

AT A WORK SESSION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 26TH DAY OF JULY 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 DISCUSSIONS

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

1. Stage II Zoning Ordinance Update for Development Standards and Cumulative Impacts

a. Sound Walls

Mr. Middaugh discussed that eight out of the nine draft ordinances are representative of the County having a special character, which is an outcome of the County's new vision.

Ms. Tammy Rosario, Principal Planner, commented that the collection of items to be discussed is development standards. She discussed the first item, sound walls, which is a set of guidelines created to assist staff in working with the Virginia Department of Transportation (VDOT) on sound wall design and construction. The purpose of the policy is to communicate the County's expectations for aesthetically pleasing and cost effective walls before any design work is done and it also outlines how staff will communicate with VDOT.

Mr. Middaugh asked staff to explain why this is being done as opposed to doing an ordinance.

Ms. Rosario explained that sound walls are located on VDOT right-of-way which does not fall under the zoning ordinance.

Mr. Goodson asked staff about the cost of upgrading a sound wall. Previously, the County had to pay the extra cost of upgrading a sound wall. Mr. Goodson asked if this policy would require VDOT to pay for the upgrade.

Mr. Scott Whyte, Senior Planner I, commented that it would not. The County would attempt to be within budget and the budget is determined to be \$30,000 per effected household. The Federal government provides 80 percent, VDOT provides 20 percent, and if the County had gone over the projected budget, the County would have had to pick up the cost.

Mr. Goodson asked staff about having different styles of sound walls and why other localities have different architecture styles for sound walls.

Mr. Rogers responded that VDOT cannot be forced to build to County standards.

Mr. McGlennon commented that sound walls are a reflection of failure in planning and further commented that sound walls are used to address situations when noise intrudes into residential areas. He stated it would be his preference to include a statement that the County avoids sound walls if at all possible.

Mr. Whyte commented that VDOT determines when a sound wall is needed and conducts public meetings for citizens in reference to sound walls.

Mr. Icenhour asked staff if VDOT is bound by a policy or ordinance.

Mr. Rogers commented that the County does not have the authority under zoning provisions to regulate VDOT.

Mr. Middaugh stated that the policy helps with negotiations with VDOT.

Mr. Icenhour asked staff that if the standards exceeded the Federal budget, would the County have to fund the balance.

Mr. Allen Murphy, Jr., Director of Planning, commented that it would be a Board decision.

Ms. Jones asked staff if there was enough guidance from the Board for the planning staff.

Mr. Middaugh summarized that the consensus of the Board was to avoid sound walls if at all possible, but to make them look aesthetically pleasing if they are necessary.

b. Outdoor Lighting

Ms. Rosario stated that the draft ordinance for outdoor lighting is intended to apply dark sky principles to areas of development other than the existing parking lot lighting regulations, to promote energy efficient designs, and to protect citizens against the adverse effects of light pollution. The new ordinance consolidates all outdoor lighting requirements into one section of the zoning ordinance.

Mr. McGlennon asked about the issue of illuminated signs.

Ms. Rosario commented that it is cross-referenced in the policy.

Mr. Goodson asked if there is a maximum height for lighting in recreational areas.

Mr. Whyte responded there would need to be a height waiver.

Ms. Rosario replied that it would be determined on a district by district basis.

Mr. Goodson expressed support for allowing these waivers to be approved administratively.

Ms. Jones agreed.

Mr. McGlennon stated that it would be helpful if staff explained how changes make sense based on the experience the County has had under the existing ordinance.

Mr. Kennedy asked staff about secondary lighting.

Mr. Whyte commented that the Policy Committee recommended changing the policy from limiting light at the parcel line to limiting it to the right-of-way.

Ms. Rosario commented on ensuring that visitors coming to businesses are safe.

Ms. Jones asked the Board about administrative approval.

Mr. Icenhour stated that he was not comfortable with administrative approval as there had been some negative feedback about the lighting at the Warhill Sports Complex. He said that citizens should be able to comment on lighting in certain areas.

Mr. Icenhour stated concern about allowing trees to serve as a buffer to lighting.

Mr. Middaugh mentioned the language of the draft ordinance specifically prohibits using trees as a buffer.

Ms. Rosario asked the Board for direction about administrative approvals. The consensus was that height waivers for lighting should come to the Board for review.

c. Tree Preservation and Landscaping

Ms. Rosario provided a summary of the new proposed ordinance.

