

A G E N D A
JAMES CITY COUNTY PLANNING COMMISSION
August 3, 2011 - 7:00 p.m.

1. ROLL CALL
2. PUBLIC COMMENT
3. MINUTES

July 6, 2011 Regular Meeting
4. COMMITTEE / COMMISSION REPORTS
 - A. Development Review Committee (DRC)
 - B. Policy Committee
 - C. Regional Issues Committee / Other Commission Reports
5. PLANNING COMMISSION CONSIDERATIONS
 - A. Initiating Resolution – Zoning Ordinance Amendment, Section 24-7, Administrative Fees
 - B. Initiating Resolution – Subdivision Ordinance Amendment, Section 19-15, Administrative Fees
6. PUBLIC HEARING CASES
 - A. Economic Opportunity District, ZO-0003-2011
 - B. SUP-0005-2011, Williamsburg Landing Construction Commencement Extension
 - C. Zoning Ordinance Amendment, Section 24-7, Administrative Fees
 - D. Subdivision Amendment, Section 19-15, Administrative Fees
7. PLANNING DIRECTOR’S REPORT
8. COMMISSION DISCUSSIONS AND REQUESTS
9. ADJOURNMENT

A REGULAR MEETING OF THE PLANNING COMMISSION OF THE COUNTY OF JAMES CITY, VIRGINIA, WAS HELD ON THE SIXTH DAY OF JULY, TWO-THOUSAND AND ELEVEN, 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:

Jack Fraley
Joe Poole III
Al Woods
Mike Maddocks
Rich Krapf
Tim O'Connor

Staff Present:

Allen Murphy, Director of Planning/Assistant
Development Manager
Adam Kinsman, Deputy County Attorney
Chris Johnson, Principal Planner
Leanne Reidenbach, Senior Planner
Jennifer VanDyke, Administrative Services Coord.

Mr. Jack Fraley called the meeting to order at 7:00 p.m.

2. PUBLIC COMMENT

Mr. Fraley opened the public comment period. Seeing no one wishing to speak, the public comment period was closed.

3. MINUTES

A. May 4, 2011

Mr. Joe Poole moved for approval of the minutes.

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

4. COMMITTEE AND COMMISSION REPORTS

A. Development Review Committee (DRC)

Mr. Poole stated that the DRC met earlier that day to review two cases. The first case was S-0022-2011, Tractor Supply Company. This case was before the DRC due to the requirement in Section 19-40 of the Subdivision Ordinance that requires all lots to have access to a public road. The applicant has proposed a series of access easements. The DRC recommends approval. The second case was C-0023-2011, Whitehall Design Guidelines Amendments. The approved proffers associated with the development of Whitehall. Amendment of the Design Guidelines must be reviewed and approved by the DRC. The DRC discussed three minor adjustments that had been requested. The DRC found no issue with the requested adjustments and recommended approval.

Mr. Mike Maddocks moved for approval of the minutes.

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

B. Policy Committee

Mr. Reese Peck stated that the Policy Committee had two meetings in June. On June 7th the Policy Committee discussed cumulative impacts of development, pedestrian accommodations; floodplain overlay districts, timbering, administrative policies and commercial districts. On June 16th the Policy Committee discussed private streets, highways, parking, loading, sound walls, lighting, tree preservation and community character corridor buffers.

C. Regional Issues Committee / Other Commission Reports

Mr. Fraley stated that there is a meeting coming up on July 26th at 8:30 a.m.

5. PLANNING COMMISSION CONSIDERATIONS

A. Initiating Resolution – Zoning and Subdivision Ordinance Update

Mr. Chris Johnson stated that the Ordinance Update Methodology was adopted by the Planning Commission in April 2010 and by the Board Of Supervisors (BOS) in May 2010. In accordance with the adopted methodology the commission has been considering ordinance update issues and options and has approved some initial drafts of amended ordinances. Next month the Policy Committee will begin reviewing finalized proposed amendments. Staff is presenting a resolution to initiate the Zoning and Subdivision Ordinance update process.

Mr. Rich Krapf made a motion to approve the initiating resolution for the Zoning and Subdivision Ordinance update.

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

B. Section 24-43, Timbering

Ms. Leanne Reidenbach stated that based upon the feedback provided by the Policy Committee and the Board of Supervisors, staff has developed three draft ordinances for consideration related to timbering. The three options have been outlined as seen on the provided table. All options include changes that are based on recommendations made by the Virginia Department of Forestry and also based on changes to State Code. Ms. Reidenbach discussed the differences between the three options. Ms. Reidenbach stated that staff recommends option one. She stated that the timbering section will be reviewed during a BOS work session on July 26, 2011.

Mr. Poole asked if the County's Agricultural and Forestal District (AFD) tax-break policies were discussed while reviewing ordinance changes related to timbering.

Ms. Reidenbach stated that they were not.

Mr. Al Woods asked Ms. Reidenbach to provide the rationale behind staff's recommendations.

Ms. Reidenbach stated that option one does not add any additional requirements. This option was based on the Virginia Department of Forestry's recommendations. The option would include a memorandum of agreement with the Department of Forestry to provide verbal notification of timbering activities, which is a step above what is currently required. The other two options were created in response to BOS comments.

Mr. Woods asked staff if there were any aspects to options two and/or three that in their view were particularly onerous for property owners.

Ms. Reidenbach stated that all three options meet State Code requirements. She stated that the State Code allows the Zoning Administrator ten days to consider pre-harvest applications. She stated that staff attempted to craft their recommendations based on making minimal requirements in addition to meeting State Code.

Mr. Peck asked if staff could include provisions that enable the land owner to harvest certain trees of value.

Ms. Reidenbach stated that option three requires buffers outside the Primary Service Area (PSA) for properties zoned A-1 and located along Community Character Corridors, though there is a provision that would allow up to half of the basal area of the buffer to be harvested. She stated that the larger trees that have more value as timber and less value as a buffer could be removed.

Mr. Peck stated that he specifically wanted to know if there were measures in place to help mitigate the financial burden (such as selective harvesting) for land owners.

Mr. Maddocks stated that option one is most similar to what is currently required.

Ms. Reidenbach stated that there were a few minor changes based on State Code and the recommendations made by the Department of Forestry. She stated that the primary change is not actually codified in the Ordinance. The notification change would be in a separate memorandum of agreement with the Department of Forestry.

Mr. Fraley asked staff to describe what other localities have in place to govern timbering, specifically York County.

Ms. Reidenbach stated that York County currently has requirements for both pre-harvest plan submissions and buffers on all properties that are timbered. She stated that staff's pre-harvest plan requirements were structured on York County's requirements. She stated that other localities' requirements varied. She stated that there was a locality in northern Virginia that required buffers along all roads for all properties as well as requiring a pre-harvest plan submission. She stated that there were some localities that did not require buffers. She stated

that Charles City negotiates on a case-by-case basis.

Mr. Fraley stated that based on the staff report, Mr. Billy Apperson, the local representative from the Department of Forestry, preferred option one, though he is amenable to options two and three. Mr. Fraley stated that it is apparent that Mr. Apperson wants to maintain the ability for a land owner to harvest and make gains on those trees of value. Mr. Fraley noted that Mr. Apperson's intent was to eliminate those trees that could become a public health and safety issue by noting the risk of certain trees falling as a result of a storm. Mr. Fraley stated that his two concerns center on maintaining the rights of the property owner to realize the full value of their timber and eliminate the possible risks to public health and safety. He asked if these two concerns have been successfully addressed.

