

POLICY COMMITTEE MEETING

September 4, 2012

4:00 p.m.

County Government Center, Building A

1) Roll Call

Present

Mr. Rich Krapf
Mr. Tim O'Connor
Ms. Robin Bledsoe
Mr. Al Woods

Staff Present

Mr. Christopher Johnson
Ms. Tammy Rosario
Ms. Leanne Reidenbach
Ms. Ellen Cook
Mr. Jose Ribeiro

Mr. Rich Krapf called the meeting to order at 4:00 p.m.

2) Minutes

On a motion by Mr. Tim O'Connor, the Policy Committee approved the minutes of the March 20, 2012 meeting (3-0, Ms. Bledsoe was not yet present).

3) Old Business

There was no old business to discuss at this meeting.

4) New Business

a) Housekeeping Items

Mr. Krapf recommended that all the housekeeping topics be handled together and addressed on a question-specific basis by the Committee. The topics included floodplain ordinance, procedural descriptions/submittal requirements, definitions, RT – Research and Technology and private streets.

Mr. Al Woods asked for an example of the practical origin for the non-grammatical/consistency-related ordinance changes.

Ms. Leanne Reidenbach explained that the County had received an application for a building permit where the residence was outside the flood elevation but the mechanical equipment was within the flood elevation. As a result, staff discussed that the original intent of the floodplain ordinance was that mechanical equipment would be included as part of the residence, but that this was not clear in the ordinance language so staff decided to clarify it now.

Mr. Woods asked what floodproofing would include and what sort of mechanical devices could be left in the floodplain.

Ms. Reidenbach noted that it would be up to the applicant to demonstrate that the equipment is adequately floodproofed or pulled out of the flood elevation to the satisfaction of the Building Safety and Permits Division in order to meet the revised ordinance language.

Ms. Tammy Rosario explained another example. When the original private streets ordinance changes were processed on an expedited timeline, staff did not anticipate the later creation of the

R-3 residential district. With that new district, it became necessary to go back and add R-3 to the private streets regulations.

Mr. Woods asked if there was a technology available to help staff identify where certain ordinance topics are referenced in the ordinance text so that staff could determine what needs to be amended.

Ms. Rosario said that aside from the "search and find" functions, that there was no technology and that staff kept a physical list and relied on discussion and common reviewers to pinpoint other areas that need changing.

Mr. O'Connor noted that on page 22, two phrases appear to have been accidentally merged into "noninterference intermodulation study."

Mr. Jose Ribeiro said that typo would be corrected.

Mr. O'Connor asked about the definition of tourist homes on page 23. He asked whether there was a requirement that the owner or property manager live in the home as well.

Ms. Rosario said that there was not and adding that requirement would be a new standard.

Mr. Krapf asked about the fiscal impact analysis (FIA) requirement language on page 13. He asked whether the Committee needed to revisit the County FIA worksheet after the review of New Town Section 12 and the large discrepancy between the County's result and the applicant's result.

Ms. Reidenbach and Mr. Ribeiro explained that the County's form is intended to be free and easy for the applicant and uses a standard methodology and assumptions to help in comparisons. It also leaves the opportunity for the applicant to still submit their own analysis that includes other assumptions/methods. They noted that the County's worksheet was the preferred method/assumptions from the Department of Financial and Management Services. Staff provided the results of both the FIA worksheet and any applicant supplements.

Mr. Woods asked for clarification regarding the change to Section 24-23 on page 6.

Mr. Ribeiro noted that part was to fix an omission in typical language. Staff did not include language initially about to whom applicants could appeal the findings of the Planning Director in decisions of master plan consistency. This ordinance amendment fixes that. The second part of the section dealt with fees. Mr. Ribeiro explained the discussion between staff and the County Attorney on whether fees could be removed from the ordinance as originally proposed. It was determined that the fee schedule should remain in the ordinance, but it was too late to remove the language that referenced the separate fee schedule attachment in the version of the ordinance that was adopted. This amendment removes those references so the section reverts back to the original fee schedule language.

Mr. Woods asked about paragraph 3 on page 22 related to the change to the definition of arterial streets.

Ms. Rosario said that change was proposed so that the definitions in the zoning ordinance and in the subdivision ordinance would be consistent.

Ms. Ellen Cook noted that the subdivision ordinance previously only defined arterial street and that the definitions did not match with previous definitions in the zoning ordinance. Also that local street classification had previously not been included in the definition.

Mr. Woods asked about the amendment on page 32 in Section 24-466 of the RT district and noted that it seemed like a more substantive change to strike requirements for street surety. He said that the change seemed more related to design of roads than to surety.

Ms. Cook noted that the requirement was relocated to the private street ordinance. It was stricken from this section to avoid duplication and also to have consistency between this district and the previously adopted commercial districts.