Mr. Goodson asked staff about phased clearing and how the exceptions work (such as removing all the soil off the site and then bringing it all back onto the site).

Ms. Rosario commented that all tree removal shall be limited to the area required for the practical development of the site. No clear cutting shall be permitted except when it can be shown that the removal of vegetation is necessary for the development of the site and she also explained that further definition is in the cut and fill section of the policy.

Mr. McGlennon asked staff if consideration was given to sustainability in restoring the tree population and not just minimizing the loss of trees.

Mr. Murphy replied that the focus is on tree preservation and landscaping.

Mr. McGlennon asked staff if restoring the trees and revising the stormwater criteria would be helpful.

Mr. Murphy replied that stormwater criteria and Chesapeake Bay Ordinance provisions are optional and are not mandated. He further commented that there are opportunities to build incentives to compensate.

Mr. McGlennon commented on the rate of tree loss and tree preservation in relation to the Comprehensive Plan and how to create the opportunity for preserving trees. Mr. McGlennon discussed that there are ways to address the issue and that tree preservation could be achieved.

Mr. Goodson stated that if it is incentive-based, he would support it.

Ms. Rosario commented on better incentives to promote better linkage to stormwater goals and landscaping.

Mr. Goodson asked staff about the importance of native trees.

Mr. Whyte stated that native trees are better equipped for this type of environment, but the ordinance only recommends and does not require their use.

Mr. Goodson asked how staff would interpret the language "strongly encourage" being used in the policy.

Mr. Murphy commented that there is not a plant requirement.

Mr. Goodson asked if the language could be added about drought tolerate plants.

Mr. Murphy replied that there is some language that addresses this issue.

Ms. Rosario commented that the language opens a dialog between the County and the designer.

The Board further discussed tree preservation and why it would not apply to a single-family residential community.

Mr. Icenhour asked if tree preservation could be encouraged for single-family residential areas.

Mr. Murphy commented that a policy could be proposed. New residential development would require a legislative decision, and significant tree preservation could also be offered as a proffer.

Mr. Icenhour noted that phased clearing only applies to areas over 25 acres.

Mr. Kennedy asked staff about the landscaping policy and the inspection process.

Mr. Whyte replied that landscaping is inspected for the Certificate of Occupancy (CO). Plants are usually under warranty for a year. He further commented that it is a problem to keep the plants alive and keeping everything in place as they should be and noted that the County holds a bond.

Mr. Kennedy asked staff if something should be written in the ordinance about planting seasons and overplanting and asked staff how the County can keep this from happening.

Mr. Whyte and Mr. Kennedy stated that a policy is needed.

Mr. Murphy commented that there is flexibility in the policy.

Ms. Rosario asked the Board about an incentives approach to linking the landscaping ordinance to stormwater goals and about adjustments to native species language and tree policy.

The Board supported linking the landscaping ordinance to stormwater goals and further discussed tree preservation.

Mr. Icenhour asked if the Board would support language encouraging residents to preserve specimen trees.

Mr. Goodson commented on the difficulty of enforcement, but that he could support a policy of encouragement.

Mr. Murphy asked if the Board would prefer to have a separate policy on residential rezoning and the preservation of large trees on-site.

d. Community Character Corridor (CCC) Buffer Treatments and Parking Lot Landscaping

Ms. Rosario gave a summary to the Board on the Community Character Corridors (CCC) type designation.

Mr. Middaugh asked staff if they received feedback about the specimen tree preservation policy.

Ms. Rosario commented that was an option in the ordinance and wanted to make sure the Board supported it.

Mr. Icenhour asked staff if this would give the homeowner/landowner the ability to initiate the process.

Mr. Murphy commented that staff would have the opportunity to review the site plan and make an attempt to preserve the specimen tree. The applicant would receive credit for preserving the tree. The policy is incentive based.

Mr. Icenhour asked staff about streetscape guidelines and about the practical effect of the change from 20 percent coverage of the road being replaced with language that states that the tree canopy is established after 20 years.

Mr. McGlennon commented that whatever the tree canopy is, it will be the standard and not the minimum in 20 years.

Mr. Icenhour requested more clarity, realizing that it is only a goal.

Mr. McGlennon suggested a canopy that shades the roadway.

Ms. Jones suggested that the maintenance issue be considered as well.

Mr. Fraley commented that there were issues with the 20 percent.

The Board further discussed that the language is a little misleading and the ordinance needs to be very clear.