Ms. Reidenbach stated that the full value will depend on the property and the type of trees that are left in the buffer. She stated that staff's proposal would permit the property owner to harvest up to half of the basal area of the trees within the buffer. She stated that in talking with the Department of Forestry this proposal is similar to how they would treat stream management zones. She stated that this may not give the property owner the full value of their timber, but it would provide some financial relief.

Mr. Fraley asked why staff is not more supportive of option three. He stated that option three adds more protection to the Community Character Corridors, which was a prime objective outlined in the Comprehensive Plan.

Ms. Reidenbach stated that Mr. Apperson is most fully in support of option one and staff recommended that option based on conversations with Mr. Apperson.

Mr. Poole asked if staff would object to requiring property owners that participate in the AFD program to provide a 50-foot buffer for any property abutting a public right of way. He stated that in his view staff's endorsement of option one would not fulfill the goals and objectives of the Comprehensive Plan.

Mr. Peck stated that he had previously discussed during a Policy Committee meeting requiring a buffer for those property owners outside the PSA as long as there was some provision to mitigate the economic impact.

Mr. Krapf stated that one aspect of option one that disturbs him is requiring verbal notification. He stated that such a provision would be difficult to defend if the property owner did not properly notify the County. He stated that he prefers option three. He stated that the intention of the Comprehensive Plan was to maintain the valued characteristics as noted in the citizen input. He stated that preserving Community Character Corridors needs to be a priority. He stated that recently there had been timbering activities taking place near the intersection of Menzels Road and Little Creek Dam Road. He stated that there was no buffer and the site became an eye sore. He stated that the buffer listed for option three is consistent with A-1 within the PSA, and therefore it has applicability with A-1 outside the PSA.

Mr. Maddocks asked which local principalty follows option three.

Mr. Fraley stated that York County follows option three.

Mr. Tim O'Connor stated that he does not want to further burden property owners. He stated that as it stands, property owners are already required to work with the Department of Forestry. He stated that requiring notification is fine but he does not support requiring a pre-harvest plan, as seen in option two.

Mr. Poole stated he is prepared to support a hybrid of option three. He stated that the hybrid of option three would make an additional requirement of those property owners participating in AFD's to maintain a buffer along any right-of-way, with selective harvesting permitted. Mr. Poole noted that property owners participating in the AFD program are already benefitting from a tax break and should provide a benefit back to the public as a result.

Mr. Murphy stated that the County benefits from property owners participating in the AFD program with their agreement to not develop their property.

Mr. Adam Kinsman stated that the County would have a difficult time justifying treating those participating in the AFD program differently from other property owners. He stated that the best option would be to create a universal standard for everyone to follow.

Mr. Murphy stated that while considering the policies York County created, it is important to recognize that they have very different land development circumstances.

Mr. Fraley asked how many properties zoned A-1 were actually located along a Community Character Corridor and could potentially be timbered.

Ms. Reidenbach provided information on those properties that are in a Community Character Corridor and outside the PSA.

Mr. Fraley stated that he thought it would be in the County's interest to protect the viewshed.

Ms. Reidenbach stated that upon evaluation staff determined that this buffer requirement would not affect a great amount of acreage.

Mr. Peck stated that he supports option three; the measures taken here reflect the intent of the Comprehensive Plan. He stated that he supports exploring the possibility that participating AFD land owners would be required to have a buffer along any portion of land abutting a right-of-way. He stated that there would need to be a provision permitting select harvesting within the required buffer.

Mr. Woods stated that option one does not reflect the preferences of the community. He asked staff to reexamine their position. He stated that he supports option three.

Mr. O'Connor asked a hypothetical question; would he be permitted to clear a piece of

property without a buffer with the intent to plant corn.

Mr. Fraley stated that a buffer would not be required.

Mr. O'Connor stated that buffers should not be a requirement as timber can be looked at as a crop, just as corn is in his example.

Mr. Maddocks stated that buffers should not be a requirement.

Mr. Fraley stated that he supports option three.

Mr. Krapf made a motion to recommend option three. In a voice vote, the motion was approved (5-2; Nay; O'Connor, Maddocks).

Mr. Poole asked that staff consider and report back with the pros and cons in applying conditions on those properties within the AFD program. The Commission concurred.

Mr. Fraley stated that staff's work on these options did alleviate some concerns the Planning Commission members had regarding property owner rights and public safety and asked that staff note this when the options are presented to the BOS.

C. Section 24-147, DRC Triggers

Mr. Johnson stated that the Policy Committee requested that this ordinance section be considered by the entire Commission as there was not a consensus on the proposed changes to Development Review Committee triggers.

Mr. Poole asked for more information on what led up to the proposed changes.

Mr. Johnson spoke on the work done by the Subdivision and Site Plan Improvement Review Team (SSPIRT) and how staff arrived at the recommendations brought forward.

Mr. Poole asked how staff arrived at the recommended change from "a single building or group of buildings which contain a total floor area that exceeds 30,000 square feet" to "50,000 square feet".

Mr. Johnson stated that the 50,000 square foot threshold was initially recommended by the SSPIRT committee by following a careful review of site plans which had been reviewed in the past decade as well as those which required DRC review.

Mr. Poole stated that a 50,000 square foot development would have a greater impact on a small parcel compared to a larger parcel. He stated that by creating a universal change triggering fewer DRC reviews, the community would lose the benefit of having development reviews (by the DRC). He stated that this would be unfortunate especially with those proposals that could have a significant impact on the community.

Mr. Johnson stated that just because the DRC is not reviewing the case does not mean

that staff is not very carefully considering the impacts of developments regardless of the site. He stated that all reviewing agencies would still offer their comment for consistency with all established Ordinances and policies.

Mr. Poole stated that it is noteworthy that the DRC has been very flexible and amenable to meeting the needs of all applicants progressing through DRC review.

Mr. Johnson stated that the majority of those cases over 30,000 square feet also triggered legislative review for a Special Use Permit (SUP) and/or a rezoning.

Mr. Fraley asked how many 50,000 square foot buildings, or group of buildings has come before the DRC within the last three years.

Mr. Johnson stated less than a dozen.

Mr. Fraley stated that he agrees with Mr. Poole's comment regarding the different level of impact from one building development to the next, depending on the size of the parcel and the intended use. Mr. Fraley stated that currently fast food restaurants are by-right in B-1 and permitted with an SUP in Mixed Use.

Mr. Fraley stated that he cannot find a definition for a multifamily dwelling in the Zoning Ordinance.

Mr. Johnson stated that the Zoning Ordinance contains a definition for multiple family dwelling units, which is a structure arranged or designed to be occupied by more than two families grouped by common law. He stated that it also contains a definition for single family development and two family dwelling. He stated that multifamily is one of the words that will come up during the commission's review of the definitions section of the Ordinance later in the process. He stated that staff has recognized the need for further clarification. He stated that multifamily would be consistent with multiple family (more than two). He stated that these structures would contain three or more families separated by common walls or floors; examples of this would be apartments, townhouses and condominiums. He stated that staff recognized the fact that there had been some significant, smaller infill developments that had been reviewed only by staff. He stated that staff proposes that any development containing ten units or more would require DRC review instead of the trigger that is currently at 50 units. He stated that there will be an increasing amount of infill residential development cases on properties that have challenging topography. He stated that by having these cases brought forward to the DRC there will be an opportunity to have healthy discussions including applicants, the DRC, residents and staff.

