the Planning Commission and then finally the Board of Supervisors.

Mr. Obadal asked that all members of the Planning Commission be notified when the changes are presented to the Policy Committee.

Mr. Sowers stated all members of the Planning Commission would have the same materials when the changes come up for review.

Mr. Obadal asked about a time line on the changes.

Mr. Sowers stated Mr. David German from Planning was here for further questions about the changes.

Mr. German stated he had no idea of the timeline yet.

Mr. Obadal stated he wished for a date that was mutually acceptable to all members of the Commission, even to those not on the Policy Committee.

Mr. Henderson asked whether the Planning Commission has received any formal recommendations with regards to the Chesapeake Bay Ordinance changes that have been reviewed by the Board of Supervisors.

Mr. Fraley stated that there was no recommendation made to have it brought back to the Commission.

Mr. Sowers confirmed that there was no formal action taken to have it further reviewed by the Commission.

Mr. Fraley thanked Mr. Henderson for his comments. Mr. Fraley asked Mr. Sowers if he had any advice for the Planning Commission with regards to the report on flood control submitted by the James City County Concerned Citizen's group.

Mr. Sowers recommended Planning and Environmental Staff review the report and make recommendations based on their findings. He stated it may possibly start with the Policy Committee, then be presented to the Planning Commission. Mr. Sowers also stated that this organization was making a presentation to the Board of Supervisors and that the Planning Commission may receive guidance as a result of that presentation.

Mr. Fraley stated he wanted to be careful not to pre-empt the Board of Supervisors.

Mr. Peck asked if this information needs to be presented as part of the Community Conversation meetings with regards to the Comprehensive Plan update.

Mr. Sowers stated that this was a possibility and that it most likely could be part of the second round of meetings in August when the topics discussed become more specific.

Mr. Fraley mentioned that if this report were to be discussed he would prefer it to be in a work session with all Commissioners present.

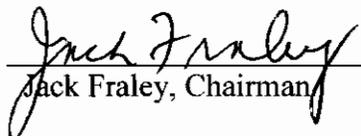
Mr. Krapf wanted to thank staff for all their work with the Community Conversation meeting that was held on April 1, 2008. He felt this was a tremendous effort that takes weeks to plan. He thought that for the first presentation the logistics and preparation was exceptional.

Mr. Sowers wanted to further thank all County departments outside the Planning Division who participated in the meeting. He stated these individuals are very instrumental in the success of these meetings.

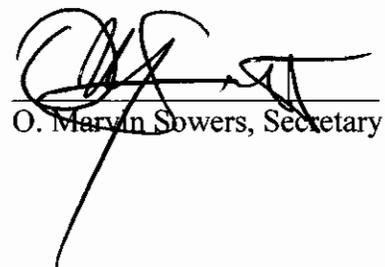
Mr. Poole made a motion for the meeting to be adjourned.

Mr. Krapf seconded the motion.

The meeting was adjourned at 8:05 p.m.



Jack Fraley, Chairman



O. Marvin Sowers, Secretary