

MINUTES
JAMES CITY COUNTY POLICY COMMITTEE
REGULAR MEETING
Building A Large Conference Room
101 Mounts Bay Road, Williamsburg, VA 23185
May 12, 2016
4:00 PM

A. CALL TO ORDER

Mr. Rich Krapf called the meeting to order on Thursday May 12, 2016 at 4:00 p.m.

B. ROLL CALL

Commissioners:

Mr. Rich Krapf
Mr. Danny Schmidt
Mr. John Wright
Mr. Heath Richardson

Staff:

Ms. Tammy Rosario, Principal Planner
Mr. Maxwell Hlavin, Assistant County Attorney
Ms. Kate Sipes, Assistant Director of Economic Development
Mr. Jose Ribeiro, Senior Planner II
Ms. Ellen Cook, Senior Planner II
Mr. Scott Whyte, Senior Landscape Planner II
Ms. Roberta Sulouff, Planner
Ms. Savannah Pietrowski, Planner
Mr. Alex Baruch, Development Management Assistant

C. MINUTES

1. March 10, 2016 Minutes

Mr. John Wright made a motion to approve the March 10, 2016 minutes. The motion carried on a 4-0 vote.

D. OLD BUSINESS

Ms. Christy Parrish gave an overview of the current ordinance requirements as they apply to short term rentals such as those through Airbnb. For traditional rentals, occupants must conform to the ordinance definition of a family. For rentals akin to Airbnb, the code has two categories: tourist home and rental of rooms. Ms. Parrish stated that a tourist home is when a dwelling provides lodging for transients in up to 5 rooms, while rental of rooms is usually when an owner occupied dwelling has individual rooms available for rent.

Mr. Wright asked how we permit rental of rooms and tourist homes in the different zoning districts. Ms. Parrish stated that in the residential zoning districts both tourist home and rental of rooms require an SUP, except in R-4 where it is a by right use. In R-4, tourist homes and rental of rooms are typically restricted by the

covenants of the subdivision in areas not designated such on the master plan.

Mr. Wright asked how rental of rooms and tourist homes are handled within the Mixed Use zoning district when the HOA restricts rental agreements to be a minimum of one year. Ms. Parrish stated that in R-4 and MU that covenants tend to dictate whether they are allowed or not since it is a permitted use; however, the County still has influence by finding it either consistent or inconsistent with the master plan. For all other zones the county has primary control because it is regulated through the SUP process.

Mr. Maxwell Hlavin gave a summary of the status of the bills within the General Assembly related to Airbnb stating that there are two different versions that were referred back to committee for additional study. A new draft should come out of the committee with a legislative recommendation in December 2016 for discussion next session.

E. NEW BUSINESS

1. Amendments to the Zoning Ordinance to the Planned Unit Development District for Manufacture of Food, Beverages and Food Products

Ms. Roberta Sulouff, Planner, stated that recently, staff from both the Planning Division and the Office of Economic Development (OED) have received inquiries from companies interested in the manufacture of food or food products in areas zoned Planned Unit Development (PUD-C). Ms. Sulouff further stated that with guidance from the Board of Supervisors and adoption of the initiating resolution by the Planning Commission, staff has drafted ordinance revisions which allow the manufacture and packaging of food both as a by right use and a specially permitted use. Ms. Sulouff noted that the by right use would require all activities to take place in a fully enclosed location and a special use permit would be required when the use did not meet that criteria. Ms. Sulouff stated that these revisions are fairly straightforward so a more finished product is being presented. Ms. Sulouff stated that depending on the Committee's feedback and recommendations, staff anticipated bringing forward a draft ordinance for consideration by the Planning Commission at its June meeting and Board adoption at its second June meeting.

Mr. Rich Krapf noted that the proposed amendments have the support of the Economic Development Authority and the Office of Economic Development. Mr. Krapf noted that the main difference between the by right use and the specially permitted use was the requirement that a by right use operate in a fully enclosed building. Mr. Krapf asked for an example of a food or beverage manufacturing operation that would not take place in a fully enclosed building.

Ms. Kate Sipes, Assistant Director, Office of Economic Development stated that it was a matter of impacts and whether the use would create impacts, such as odor, noise or dust outside the building.

Ms. Sulouff stated that criteria language mirrored the language in other commercial/industrial zones to ensure consistency.

Mr. Wright inquired if the use would be allowed in PUD-R.

Ms. Sulouff stated that the use was already part of the M-1 and M-2 district and that the ordinance amendment was to incorporate the use in the PUD-C district; however, it would not be allowed in PUD-R or any other residentially zoned district.

Mr. Wright inquired if someone who manufactures food in their home as a business would be in violation of the Zoning Ordinance.

Ms. Sulouff stated that the use would not be covered under this proposed amendment. The Committee briefly discussed restaurants that used outdoor smokers to produce some of the menu items.