Mr. Fraley stated that the trigger responsible for bringing Autumn West to the DRC was the 30,000 square feet requirement. He stated that the currently proposed changes would eliminate similar cases going to the DRC based solely on square footage but may still trigger DRC review if ten or more units are proposed.

Mr. Johnson stated that item number two states that any case with unresolved, problems

between the applicant, adjacent property owners or departmental reviewing agencies would still trigger the need for DRC review.

Mr. Fraley stated that a definition for multifamily development is needed.

Mr. Johnson stated that at stage three final ordinance language will be introduced; this will be further considered at that time.

Mr. Murphy stated that staff intends to define townhouses, condominiums, apartments and triplex developments as multi-family units.

Mr. Fraley stated that he did not understand the wording used in Section 24-147(2)(b).

Mr. O'Connor suggested: "The Economic Development Director determines whether or not the site plan creates".

Mr. Poole asked who the members of the SSPIRT committee were.

Mr. Johnson stated that the SSPIRT committee represented the public and private sector of the development community. In the group there was a representative from a local law firm, a private engineering group, as well as County staff and reviewing agencies, including; the Virginia Department Of Transportation (VDOT), James City County Service Authority (JCSA), General Services, Planning and Zoning staff.

Mr. Krapf stated that he approves of the threshold change for multifamily dwelling units, though he too has some concern for changing the square footage threshold. He stated that his experience has been that the DRC has made some sound recommendations that have enhanced the appearance of a number of projects. He stated that Walgreens, CVS and Fleet Brothers are good examples.

Mr. Johnson stated that each case sited triggered a legislative review either for size or the amount of vehicle traffic generated at its peak hour. He stated that as a part of the enhanced conceptual review process, staff has encouraged applicants who have cases going before the Planning Commission and BOS which are in a corridor where architectural plans would be considered, to come before the DRC first. He stated that it is in the applicant's best interest to get constructive feedback to enhance the project so that the proposal does not get delayed later in the process.

Mr. Krapf stated that it is beneficial to see projects earlier on. He stated, while considering this Ordinance modification there are other triggers that would also send cases to the DRC.

Mr. Johnson stated that this change has been made to shift review responsibility to staff for a selected number of items that are currently seen by the DRC. The DRC would then become the appellate body to review those cases where the applicant feels the decision was reached unfairly.

Mr. Fraley stated that he has heard a lot of complaints from the business community regarding the DRC review process.

Mr. Poole stated that he has heard complaints about the conceptual review process as well as general DRC review.

Mr. Peck stated that he sees real value in having the conceptual review process. He stated that if the DRC becomes more of an appellate review body, triggers may not be necessary.

Mr. Fraley asked the commissioners if anyone objected to leaving in shopping centers, no one objected. Mr. Fraley asked if anyone would object to removing fast food restaurants from DRC triggers.

Mr. Poole stated that he would prefer to leave it in.

Mr. Woods asked for some historical perspective.

Mr. Murphy stated that fast food restaurants had been added to DRC triggers due to a negative perception of impacts. He stated that the typical fast food restaurant is large enough to trigger the need for a Commercial SUP. He stated that for smaller fast food restaurants it is debatable whether there is enough of an impact to require DRC review. He stated that when the triggers were initially placed in the Ordinance there was no Commercial SUP provision.

Mr. Fraley pointed out that there is only one district that allows fast food restaurants by right, that is B-1.

Mr. Krapf stated that if a fast food restaurant is permitted by right in only one district and trip generation numbers would trigger legislative review for most than only the most benign proposal would evade DRC and/or full legislative review.

Mr. Poole stated that he does not see a reason to remove fast food restaurants from DRC triggers.

Mr. Johnson spoke on Zaxby's Chicken Restaurant. He stated that Zaxby's was reviewed as a site plan for a fast food restaurant. He stated that it was the fast food restaurant trigger that required DRC review. He stated that Stuckey's was an SUP.

Mr. Woods asked what sorts of improvements are made for those cases that are seen by the DRC.

Mr. Fraley stated that the DRC has worked to improve a number of features on sites such as, traffic circulation and buffers for drive-thru lanes.

Mr. Johnson pointed out that the comments that had been made are generally relative to the architectural elevations, building colors and materials. He stated that the applicant is not

bound to suggestions like an SUP condition or proffer. He stated that the applicant is given the choice to make their own decisions.

Mr. O'Connor stated that if the intension is to promote the conceptual review process then the triggers should be minimized or eliminated.

Mr. Krapf stated that applicants can benefit from the conceptual review process by having more predictability. He stated that applicants do not need to fear the costs associated with a plan that does not receive the necessary approvals if they elect to bring the proposal to the DRC at the conceptual review stage and follow through with recommendations.

Mr. Fraley stated that applicants pay a great deal of money for engineered drawings. He stated that fewer renderings equates to less expense.

In a straw vote, the committee's consensus was to approve staff's recommendation to remove fast food restaurants from DRC triggers.

Mr. Fraley asked why staff's proposed trigger was set at ten multifamily units.

Mr. Johnson stated that this number was an attempt to allow some flexibility and not overburden an applicant with smaller scaled infill development, yet also capture the majority of those cases that have impacts that need to be mitigated.

Mr. Fraley asked Mr. Johnson if he expected to hear negative feedback from the development community.

Mr. Johnson stated that he suspects that the development community would support the recommended changes for all sections of the Zoning and Subdivision Ordinance.

Mr. O'Connor stated that he supports the recommended change to ten units.

Mr. Peck stated that he is comfortable with relaxing the threshold knowing that if there are issues that go unresolved the case will come to the DRC.

Mr. Fraley moved to recommend staff's recommendation to reduce the DRC trigger from 50 to 10 multifamily units. In a unanimous vote the motion passed, (7-0).

Mr. Fraley proposed that they discuss staff's recommendation that would change "a single building or group of buildings a total floor area that exceeds 30,000" to "a single building or group of buildings a total floor area that exceeds 50,000".

Mr. Maddocks stated that he supports the recommended change.

Mr. Poole stated that he is not in support of moving forward with staff's recommendation.

Mr. Krapf stated that he has had a difficult time reaching a decision on this recommendation. He stated that he does feel that staff is very capable of recognizing those issues that need to be addressed during case review, but he also feels as though DRC participation does improve the final product. He stated that he supports the recommendation.

Mr. Woods began a discussion regarding the number of cases the change would affect.

Mr. Fraley stated that he would like to see a more nuanced approach that would apply different review standards to cases based on the zoning district rather than solely square footage.

Mr. Poole concurred stating that in the absence of such a nuanced approach he does not support the recommended changes. He stated that the aesthetic value of the community is too important to jeopardize with this change.

Mr. Krapf stated that he would like to see a matrix that lays out all recommended ordinance changes that effect commercial triggers.

Mr. Johnson stated that he can appreciate the difficulty one would have in trying to keep track of all the recommended changes to the commercial districts besides the one being discussed tonight. He relayed information regarding the timing for upcoming Ordinance review schedules.