Ms. Rosario asked the Board for feedback on CCC buffer treatments and commented that there have been some provisions based on meeting with the Policy Committee.

Ms. Jones discussed how not every community corridor will be the same and having a variety of corridors based on different settings. She further gave examples of various areas that have different corridors.

Mr. Kennedy commented about having citizens' feedback about timbering and corridor buffering.

Ms. Whyte commented that it is not being changed and the requirements would still be the same.

Ms. Rosario asked the Board if it is in agreement on the policies submitted and being applied for the County based on the map.

The consensus of the Board was support of the proposed map.

e. Parking Standards

Ms. Rosario gave a summary to the Board and commented that the updated language gives the Planning Director discretion to allow a minimum parking standards waiver if the applicant demonstrates the minimum standards are too high. She commented that a parking capacity of 120 percent of the minimum requirement has been drafted, with waiver requests going to the Planning Director and appeals going to the Development Review Committee (DRC). Certain uses currently rated as high-demand parking have been redesigned as moderate-demand parking. The draft ordinance incentivizes side and rear parking for Urban/Suburban CCC.

Mr. McGlennon asked staff if the parking lanes have gotten narrower.

Mr. Luke Vinciguerra, Planner, responded that the minimum standards have not changed.

There was further discussion about parking structures and if it is parking garages for clarification.

f. Private Streets

Ms. Rosario gave a summary of the pavement of private roadways which shall meet the design and construction requirements of VDOT.

Mr. Icenhour asked staff about prohibiting multi-family in R-2 general, but allowing with Board approval in the R-2 cluster overlay.

Mr. Murphy commented about attached housing in clusters in areas of low-density residential. Outside of clusters, multi-family such as townhomes are prohibited.

Mr. Icenhour asked staff about qualifying industrial parks adjustments and would like clarification on other permitted development.

Mr. Murphy commented that staff would review this further.

Mr. Icenhour asked staff about Item No. 4, which states that the applicant shall also submit assurances satisfactory to the County Attorney that a property owner's community association or similar organization has been legally established under which the lots within the area of the final plan be assessed the cost of maintaining private streets. He further stressed his concern when the citizens do not have the funds to support the maintenance of private streets and the streets do not meet VDOT standards.

Mr. Murphy commented that this concern can be addressed through proffers. Establishing the criteria for critical mass for private streets is an important issue.

Mr. Rogers commented it is based on units and values.

Mr. Goodson asked staff if the cost of maintenance can be established.

Mr. Rogers stated that this would be difficult. Mr. Rogers discussed that the Declaration of Covenants must have a line item for street maintenance and further discussion on private streets and VDOT will encourage more private streets.

g. Pedestrian Accommodations (sidewalks)

Ms. Leanne Reidenbach, Senior Planner, gave a summary about pedestrian accommodations and further discussed the pedestrian map with the Board.

Mr. Icenhour asked staff how the ordinance would affect private streets and would it be required to put sidewalks on one side of the street in every subdivision.

Ms. Reidenbach responded that it would.

Mr. Icenhour asked staff about a developer requesting a waiver.

Ms. Reidenbach responded that the Planning Director could approve a waiver if an equivalent alternative pedestrian accommodation is provided.

Mr. McGlennon commented about Lake Powell Road and how a sidewalk could be accommodated, noting that it was mostly developed and residents have typically not wanted a sidewalk.

Ms. Jones asked about sidewalks on Jamestown Road and where the sidewalk would be placed.

Ms. Reidenbach commented that this is a long-term plan and placement in areas with existing development would be dependent on the availability of funding.

Mr. McGlennon asked about sidewalks on Brick Bat Road.

Ms. Reidenbach commented that they are recommended in the plan because it is adjacent to Greensprings West and within a half mile of Matoaka Elementary School.

Mr. Kennedy commented on his concern about sidewalk maintenance. The public does utilize the sidewalks, and the responsibilities for maintenance need to be clear.

Ms. Reidenbach noted that multi-use paths are cheaper to construct than sidewalks. She commented on maintenance of sidewalks and noted that sidewalks would be placed in VDOT right-of-way.

Ms. Jones asked Mr. Fraley if the Policy Committee reviewed the multi-use path versus sidewalks.

Mr. Fraley replied that the Policy Committee preferred the multi-use path on Brick Bat Road and also questioned the sidewalks on Lake Powell Road.