Ms. Sulouff noted that the ordinance was geared more towards large scale manufacture. Mr. Schmidt noted that there are not many areas zoned PUD-R.

Ms. Sipes noted that there are very few areas currently available to support a business of this nature.

Mr. Wright inquired whether there should be consideration of rezoning certain areas to accommodate commercial uses.

Ms. Sipes noted that consideration of where commercial uses should develop going forward would be a matter for more in-depth study and consideration. Ms. Sipes further stated that the current goal is to maximize the use potential of currently available locations.

Mr. Wright noted that there were a number of underutilized storefronts in the County.

Ms. Tammy Rosario stated that those types of rezoning requests are typically initiated by an interested developer.

Mr. Heath Richardson inquired about external impacts on communities adjacent to PUD-C developments.

Ms. Sulouff stated that the triggers for the use being a legislative case should capture those situations and mitigate potential impacts.

Mr. Richardson moved to recommend approval of the draft revisions.

On a voice vote the Committee voted unanimously to recommend approval of the draft revisions and as presented and move them forward to the Planning Commission for consideration.

2. Wireless Communications Facilities and Towers, Phase I

Ms. Savannah Pietrowski, Planner, gave a presentation proposing changes to the Wireless Communications Facilities (WCF) and Towers Ordinance designed to address two concerns. Ms. Pietrowski stated that the first item is a discrepancy between the existing ordinance language and the full variety of tower applications the County receives and the second is in response to the Spectrum Act which limits some of the County's purview and what staff can and cannot ask for when the application is submitted. Currently WCF definitions exclude radio and television broadcast, amateur radio, citizen band, and similar use structures. However, the policy is typically used as

guidelines because of their similarity and a lack of other guidelines. To resolve this, staff is proposing an amendment that would expand the current ordinance to encompass all towers and antennas and amend the language used to reference said towers in the use lists in order to maintain consistency.

Ms. Pietrowski stated that staff will also investigate discrepancies between use lists in the wireless ordinance and district use lists, as well as consider amendments to the Performance Standards for Wireless Communication Facilities Policy as it presently only refers to WCFs. With regards to the Spectrum Act, the Act prevents the County from denying alterations to existing eligible towers that do not substantially change the dimensions of the tower and establishes a time limit for how long the County can consider an application. Staff is considering creating a separate application process to ensure compliance and is considering adding guidelines to the ordinance for these types of applicants. Ms. Pietrowski also reviewed possible action by staff in response to the act such as reconsidering tower height in each district, clarifying what is considered a concealment element for new towers, and encouraging new towers to be built on County property

Mr. Wright asked if towers could use the Act to continually expand the tower height in small increments to circumnavigate regulation.

Ms. Pietrowski stated that the limit to expansion is 10% of the structure height or 20 feet based against the original height of the structure. Ms. Pietrowski also noted that towers can exceed heights permitted under the SUP when conforming to this expansion, and that the Spectrum Act also imposes limits on how far out towers can expand.

Mr. Krapf asked for clarity regarding the concealment issues with a 2014 WCF over the concealment structures of a particular tower.

Ms. Pietrowski stated that currently there are not specific definitions, but that per the Spectrum Act any expansion that would defeat any concealment element would be required to undergo the standard site plan approval process, and that staff would adopt similar policy that more clearly defines concealment elements. She also clarified that this would be for new towers and that it would not be possible to retroactively apply to previous towers.

Mr. Krapf asked for clarification on the expansion of the WCF standards to other towers that were not previously covered under ordinance, specifically if the aim was to carry over aesthetic requirements for WCFs to cover all towers.

Ms. Pietrowski stated that is correct.

Mr. Wright stated that the Spectrum Act changes would likely shift the design of new towers from monopoles to less appealing lattice towers.

Mr. Krapf asked if the exact number of towers in the county was known.

Ms. Pietrowski replied that there was a list available and could be brought to the next meeting

Ms. Tammy Rosario stated that there is a provision for removal of the tower if it were to become obsolete.

Ms. Pietrowski replied that most towers have a removal bond in place.

Mr. Krapf then asked how staff will proceed with implementing these changes.

Ms. Pietrowski stated that staff would be drafting amendments to the ordinance as well as to the WCF policy, with the plan of replacing the WCF policy/ordinance with a general tower ordinance/policy.

Mr. Krapf asked if there were any pending applications for new towers to be built.

Ms. Pietrowski stated that there is a new application for a tower at Powhatan Plantation.

Mr. Krapf moved to proceed to draft amendments for the ordinance and WCF policy.

On a voice vote the Committee voted unanimously to proceed to draft amendments.