Mr. Poole stated that it is difficult to see the big picture since he and Mr. Krapf are not a part of the Policy Committee. He stated that by not being present at these meetings he is not gaining the benefit of engaging in discussions that relate to the big picture.

Mr. Fraley asked if 20,000 square feet triggers the need for an SUP then why is the DRC trigger there at all.

Mr. Johnson stated that Section 24-11 includes exemptions for office development, industrial development, warehousing, and manufacturing that are not included in 24-147. He suggested that some of those exceptions to certain types of development, such as industrial parks, office parks, manufacturing uses, etc. are given an exemption from review by the DRC. He stated that these cases are not thought to create impacts on adjacent development.

Mr. Fraley stated that he likes this approach. He asked when this will be going back to the BOS.

Mr. Johnson stated that staff will bring the Commercial Districts including this Ordinance to the Policy Committee for a cursory review of the changes recommended by the Policy Committee as well as the changes that are recommended or endorsed by the BOS at the June 28th Work Session. He stated that it would then come back to the full Planning Commission for consideration within the next two months. He stated that it would then be sent back to the BOS. He stated that this will go back to the Policy Committee on July 13th.

Mr. Fraley discussed other scheduled items.

Mr. Poole stated that Mr. Johnson's recommendation is a welcomed approach. Mr. Poole stated that he wants this recommendation to move forward without concern of meeting deadlines.

Mr. Johnson stated that staff has been meeting the methodology deadlines. He stated that for the four priority items it has been an expedited process.

Mr. Fraley stated that this new approach needs to be discussed further.

Mr. Krapf stated that he does not feel comfortable voting on this particular trigger until he sees more information from staff to provide a comprehensive look at these items to gain more perspective. He stated that he proposes that a decision be delayed until July 13th.

Mr. Fraley confirmed that consensus was reached to delay voting until July 13th.

6. PLANNING DIRECTOR'S REPORT

Mr. Allen Murphy stated that he has no comments.

7. COMMISSION DISCUSSIONS AND REQUESTS

Mr. Peck stated that he is resigning from his position as Planning Commissioner.

Mr. Fraley expressed his appreciation for Mr. Peck's time and service on the Planning Commission. Mr. Fraley stated that Mr. Krapf has been asked to join the Policy Committee in light of Mr. Peck's resignation.

8. ADJOURNMENT

Mr. Woods moved to adjourn.

The meeting was adjourned at 9:17 p.m.

Jack Fraley, Chairman

Allen J. Murphy, Secretary

Development Review Committee Report
July 27, 2011

SP-0067-2011

Williamsburg Crossing Car Wash Sidewalk Modification

DRC Action:

This case was before the DRC for a sidewalk modification in accordance with Section 24-35 for a proposed car wash located at 5117 John Tyler Highway. By a vote of 2-0 the DRC recommended approval of the modification if sidewalk is installed along the parcel's Pilots Way frontage.

C-0026-2011

Chambrel at Williamsburg

DRC Action:

This case was before the DRC for a master plan consistency determination for Chambrel, located at 3800 Treyburn Dr. The applicant proposed a medical use on an area of the master plan designated as "condos/apartments." The DRC by a vote of 2-0 found the proposal consistent with the master plan.

C-0031-2011

King of Glory Parking Amendment

DRC Action:

This case was before the DRC for a determination of master plan consistency for King of Glory Church located at 4867 Longhill Road. The DRC by a vote of 2-0 determined that a proposal to add 70 parking spaces to the site was generally consistent with the approved master plan.

MEMORANDUM

DATE: August 3, 2011

TO: The Planning Commission

FROM: Allen J. Murphy, Jr., Planning Director/ Assistant Development Manager

SUBJECT: Initiation of Subdivision and Zoning Ordinance Amendments

Staff is recommending consideration of amendments to Chapter 19, Subdivisions, Section 19-15, Fees, and Chapter 24, Zoning, Section 24-7, Administrative Fees to authorize waiver of required application, plan review, permit and inspection, and other fees when the owner of the subject premises is the United States of America, the Commonwealth, the County, the James City Service Authority, the Williamsburg Area Transit Authority, the Williamsburg Regional Library, or the Williamsburg-James City County Public Schools. It had been customary for staff to waive such fees for these entities; however, it was determined that the authority to waive fees lies only with the Board of Supervisors. These amendments would provide the required authority to waive such fees.

Staff recommends that the Planning Commission adopt the attached resolutions to initiate consideration of these amendments to the Subdivision and Zoning Ordinances.

Allen J. Murphy, Jr.

AJM/bk

Attachments

- Resolution – Chapter 19, Subdivisions.
- Resolution – Chapter 24, Zoning.

RESOLUTION

**INITIATION OF CONSIDERATION OF AN AMENDMENT
TO THE ZONING ORDINANCE**

WHEREAS, the Planning Commission of James City County, Virginia, is charged by Virginia Code § 15.2-2285 to prepare and recommend to the Board of Supervisors various land development plans and ordinances, specifically including a zoning ordinance and necessary revisions thereto as seem to the Commission to be prudent; and

WHEREAS, in order to make the Zoning Ordinance more conducive to proper development, public review and comment on draft amendments is required, pursuant to Virginia Code § 15.2-2204 et seq.; and

WHEREAS, the Planning Commission is of the opinion that the public necessity, convenience, general welfare, or good zoning practice warrant the consideration of amendments.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of James City County, Virginia, does hereby request staff to initiate review of Section 24-7 to consider adding a provision that fees may be waived where the owner of any premises is the United States of America, the Commonwealth, the County or instrumentalities thereof, the James City Service Authority, the Williamsburg Area Transit Authority, the Williamsburg Regional Library, or the Williamsburg-James City County Public Schools. The Planning Commission shall hold at least one public hearing on the consideration of amendments of said Ordinance and shall forward its recommendation thereon to the Board of Supervisors in accordance with law.

Jack Fraley
Chair, Planning Commission

ATTEST:

Allen J. Murphy, Jr.
Secretary

Adopted by the Planning Commission of James City County, Virginia this 3rd day of August, 2011

MEMORANDUM

DATE: August 3, 2011

TO: The Planning Commission

FROM: Allen J. Murphy, Jr., Planning Director/ Assistant Development Manager

SUBJECT: Initiation of Subdivision and Zoning Ordinance Amendments

Staff is recommending consideration of amendments to Chapter 19, Subdivisions, Section 19-15, Fees, and Chapter 24, Zoning, Section 24-7, Administrative Fees to authorize waiver of required application, plan review, permit and inspection, and other fees when the owner of the subject premises is the United States of America, the Commonwealth, the County, the James City Service Authority, the Williamsburg Area Transit Authority, the Williamsburg Regional Library, or the Williamsburg-James City County Public Schools. It had been customary for staff to waive such fees for these entities; however, it was determined that the authority to waive fees lies only with the Board of Supervisors. These amendments would provide the required authority to waive such fees.

Staff recommends that the Planning Commission adopt the attached resolutions to initiate consideration of these amendments to the Subdivision and Zoning Ordinances.

Allen J. Murphy, Jr.

AJM/bk

Attachments

- Resolution – Chapter 19, Subdivisions.
- Resolution – Chapter 24, Zoning.