Mr. Richard Costello, AES Consulting Engineers, noted that page 38 referenced the R-5 district with cluster overlay. He said that the recently proposed residential district amendments eliminated the possibility of cluster overlay in R-5. Mr. Costello also said that the multi-family and apartment categories for residential uses on page 15 in submittal requirements were inconsistent with the proposed changes in the R-4 and mixed use districts. He said that there were changes to substitute the Development Review Committee in the ordinance language when the Planning Commission was referenced. He said that the DRC could be dissolved and then the ordinance would have to be amended to revert back to saying the Planning Commission. Mr. Costello also noted that the definitions of the various residential uses and the various senior living facilities was very consistent and noted staff had done a good job with this.

Ms. Rosario noted that staff would look into these items.

Mr. O'Connor noted that he did not know what sort of utility requirements that uses in the RT zone may require and questioned whether the current use list would limit what kinds of companies may locate in an RT area if they operate using alternative energy or have higher demands for utilities or taller maximum height limits.

Mr. Chris Johnson said that 60 feet is a common height requirement across districts and noted that this would have to be looked at across the ordinance if it was something the Committee was concerned with. He stated that there are no RT zoning districts in the County so any property would have to go through a rezoning or get an SUP and a height waiver could be part of that request.

Mr. O'Connor asked for clarification about why warehousing and distribution facilities were specially permitted uses in the RT district.

Mr. Woods noted that it would likely be necessary for some of the manufacturing uses to require a warehouse or distribution facility.

Ms. Cook reiterated that there is no RT zoned land so staff has little experience in administering this district. She noted that there was no change proposed to the language, just reorganization of the display of permitted and specially permitted uses. Ms. Cook said that she thought warehousing may

be considered an accessory use in those circumstances and would need to consult with the Zoning Administrator.

Mr. Woods asked what the initial justification was in making it a specially permitted use.

Mr. Krapf asked about what the concerns were with warehousing and distribution facilities that required the SUP. He noted that it is probably related to impacts on adjacent properties such as noise and traffic or proximity to other zoning districts.

Ms. Cook noted that current staff had not been involved with the initial development of the RT district so did not know the specific intent, but it seemed like there were two reasons: (1) that staff was tailoring the ordinance to allow economic development uses which may take up smaller sites and produce more revenue and (2) there are significant impacts that are paired with warehousing and distribution facilities. Stand-alone warehousing usually requires a large building and a lot of land and generate a lot of traffic.

Mr. Johnson noted that the language was consistent with what is in other commercial and business districts.

Mr. O'Connor asked that the language be clarified or that a square footage threshold be set for allowing warehousing by-right or through an SUP. He said that his primary concern was that warehousing be treated consistently across zoning districts.

Mr. Krapf said that he would prefer a clarification of the use rather than limiting the size.

Mr. Costello said that the Building Code allows for accessory uses up to 10% of the size of the primary building. This way there could be small day cares or storage facilities or cafeterias to serve the specific site.

Ms. Rosario noted that the housekeeping items are scheduled for a Board work session on September 25 so staff would work on refining the warehousing/distribution facilities use in preparation for that meeting.

On a motion by Mr. Krapf, the Policy Committee recommended approval of the proposed amendments subject to staff looking into warehousing in RT, correcting the definition heading for "non-interference study" and evaluating consistency between the master plan use table in the submittal requirements ordinance and the tables in the residential districts.

b) Subdivision Ordinance Amendments

Mr. Krapf asked the Policy Committee members for any questions, comments or concerns on the draft Subdivision Ordinance.

Mr. Krapf asked about the definition of flag lot. Mr. Woods explained and drew a picture of a flag lot. Staff added that a depiction of a flag lot was included in the proposed graphics.

Mr. Woods inquired about the requirement for the twenty-five foot width of the lot fronting the street. Staff and the Committee discussed how this requirement relates to the width of the driveway.

Mr. O'Connor noted other elements of a site that might also need to be within the twenty-five foot "flagpole" portion of the lot, such as lines for grinder pumps.

Mr. O'Connor asked if it was possible to do a subdivision in the County without forming a Homeowners Association (HOA).

Ms. Cook stated that this was only possible for minor subdivisions, which consist of five or fewer lots.

The Committee discussed the reasons that generate the need for HOAs, including maintenance of required stormwater management facilities, and maintenance of common or recreational open space. The Committee discussed the role of the Chesapeake Bay Act in relation to the stormwater management facilities, and how the ownership and maintenance role of the locality versus of the HOA differs between localities, and may change depending on meeting evolving regulations.

Mr. O'Connor inquired about the requirement for five years of prior ownership in order to qualify for a family subdivision.

Ms. Cook discussed the origin of the proposed amendment, noting that the change was intended to be consistent with expectations expressed by the Board over the years in their review of family subdivision special use permits. The change is intended to emphasize the primary purpose of family subdivisions where a landowner engaged in farming or other production undertakes a subdivision in order to allow a family member to live on the land and likely be engaged in that activity as well.

Mr. O'Connor asked whether such a requirement would lead some property owners to feel that they weren't being treated equally or fairly. He also noted in relation to this issue the current ordinance requirements for accessory apartments.

Ms. Cook noted that the family subdivision process was something owners would only need to pursue if they were seeking relief from one of two particular requirements – minimum lot frontage, and minimum parcel size (1 acre versus 3 acres in the A-1 District). If meeting either of these requirements was not an issue, and landowner could subdivide land for a family member through the normal subdivision process.