3. Zoning Ordinance Revisions to Allow Mobile Food Vending Vehicles in the M-1, Limited Business/Industrial District, the M-2, General Industrial District and the Planned Unit Development-Commercial District

Ms. Sulouff gave a presentation describing the research efforts conducted by staff after a request by the Board of Supervisors in February regarding food trucks in James City County. With guidance from the Economic Development Authority (EDA) and the Office of Economic Development (OED), staff has investigated the possibility of food trucks operating in the parking lots of industrial parks in M-1, M-2, and PUD-C zoning districts. Currently food trucks are only permitted to operate during permitted special events; however, the Zoning Ordinance lacks any type of performance standards or definition for food trucks operating on a long-term basis. Staff has laid out the process of developing a food truck policy, starting with forming a definition of a food truck using Portsmouth's and York County's definitions as guidance. Ms. Sulouff stated that staff looked into permitting and performance standards, with staff recommending six sub-areas of consideration: licensing, permissions, parking, location, hours of operation, and accessories. Staff recommends implementing an administrative permitting system via the Zoning Administrator.

Mr. Krapf asked about York County's delineation between food trucks and "chuck-wagons" and if staff was looking into a similar distinction for the County's ordinance. Ms. Sulouff replied that staff did not seek to differentiate because "chuck-wagons" fell into the type of food truck that they seek to foster.

Mr. Richardson stated the importance of not making the differentiation given the difficulty in making the differentiation between food trucks and chuck-wagons.

Ms. Sulouff agreed stating that the enforceability of the definition would be logistically difficult.

Mr. Wright asked if food trucks would be required to obtain Virginia Department of Health (VDH) approval.

Ms. Sulouff stated that they would.

Ms. Sulouff then pointed to Albemarle County's requirement of a VDH approval signature as something the County could similarly require.

Mr. Richardson expressed an interest in making VDH permits visible for the public to view when buying from a food truck.

Mr. Krapf asked Ms. Parrish her thoughts on the administrative permit requirement.

Ms. Parrish stated that the permit was something favorable, citing the permit process for chicken-keeping as a similar successful system.

Mr. Wright then asked if MU was also being considered as a zone for food trucks to operate in.

Ms. Sulouff stated that it was only being considered for M-1, M-2, and PUD-C, but because the changes would be made to the special regulations section of the ordinance that setbacks from residential zones and brick and mortar restaurants could be implemented.

Mr. Wright then expressed the need for the County to communicate clearly the intent of this policy to prevent unnecessary upset from the restaurant community who may not understand the limitation of operation to M-1, M-2, and PUD-C districts. Mr. Wright then asked if Ms. Sulouff had received any comment from local restaurants

Ms. Sulouff stated that she had not, but she had received comment from food truck operators interested in the development of policy.

Mr. Krapf stated that a clause in the Portsmouth ordinance regarding removal of trash and providing trash receptacles was something that should be incorporated into the County's ordinance.

Mr. Richardson asked when these localities adopted their ordinances, how many trucks were operating in York, and what the response from other localities was.

Ms. Kate Sipes commented she was unsure of how many trucks were currently operating in York, but that the City of Williamsburg was in the process of considering adopting a policy allowing food trucks.

Mr. Krapf stated that it would make sense to model the regulations for the County off that used in York.

Mr. Richardson stated that was a good idea, but also noted that forming a strict definition of food trucks like York, would make it more difficult for the County in the future as things change.

Mr. Wright raised concern over the execution of this process, stressing the need for clearly established regulations to ensure the County can act when operators are in violation of the regulations.

Ms. Sulouff stated that this exact reason that this a daunting task, stating that staff

wanted feedback on the technical details to ensure all desired regulations are implemented into the ordinance. Ms. Sulouff stated that the specificity of location permission was an area of concern, noting some localities that require property owner permission at the time of permit application while others only require it at the time of operation.

Mr. Wright stated he would favor requiring owner permission at the time of permit application to avoid any possibility of the County being involved in a trespassing case.

Mr. Richardson stated agreement with the 100-foot setback requirements from residential and other business used by other localities.

Mr. Wright stated he wouldn't be opposed to a 100-foot setback from businesses but that he would like to hear comment from them before implementing a specific distance.

The Committee then discussed how they would solicit public comment from restaurant owners about this setback distance, which they concluded could be obtained during the Planning Commission and BOS meetings, and that staff should determine if other localities had any public comment about the distance requirements.

Ms. Sipes stated that the other ordinances that had distance requirements did not also restrict food trucks to industrial zones, which generally do not have restaurants.

The Committee then discussed the areas that are zoned M-1 that also have restaurants such as McClaw's Circle and Courthouse Commons.

Ms. Rosario stated that it would be less than ideal for the restaurant community to only be involved in the process at BOS or Planning Commission meetings when the ordinance is already ready to be adopted, to which the committee agreed, believing they need to be involved sooner.