RESOLUTION

INITIATION OF CONSIDERATION OF AN AMENDMENT TO THE SUBDIVISION ORDINANCE

WHEREAS, the Planning Commission of James City County, Virginia, is charged by Virginia Code § 15.2-2251 to prepare and recommend to the Board of Supervisors various land development plans and ordinances, specifically including a subdivision ordinance and necessary revisions thereto as seem to the Commission to be prudent; and

WHEREAS, in order to make the Subdivision Ordinance more conducive to proper development, public review and comment on draft amendments is required, pursuant to Virginia Code § 15.2-2204 et seq.; and

WHEREAS, the Planning Commission is of the opinion that the public necessity, convenience, general welfare, or good subdivision practice warrant the consideration of amendments.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of James City County, Virginia, does hereby request staff to initiate review of Section 19-15 to consider adding a provision that fees may be waived where the owner of any premises is the United States of America, the Commonwealth, the County or instrumentalities thereof, the James City Service Authority, the Williamsburg Area Transit Authority, the Williamsburg Regional Library, or the Williamsburg-James City County Public Schools. The Planning Commission shall hold at least one public hearing on the consideration of amendments of said Ordinance and shall forward its recommendation thereon to the Board of Supervisors in accordance with law.

Jack Fraley
Chair, Planning Commission

ATTEST:

Allen J. Murphy, Jr.
Secretary

Adopted by the Planning Commission of James City County, Virginia this 3rd day of August, 2011

MEMORANDUM

DATE: August 3, 2011

TO: Planning Commission

FROM: Jason Purse, Senior Planner

SUBJECT: ZO-0003-2011, Economic Opportunity Zoning District

Staff has been working on the Economic Opportunity ordinance since the Board adopted the Zoning Ordinance update process methodology in May 2010. Staff brought an ordinance framework to the Policy Committee in November 2010, and subsequently presented the same framework to the Board of Supervisors at a work session in January 2011.

A draft ordinance was presented to the Policy Committee in April 2011, and comments from that meeting were incorporated into a draft ordinance reviewed by the Board of Supervisors in June 2011. Finally, staff presented the Board's changes to the Planning Commission at a Policy Committee meeting in July. In accordance with the adopted methodology, staff has completed the final ordinance text for the August 3, 2011 Planning Commission meeting and is anticipating bringing the final ordinance before the Board of Supervisors in September for final adoption.

The Economic Opportunity ordinance is intended to serve areas designated Economic Opportunity on the Comprehensive Plan land use map. Currently, only one area has been designated EO, however, the ordinance was designed to accommodate any future areas that may be similarly designated.

The purpose of the economic opportunity district is to facilitate economic development, an increased non-residential tax base, and the creation of jobs. The principal uses and development form should optimize the economic development potential of the area and encourage development types that have certain attributes, principally that they offer a positive fiscal contribution, provide quality jobs and support economic stability. The ordinance includes the following sections:

- Establishment of a statement of intent, which formulates the purpose of the EO district;
- Documents required for submission of a rezoning, including documentation of master planning efforts, proposed transit infrastructure, construction phasing and urban/residential core information;
- Minimum area requirements of not less than 25 acres;
- Establishment of density standards, including a balance of uses section, which limits the amount of residential/commercial development in an EO district, as well as maximum residential densities;
- Establishment of permitted and specially permitted uses;
- Requirements for improvements and design, including unified building design/open space, as well as parking and recreation standards for the urban/residential core;
- Requirements for open space and a description of what type of land can be counted toward that calculation;
- Requirements for the heights of structures, including a cap of 60 feet by-right, with the ability to get a height waiver approved by the Board of Supervisors to a total of 100 feet;

- Establishment of setbacks and buffers for the district, including but not limited to, 25 feet from external streets, 25 feet from the perimeter of the district, as well as 100 feet from adjacent property designated low-density residential or rural lands on the Comprehensive Plan or land that is located in a Community Character Area. This section also includes a setback/buffer modification provision should the development meet certain requirements;
- Establishment of street provisions for both construction standards for public streets, as well as procedures for permitting private streets.

The Planning Commission made a recommendation at the July 13th meeting to include language encouraging open space design characteristics in the non-urban/residential core area of EO. Staff does not support adding additional language to the open space section of the ordinance.

RECOMMENDATION:

Staff recommends that the Planning Commission recommend approval of the Economic Opportunity ordinance to the Board of Supervisors.

Attachments:

1. Ordinance
2. Unapproved minutes from the Board of Supervisors work session on 6/28/2011

ORDINANCE NO. _____

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 24, ZONING, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE V, DISTRICTS, BY ADDING DIVISION 17, ECONOMIC OPPORTUNITY, EO, SECTION 24-536, STATEMENT OF INTENT; SECTION 24-536.1, DOCUMENTS REQUIRED FOR SUBMISSION; SECTION 24-536.2, MINIMUM AREA OF DISTRICTS; SECTION 24-536.3, DENSITY; SECTION 24-536.4 USE LIST; SECTION 24-536.5, REQUIREMENTS FOR IMPROVEMENTS AND DESIGN; SECTION 24-536.6, OPEN SPACE; SECTION 24-536.7, HEIGHT OF STRUCTURES; SECTION 24-536.8, SETBACK AND BUFFER REQUIREMENTS; SECTION 24-536.9, STREET IMPROVEMENTS.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 24, Zoning, Article V, Districts, is amended by adding Division 17, Economic Opportunity, EO, Section 24-536, Statement of intent; Section 24-536.1, Documents required for submission; Section 24-536.2, Minimum area of districts; Section 24-536.3, Density; Section 24-536.4 Use list; Section 24-536.5, Requirements for improvements and design; Section 24-536.6, Open space; Section 24-536.7, Height of structures; Section 24-536.8, Setback and buffer requirements; Section 24-536.9, Street improvements.

ARTICLE V. DISTRICTS
DIVISION 17. ECONOMIC OPPORTUNITY

Sec. 24-536. Statement of intent.

The purpose of the economic opportunity district is to facilitate economic development, an increased non-residential tax base, and the creation of jobs. The lands should be at strategic locations in the county relative to both available and planned transportation and utilities infrastructure, the lands should be developed consistent with the approved Comprehensive Plan. All parcels zoned economic opportunity shall be located inside the primary service area.

The principal uses and development form should optimize the economic development potential of the area and encourage development types that have certain attributes, principally that they offer a positive fiscal contribution, provide quality jobs, enhance community values, are environmentally friendly, and support economic stability. Master planning is at the core of this designation, and development should be limited unless incorporated into master planning efforts, which should address environmentally sensitive areas, available infrastructure (roads, water, sewer, transit, etc.), public facilities, and adjacent land uses to include lands in adjacent jurisdictions.

Sec. 24-536.1. Documents required for submission.

(a) Required documents. In addition to the submittal requirements set forth in section 24-23 of the zoning ordinance, the applicant shall submit the following documents to the planning director for submission to the planning commission:

(1) Documentation of master planning efforts. Since the economic opportunity district may incorporate parcels owned by many different property owners, encounter multiple infrastructure capacity issues, and in some cases cross jurisdictional boundaries, it is important that a comprehensive master plan is established for each economic opportunity designated area. The master planning effort shall ensure that all property owners have an opportunity to participate. If an individual landowner who owns property designated economic opportunity does not wish to participate in the master planning process, such land shall still be included in the master planning effort in order to create a cohesive development, although individual landowners will retain discretion in use and rezoning of properties. Properties not designated economic opportunity on the Comprehensive Plan shall be recognized and adequate buffers provided in the master plan to protect the current use of that land if applicable.