Ms. Bledsoe inquired if there were a legal precedent for requiring five years of prior ownership.

A citizen stated that he knew of at least two other localities that had a similar requirement, and that he didn't know of any legal challenge that had occurred as a result.

Ms. Cook confirmed that during Stage I of the process of examining the subdivision ordinance, staff had investigated the requirements in other Virginia localities and found several with this requirement, as well as a variety of other types of requirements.

Mr. Krapf stated that he had been under the impression that those pursuing family subdivisions had to adhere to all the typical requirements of the zoning district, but was interested to hear that in A-1, a property owner would be able to have a smaller lot size (1 acre instead of 3 acres) than would otherwise be required.

Ms. Cook confirmed that with the approval of a special use permit from the Board, a property owner could have a smaller lot size.

Mr. O'Connor inquired about an example in Lanexa where some lots had been subdivided, and asked if that had been a family subdivision or just a minor subdivision.

Ms. Cook stated that if she had the correct location in mind, that that example was just a minor subdivision through the normal process.

Mr. Krapf stated that could see the intent of the five years of ownership in terms of looking for some sort of permanence to the applicant's situation.

Ms. Rosario stated that since the subdivision ordinance does allow subdivision of land equally among property owners, in this instance where special allowance is being made, the Board has sought to clarify the intended specific user group for family subdivisions.

Mr. Costello commented that he saw the family subdivision provisions as a benefit, and that it made sense to look for indication that this was a long-term thing for the family. Mr. Costello noted that the ordinance had already provided for the land to be owned by the family member for three years after subdivision, unless in circumstances of death or other involuntary transfer.

Mr. O'Connor noted that he was more in line with the requirement to own the property after subdivision, but still felt that the five years of prior ownership meant that some property owners would be able to pursue this while others would not, and could see the requirement creating a hardship for people.

Mr. Costello stated that the Committee could suggest to the Board a shorter period of prior ownership.

Mr. Krapf stated that he appreciated the good discussion and noted that it was good to talk about the reason for the provisions in the ordinance in order to make sure they still were valid.

Mr. O'Connor inquired about Section 19-21, where the terms are being changed from "townhouse or condominium subdivision" to "multifamily subdivision," and whether the word "lots" in the description was accurate since certain types of buildings would not have ownership determined on a lot basis.

Mr. Costello said that using the term lots was consistent with the definitions of multifamily and apartment that were now in the ordinance.

Ms. Cook and Mr. Johnson clarified that the word lot was appropriate since this section would only apply in instances where multifamily units were developed in a manner than involved actual

subdivision of land into lots around the units. Otherwise, the subdivision ordinance would not be applicable, and the review process would occur through submission of a site plan only.

Mr. O'Connor stated that he had reviewed the various requirements for drainage and stormwater management, both in terms of the submittal information and in terms of the standards that needed to be met. He inquired whether the items listed were flexible to allow more recent best practices versus only having an emphasis on covered pipes.

Mr. Costello noted that drainage issues for multifamily and apartments were covered under the site plan section of the Zoning Ordinance, and that the requirements found in the subdivision ordinance were primarily designed to describe single family neighborhood situations.

Ms. Cook further noted that the Engineering and Resource protection staff had provided their comments on the language and had indicated that their suggestions were compatible with up-to-date practices.

Mr. Krapf stated that given the many nuances in the ordinances, at some point in the future it would be helpful to add footnotes or references within the ordinance to refer readers to other applicable requirements.

Mr. O'Connor moved to the next item, referencing Section 19-59, Water Facilities, and inquired whether the description of the central well elements should be revised to include treatment of the water, if that routinely took place.

Ms. Cook stated that she was not sure of exactly what treatment of the water took place, but that it would make sense to add the word to the section to cover that possibility.

Mr. Costello stated that he had several suggestions. He referenced Section 19-19, suggesting that the ordinance be revised to include showing property lines and road locations for conceptual plans. In Section 19-59, he suggested striking the word "public" prior to service authority to make the reference consistent with other locations in the ordinance. He also noted some adjustments to multifamily definition references.

Mr. Krapf and staff confirmed the items that needed to be addressed, and Mr. Krapf asked for a motion to endorse the subdivision ordinance draft subject to those items.

Mr. Woods so moved, and the motion passed unanimously.

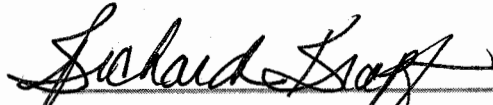
5) Other Business

Ms. Rosario noted that staff would be looking to set a Policy Committee meeting in the next month to discuss changes to the ordinance to address soil stockpiles.

Ms. Rosario and the Committee briefly discussed the reasons this was being brought forward, and then began to discuss the timeframes the Committee members were available in September.

6) Adjournment

Mr. O'Connor moved to adjourn. The meeting was adjourned at 5:25 p.m.



Rich Krapf, Chair of the Policy Committee