The Committee then discussed how the process would proceed with Ms. Rosario recommending Ms. Sulouff coordinate with Ms. Sipes.

Mr. Wright stated his concerns over the impact of food trucks on brick and mortar restaurants citing the experience of downtown Newport News in previous years.

Mr. Richardson agreed, stressing the importance of limiting food trucks to specific districts to reduce impact on existing restaurants.

Ms. Sulouff stating that the primary reason food trucks would be limited to industrial zones was because of the lack of food options in those areas and the number of requests in those particular areas for food trucks.

Ms. Rosario asked if there were any other areas needing Committee feedback such as hours of operation.

Several Committee members concurred that 6:30am-9:30pm would be appropriate.

Ms. Sulouff replied that there were alternative ways of regulating operating hours such as limiting to the hours that the parking lot or business is open. Ms. Sulouff further stated that 6:30am-9:30pm may be limiting to overnight shift workers such as those at

the brewery or the Ball plant.

The Committee then discussed the implications of which method to use weighing the advantages of each, and considering the role of shift work.

Ms. Sipes stated that because the trucks would be operating on private property that the property owner should dictate the timing.

Mr. Wright concurred stating that it should be limited to a set time period established by the ordinance or by the property owner if it falls outside of that time period.

Mr. Wright asked if there was any provision in the draft policy that allowed for operation on public streets or rights-of-way.

Ms. Sulouff replied that they would not be allowed to operate in public rights-of-way.

Mr. Wright then stated that there should be a direct reference in the ordinance prohibiting operation in public rights-of-way.

Ms. Sipes then asked if there would be a requirement to submit a site plan indicating where in the parking lot that the truck would be located.

Ms. Parrish said that it would be favorable to require a site plan to ensure that the placement would not interfere with regular parking.

Ms. Sulouff then addressed the parking regulations, citing other localities that permit trucks to park in up to two parking spaces. Ms. Sulouff stated that additional factors such as eating areas, signage, and lighting could be addressed in a site plan.

Mr. Krapf stated concerns that specific requirements may be too prohibitive to trucks operating in particular areas and instead could be served by more general guidelines in the ordinance.

Ms. Sulouff replied that the concerns from the County standpoint is that each use has specific parking requirements set forth by the county and some business are just at the minimum requirements and that not imposing a two space limit could impact parking at a location.

Ms. Parrish concurred, further stating concerns over the truck parking in a landscaped area or within a buffer that is required.

Ms. Sulouff stated that it would be difficult to establish a requirement of when a site plan would be needed depending on how much the truck wants set up in a particular area.

Mr. Richardson raised concerns over the degree of detail in the definition of what constitutes a food truck, and that by setting strict definitions at this point may act to exclude certain trucks. Mr. Richardson proposed instead that it be treated more as a pilot program initially, expanding regulations as the situation is better understood.

The Committee then discussed their stance on requiring a diagram plotting the location and details of a food truck, coming to a consensus that a general diagram noting the

location of the truck would be the best option.

Ms. Sulouff addressed concerns over the regulation of signage stating that there would not need to be much new regulation over signage because of the County's robust signage and lighting ordinance.

Ms. Parrish concurred, stating that food truck operators would have to abide by the signage ordinance.

Mr. Krapf stated that he read another locality's ordinance which did not allow detached signage and required all signage be affixed to the truck and that this policy seemed to make the most sense. Mr. Krapf did express concern, though, over the specificity of the ordinance as being prohibitive to operators because of overly complex requirements. Mr. Krapf further stated he believed it was not necessary to stipulate parking requirements that were already prohibited by ordinance such as not parking in a fire lane.

Ms. Sulouff stated that to address this concern, a clause could read that the truck could only be parked in existing parking and could not take up any handicapped parking.

Mr. Richardson then asked how staff would go about soliciting comment from restaurant owners about this draft ordinance.

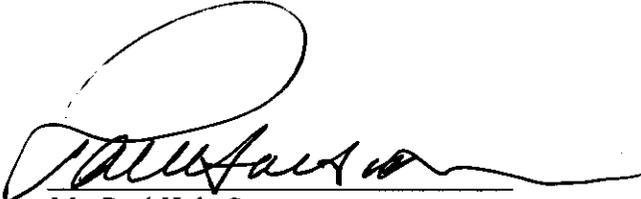
Ms. Sulouff replied she would work with Ms. Sipes in reaching out to restaurants closest to M-1, M-2, and PUD-C districts.

Mr. Wright stressed the importance of communicating to restaurants during the process that this would only apply to specific districts.

F. ADJOURNMENT

On a 4-0 vote the motion passed and the meeting was adjourned at approximately 5:10 p.m.


Mr. Rich Krapf, Chair


Mr. Paul Holt, Secretary