Prior to any rezoning, the applicant must demonstrate that any planning effort has ensured that a project has phased development to be concurrent with, and provide for, adequate road infrastructure, water, sewer, transit, fire stations, police and general government services, parks and recreation facilities, schools, and other facilities and service needs generated by the development.

(2) Transit. A master plan that shows the proposed location of any bus, rapid transit or commuter/light rail stations, and documentation supporting the plan or infrastructure for construction of such facilities.

(3) Urban/residential core. If any residential/commercial development is proposed, the master plan shall delineate an area as the urban/residential core of the Economic Opportunity area. The urban/residential core shall include all areas planned for residential development in the economic opportunity area, as well as all areas planned for commercial/retail uses to serve as support uses to the residential and employment centers of the economic opportunity area. There shall be no more than one urban/residential core for an entire economic opportunity area, as designated on the Comprehensive Plan. The

urban/residential core shall not exceed fifteen (15) percent of the total developable economic opportunity area, as designated on the Comprehensive Plan. If bus rapid transit or commuter/light rail stations are proposed, the urban/residential core must be within one-quarter (1/4) mile of those stops. Development outside the urban/residential core shall consist of primary workplace uses, including office, research, and light industrial, or other uses that will provide a significant fiscal benefit to the county.

(4) *Construction phasing.* A project build-out schedule shall be submitted for review by staff, the planning commission and board of supervisors, in accordance with the board of supervisors adopted construction phasing guidelines adopted on September 13, 2011. The purpose of such phasing plan shall be to provide assurance to the board of supervisors that infrastructure improvements will be constructed in order to support the development intensities proposed. The project build-out schedule shall also provide assurances that the development will include both the proposed non-residential and residential elements at certain project milestones and/or at build-out.

(5) *Accommodating rail usage.* If rail or bus rapid transit is proposed or approved, the master plan shall demonstrate design characteristics supportive and accommodating of rail usage (i.e. reduced and/or structured parking, pedestrian accommodations, finer mixing of uses, etc.)

(6) *Natural features and amenities.* Existing features such as specimen trees, wildlife habitats, watercourses, historical sites and similar irreplaceable assets shall be preserved to the maximum extent possible, and an environmental inventory shall be provided in accordance with sec. 24-23.

(7) *Viewshed narrative.* The applicant shall submit a narrative, with illustrations, describing the existing external viewsheds, as well as how development of the economic opportunity district will integrate with the character of the surrounding area. This narrative should address building scale and massing, architectural design, on-site building location with respect to topography and natural features, as well as buffers.

Sec. 24-536.2. Minimum area of districts.

Economic opportunity districts shall be located on a single parcel of land, or separate parcels that are a part of an approved master plan, which shall total not less than twenty-five acres.

Sec. 24-536.3. Density.

(a) *Balance of land uses.* Not more than fifteen (15) percent of the developable land area within an economic opportunity area, as delineated on the master plan, shall be dedicated to non-primary workplace uses. The remaining 85% of the developable land area shall be dedicated to primary uses. Non-primary workplace uses include, retail, convenience and service uses, restaurants, child care, residential development or other uses intended to support and complement primary workplace uses. For the purposes of this requirement primary workplace uses include office, research, light industrial, or other uses that will provide a significant fiscal benefit to the county.

Additionally, non-primary workplace uses should be grouped together in an effort to maximize the area for workplace uses. The location of the non-primary workplace uses should not prevent the availability of large contiguous sections of land for office, research, or light industrial development.

(b) *Residential.* Residential dwelling units are permitted in the urban/residential core area, as delineated on the master plan, which shall not exceed ten (10) percent of the total developable master planned

economic opportunity area. The number of dwelling units which may be constructed in any the urban/residential core as indicated on the master plan shall be determined by the number of gross acres of the economic opportunity master plan area and the use proposed. The maximum densities of dwelling units per acre which may be constructed are:

Dwelling Type	Maximum Density
Multi-Family structures (attached housing)	7
Apartments	10

(1) In the economic opportunity district, only developable area shall be used for the purposes of calculating density.

Sec. 24-536.4. Use list.

In economic opportunity districts, all structures to be erected or land to be used shall be for one or more of the following uses:

Use Category	Use List	Permitted Uses	Special Permit Uses
Residential Uses	Accessory structures, as defined in section 24-2	P	
	Apartments		SUP
	Multiple-family dwellings		SUP
	Group quarters		SUP
	Nursing homes		SUP
	Townhouses		SUP
	Two-family dwellings		SUP
Commercial Uses	Accessory structures, as defined in section 24-2	P	
	Adult day care centers	P	
	Automobile rental	P	
	Automobile repair and service including tire, transmission, glass, body and fender, and other automotive product sales (new and/or rebuilt) and service with major repair under cover and storage of parts and vehicle storage screened from adjacent property by landscaping and fencing	P	
	Automobile service stations; if fuel is sold, then in accordance with section 24-38	P	
	Banks and other similar financial institutions	P	
	Barber and beauty shops	P	
	Business, professional and governmental offices	P	
	Child day care centers	P	
	Clubs, public or private, civic or service clubs, county clubs, lodges and fraternal organizations	P	
	Community recreation facilities, public or private,	P	

including parks, playgrounds, clubhouses, boating facilities, swimming pools, ball fields, tennis courts and other similar recreation facilities		
Contractor offices, equipment storage yards, shops and warehouses with storage under cover or screened with landscaping and fencing from adjacent property	P	
Convenience stores; if fuel is sold, then in accordance with section 24-38	P	
Corporate offices	P	
Courier services	P	
Data processing centers	P	
Drug stores	P	
Dry cleaners and laundries	P	
Employment services or agencies	P	
Farmer's markets	P	
Fast food restaurants		SUP
Feed, seed and farm supply stores	P	
Fire stations	P	
Fish farming	P	
Gift stores	P	
Greenhouses and nurseries	P	
Health clubs, exercise clubs and fitness centers	P	
Home occupations as defined	P	
Hotels, motels, tourist homes and convention centers	P	
Indoor sport facilities	P	
Indoor theaters	P	
Janitorial service establishments	P	
Limousine service	P	
Lumber and building supply with storage limited to a fully enclosed building or screened with landscaping and fencing from adjacent property	P	
Marinas, docks, piers, yacht clubs, boat basins, boat storage and servicing, repair and sale facilities for the same; if fuel is sold, then in accordance with section 24-38		SUP
Marine or waterfront businesses to include the receipt, storage and transshipment of waterborne commerce, or seafood receiving, packaging or distribution under cover or screened with landscaping and fencing from adjacent property		SUP
Off-street parking as required by section 24-53	P	
Office supply stores, secretarial and duplicating services	P	
Parking lots and garages	P	
Photographer, picture, artist and sculptor stores and studios	P	