The Board expressed its support for a multi-use path along the entire length of Brick Bat Road.

Mr. McGlennon stated that exploring other alternative alignments for Lake Powell Road seems more appropriate than a sidewalk.

The Board endorsed removing the sidewalk requirement along Lake Powell Road.

Ms. Reidenbach noted that alternative alignments that did not follow rights-of-way would not show up on the pedestrian map, but may be included in a plan like the Greenways Master Plan.

Mr. McGlennon asked about improving pedestrian access at intersections.

Ms. Reidenbach replied that nothing was included in the ordinance and that it is looked at on a case-by-case basis primarily by VDOT.

Mr. Goodson asked how the County would assign the cost for pedestrian accommodations at intersections to development.

Mr. McGlennon stated that it was done for vehicular traffic.

The Board further discussed other areas for crosswalks and access for pedestrians.

h. Timbering

Ms. Reidenbach gave a summary in reference to the three options for timbering. Option One is based on staff's initial recommendation to the Policy Committee and includes verbal notification of timbering activity and is consistent with the Virginia Department of Forestry recommendations. Option Two includes a requirement that landowners submit a pre-harvest plan to the County at least 10 days prior to commencing timbering activities; Option Three includes requirements for submission of a pre-harvest plan and for setbacks for timbering on A-1 properties outside the Primary Service Area (PSA) and along CCCs. The Planning Commission recommended Option Three at its meeting in July. Ms. Reidenbach noted that the pre-harvest plan requirement would be to provide staff with advance notice of timbering activities and allow a chance to potentially acquire important buffer areas.

Mr. Goodson asked staff about Option Three pre-harvest plans.

Ms. Reidenbach commented that it is legally permissible.

Mr. Rogers further explained that the property owner can harvest the timber out of the setback area and receive revenue for the timber so it would not be considered a taking.

Mr. Icenhour asked Mr. Fraley, Chair of the Policy Committee, about the options in reference to timbering.

Mr. Fraley replied that they initially had concerns about the safety and crops lost to the property owners, but the provisions of Option Three ameliorated these concerns.

Mr. Icenhour asked staff about the CCCs located outside the PSA that would be affected by this option.

Ms. Reidenbach listed several roads outside the PSA.

Ms. Jones asked staff if the property owners were contacted about the changes.

Ms. Reidenbach stated that they had not.

Ms. Jones stated that she would like to receive input from the property owners.

Mr. Icenhour commented that he would support Option Three; however, he wanted to protect landowners from economic loss.

Mr. Kennedy commented about farmers and that they may suffer a financial hardship. He is concerned about harvesting within the 50-foot buffer and questioned if it could be done. He supports notifying property owners about the proposed options to get feedback. He also noted that if the County chose to purchase timbering rights, maintenance is a concern as well and he further commented that he is not comfortable with Option Three.

Ms. Reidenbach responded that she had discussed this issue with Mr. Billy Apperson of the Virginia Department of Forestry, about the three available options and that Option Three is modeled after the Department's practices inside streamside management zones and allows people to recoup the value of the timber. It is possible to remove timber in narrow areas and provisions are included in the draft ordinance to waive buffer requirements where impracticable or where a buffer would be a safety hazard.

The Board requested more information and notifying property owners about these options. It further discussed the notification to property owners with five acres or more, along the CCCs and outside the PSA.

Ms. Jones commented that the Board needs to know how many property owners would be impacted by this type of change.

Mr. Icenhour asked staff to explain the differences between Options One and Two.

Ms. Reidenbach responded a verbal notification in option one is by the Department of Forestry and a written notification in Option Two gives County staff something on file for notification. Either option provides 10 days of negotiating to acquire rights to the buffer area if desired.

Mr. Icenhour asked staff if they were comfortable with a verbal notification and if staff could track it versus a written notification.

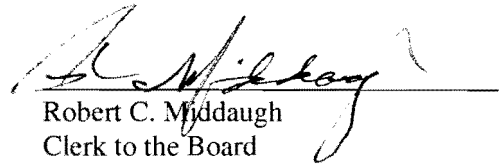
Ms. Reidenbach responded that they could develop a system to handle either.

Mr. Icenhour expressed a preference for written notification.

Staff and the Board further discussed other easements the County has purchased for timbering buffers, which usually may last up to 20 to 25 years.

D. RECESS

At 6:24 p.m., the Board recessed until 7 p.m.



Robert C. Middaugh
Clerk to the Board

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