	Plumbing and electrical supply with storage limited to a fully enclosed building or screened with landscaping and fencing from adjacent property	P	
	Printing and publication establishments	P	
	Property maintenance facilities, sheds or garages	P	
	Public billiard parlors, arcades, pool rooms, bowling alleys, dance halls and other indoor centers of amusement	P	
	Rental of rooms to a maximum of three rooms	P	
	Restaurants, tea rooms and taverns	P	
	Retail and service stores, including the following stores: books, cabinet, candy, carpet, coin, department, dressmaking, florist, furniture, furrier, garden supply, greeting card, gunsmith (excluding shooting ranges), hardware, home appliance sales and service, ice cream, jewelry sales and service, locksmith, music and records, paint, pet, picture framing, plan supply, shoe, sporting goods, stamp, tailor, tobacco and pipes, toys, travel bureau, upholstery, wearing apparel, and yard goods	P	
	Retail food stores, bakeries and fish markets	P	
	Security service offices	P	
	Shooting ranges, indoor		SUP
	Taxi service	P	
	Theme parks		SUP
	Truck stop; if fuel is sold, then in accordance with section 24-38		SUP
	Truck terminals; if fuel is sold, then in accordance with section 24-38		SUP
	Vehicle and trailer sales and service (with major repair limited to a fully enclosed building)	P	
	Veterinary hospitals	P	
	Water well drilling establishments	P	
Civic	Nonemergency medical transport	P	
	Post offices	P	
	Water impoundments, new or expansion of	P	
Utility	Electrical generation facilities, public or private, electrical substations with a capacity of 5,000 kilovolt amperes or more and electrical transmission lines capable of transmitting 69 kilovolts or more		SUP
	Radio stations, television stations, transmission relay stations and communication towers		SUP
	Railroad facilities including tracks, bridges and stations. However, spur lines which are to serve and are accessory to existing or proposed development adjacent to existing railroad right-of-ways and track and safety improvements in existing railroad right-of-ways are permitted generally and		SUP

	shall not require a special use permit		
	Telephone exchanges and telephone switching stations	P	
	Tower mounted wireless communication facilities in accordance with division 6, Wireless Communication Facilities		SUP
	Transmission pipelines (public or private), including pumping stations and accessory storage, for natural gas, propane gas, petroleum products, chemicals, slurry coal and any other gases, liquids or solids. However, extensions for private connections to existing pipelines, which are intended to serve an individual residential or commercial customer and which are accessory to existing or proposed development, are permitted generally and shall not require a special use permit		SUP
	Wireless communications facilities that utilize alternative mounting structures, or are building mounted, or area camouflaged, and comply with division 6, Wireless Communications Facilities	P	
	Water facilities (public or private), and sewer facilities (public), including, but not limited to, treatment plants, pumping stations, storage facilities and transmission mains, wells and associated equipment such as pumps to be owned and operated by political jurisdictions. However, the following are permitted generally and shall not require a special use permit: (a) Private connections to existing mains that are intended to serve an individual customer and that are accessory to existing or proposed development, with no additional connections to be made to the line; and (a) Distribution lines and local facilities within a development, including pump stations		SUP
Open	Timbering	P	
	Wineries	P	
Industrial Uses	Food processing and storage, but not the slaughter of animals	P	
	Heavy equipment sales and service, with major repair under cover or screened with landscaping and fencing from adjacent property		SUP
	Heliports, helistops		SUP
	Hospital		SUP
	Industrial and technical training schools	P	
	Laser technology production	P	
	Machinery sales and service with major repair under cover		SUP

	Manufacture and assembly of musical instruments, toys, novelties and rubber and metal stamps	P	
	Manufacture and bottling of soft drinks and wine	P	
	Manufacture and processing of textiles and textile products in structures not more than 10,000 square feet	P	
	Manufacture and processing of textiles and textile products in structures more than 10,000 square feet		SUP
	Manufacture, compounding, assembly or treatment of products made from previously prepared paper, plastic, metal, textiles, tobacco, wood, paint, fiber glass, glass, rubber, leather, cellophane, canvas, felt, fur, horn, wax, hair, and yarn	P	
	Manufacture, compounding, processing or packaging of cosmetic, toiletry and pharmaceutical products	P	
	Manufacture of carpets and carpet yarns in structures of not more than 10,000 square feet	P	
	Manufactured home or mobile home sales	P	
	Manufacture of pottery and ceramic products, using kilns fired only by gas or electricity	P	
	Manufacture or assembly of appliances, tools, firearms, hardware products and heating, cooling or ventilating equipment	P	
	Manufacture or assembly of electronic instruments, electronic devices or electronic components	P	
	Manufacture or assembly of medical, drafting, metering, marine, photographic and mechanical instruments	P	
	Petroleum storage		SUP
	Private streets within "qualifying industrial parks" in accordance with section 24-55	P	
	Processing, assembly and manufacture of light industrial products or components, with all storage, processing, assembly and manufacture conducted indoors and under cover, with no dust, noise, odor or other objectionable effect	P	
	Research, development and design facilities or laboratories	P	
	Warehouse, storage and distribution centers with storage under cover or screened with landscaping and fencing from adjacent property	P	
	Welding and machine shops with storage limited to a fully enclosed building or screened with landscaping and fencing from adjacent property	P	

Sec. 24-536.5. Requirements for improvements and design.

(a) Complementary design. Economic opportunity districts are intended to have an integrated character with strong unifying design elements meeting the following standards:

(1) Unified building design. Building design, in the urban/residential core as designated on the master plan, shall be coordinated with regard to color, materials, architectural form and detailing to achieve design harmony, continuity, and horizontal and vertical relief and interest.

The urban/residential core shall focus on pedestrian-scaled design, a mixing of uses within buildings, and general design standards (such as landscaping, road design, etc.) that may be different from the economic opportunity design.

(2) Unified open space. Projects, in the urban/residential core as designated on the master plan, shall include a unifying internal system of pedestrian-oriented paths, open spaces and walkways that function to organize and connect buildings, and provide connections to common origins and destinations (such as transit stops, restaurants, child care facilities and convenience shopping centers). All buildings or building clusters within the development must be connected with linkages other than roads (i.e., sidewalks, bikeways or multi-use paths). The master plan shall utilize open space and natural features that serve as buffers and transitions to adjacent area(s). See section 24-536.8 for more details on open space.

(b) Water and sewer. All structures and uses within an economic opportunity district shall be served by publicly owned and operated water and sewer systems.

(c) Recreation areas. Residential areas and mixed-use structures, within the urban/residential core, shall be provided with a recreation area or areas adequate to meet the needs of the residents. The developer shall provide and install playground equipment, playfields, tennis courts or other recreation facilities in accordance with the guarantees established as part of master plan or final development plan approval. The composition of the facilities to be installed shall be approved by the planning director. Such facilities shall be owned and maintained by the developer or a residents' association.

(d) Parking. Off-street parking facilities, within the urban/residential core, shall be provided in accordance with the off-street parking requirements of section 24-53. The visibility of parking lots or structures shall be minimized by placement to the side or rear of buildings and/or with landscape screening.

(e) Streetlights. Streetlights, within the urban/residential core, shall generally be provided at each intersection and other public areas. The lighting shall be directed so as not to produce objectionable glare on adjacent property or into residences within or near the development.

(f) Signage and entry points. All signs within an economic opportunity district shall comply with article II, division 3 of this chapter.

(g) Traffic circulation in the urban/residential core as designated on the master plan. Vehicular access points and drives shall be designed to encourage smooth traffic flow with controlled turning movements and minimum hazards to pedestrian traffic. Buildings, parking areas and drives shall be arranged in a manner that encourages pedestrian access and minimizes traffic movement. All streets shall be constructed and designed in accordance with section 24-536.9.

(h) Landscaping. All landscaping and tree preservation shall be undertaken in accordance with section 24-86 and chapter 23 of the County Code, the Chesapeake Bay Preservation Ordinance.

Sec. 24-536.6. Open space.

Development within the urban/residential core of the economic opportunity districts shall provide usable open space area. The amount of open space shall be not less than ten percent of the developable area of the site. Nondevelopable area shall not be counted towards meeting the open space requirement.

For the purposes of this article, open space does not include any landscape area in parking lots or adjacent to structures. The requirements of this section shall supplement the requirements of the county's Chesapeake Bay Ordinance, section 24-86 (landscaping and tree preservation requirements) and other county requirements relating to open space. For the purposes of this article, open space may include, but is not limited to:

(1) Perpetual easement(s) of no less than 50 feet in width dedicated to James City County or another group approved by the county adjoining any road designated as a community character corridor on the Comprehensive Plan.

(2) Buffer area(s) of no less than 50 feet around a non-RPA wetland features (isolated wetlands), intermittent streams, or from floodplain zones A or AE, or from the edge of the RPA buffer.

(3) Preservation of any archaeological site, any landmark registered in the Virginia Landmarks Register, the National Register of Historic Places or National Historic Site register.

(4) Preservation of any developable area demonstrated to be a habitat for any endangered, rare or threatened species of plant or wildlife so designated by the federal government, the State of Virginia (as referenced by the county's Natural Areas Inventory or listed in Virginia's Endangered Species, (Virginia Department of Game and Inland Fisheries, 1991)), where preservation of such area is not required by local, state or federal law.

(5) Bikeways, bike paths, sidewalks, hiking trails, greenways or other similar amenity.

(6) Public or private picnic areas, parks, plazas or other gathering areas.

(7) Public or private community facilities such as swimming pools, tennis courts, and recreation buildings. Golf courses may also be counted as open space for the purpose of meeting the open space requirement to a maximum of 50 percent of the required open space.

Open space area shall be protected by easements, maintenance agreements and/or other assurances satisfactory to the county attorney

Sec. 24-536.7. Height of structures.

(a) Structures may be erected up to 60 feet in height from grade to the top of the structure, including all church spires, belfries, cupolas, athletic field lighting, monuments, flagpoles, penthouse, electrical, plumbing, elevator, water tank or other accessory functions which are part of the structure and accessory and nonaccessory wireless communications facilities that utilize alternative mounting structures or are building mounted in accordance with division 6, Wireless Communications Facilities. Camouflaged wireless communications facilities may be erected to a total height of 120 feet from grade.

(b) A structure in excess of 60 feet in height but not in excess of 100 feet from grade to the top of the structure, including all church spires, belfries, cupolas, athletic field lighting, monuments, flagpoles, penthouse, electrical, plumbing, elevator, water tank, radio, television and microwave antennas, and towers or other accessory functions, and accessory and nonaccessory wireless communications facilities that utilize alternative mounting structures or are building mounted in accordance with division 6, Wireless Communications Facilities in excess of 60 feet in height but not in excess of the maximum approved height of the structure to which it is mounted, may be erected only upon the granting of a height limitation waiver by the board of supervisors.

(c) Upon application for a height limitation waiver, the payment of appropriate fees, notification of adjacent property owners and following a public hearing, the board of supervisors may grant a height limitation waiver upon finding that:

(1) Such structure is in accordance with the uses, densities, design and traffic analysis shown on the original master plan;

(2) Such structure is part of a Transit Oriented Development that utilizes a mass transit system, or is a primary economic opportunity use as determined by the county administrator and is of substantial fiscal benefit to the county;

(2) Such structure will not obstruct light from adjacent property;

(3) Such structure will not impair the enjoyment of historic attractions and areas of significant historic interest and surrounding developments;

(4) Such structure will not impair property values in the surrounding area;

(5) Such structure is adequately designed and served from the standpoint of safety and the county fire chief finds that the fire safety equipment to be installed is adequately designed and that the structure is reasonably well located in relation to fire stations and equipment, so as to offer adequate protection to life and property; and

(6) Such structure would not be contrary to the public health, safety or general welfare.

Sec. 24-536.8. Setback and buffer requirements.

(a) Location of structures. Structures shall be located 25 feet or more from any external existing or planned public road right-of-way, or any internal arterial road right-of-way, which is 50 feet or greater in width. Where the external existing or planned public road right-of-way, or the internal arterial road right-of-way, is less than 50 feet in width, structures shall be located 45 feet or more from the centerline of the external existing or planned or internal arterial public road. Structures shall be located a minimum of 50 feet or more from any community character corridor.

(b) Required buffers from economic opportunity districts. A buffer of 25 feet shall be maintained from the perimeter of an economic opportunity district. The buffer in an economic opportunity district shall be increased to 100 feet where adjoining property is designated low-density residential or rural lands on the Comprehensive Plan. In addition, the buffer shall also be increased to 100 feet where an economic opportunity district adjoins property in a community character area, except where those properties are included in the economic opportunity master plan.

The buffer shall be left in its natural undisturbed state and/or planted with additional or new landscape trees, shrubs and other vegetative cover such that the setback serves to minimize the visual intrusion and other negative impacts of new development or redevelopment on adjacent development.

(c) Setback and/or buffer modifications; criteria for determination. Reduction of the width of the setbacks and/or buffers specified in subsections (a) and (b) above may be approved for an economic opportunity zoning district upon demonstration that the proposed setback and/or buffer, by substitution of technique or design, will achieve results which clearly satisfy the overall purposes and intent of the setback and/or buffer requirement of this section and the intent of section 24-86 (Landscaping and Tree Preservation Requirements), shall have no additional adverse impact on adjacent properties or public areas, and will not result in detrimental impacts to the orderly development or character of the area, the environment, sound engineering or planning practice, or the goals, objectives, strategies and policies of the Comprehensive Plan. In addition, a request for a setback and/or buffer modification must meet one or more of the following criteria:

(1) The proposed setback and/or buffer is for the purpose of integrating proposed economic opportunity development with adjacent development, and if located in a community character area, compliments the character of the existing structures;

(2) The proposed setback and/or buffer substantially preserves, enhances, integrates and complements existing trees and topography;

(3) The proposed setback and/or buffer is due to unusual size, topography, shape or location of the property, or other unusual conditions, excluding the proprietary interests of the developer.

(d) Requests for modifications. Requests for modifications pursuant to subsection (c) above shall be filed in writing with the planning director and shall identify the reasons for such requests together with the proposed alternative. The planning director shall approve, deny or conditionally approve the request and shall include a written statement certifying that one or more of the above criteria are met.

(e) No minimum lot size or yard requirements. Except for required setbacks specified in (a) and (b) above, there shall be no minimum lot size nor minimum front, side or rear yard requirements for any lot within a economic opportunity district other than as specified in approved final plans.

(f) Uses prohibited. Setbacks shall not be used for streets or for parking except for entrances and driveways which may penetrate the setback.

Sec. 24-536.9. Street improvements.

(a) All dedicated public streets shown on the development plan shall meet the design and construction requirements of the Virginia Department of Transportation's standards. Such public streets shall be coordinated with the major transportation network shown in the county Comprehensive Plan.

(b) Private streets may be permitted upon the approval of the board of supervisors and shall be coordinated with existing or planned streets of both the master plan and the county Comprehensive Plan. Private streets shown on the development plan shall meet the requirements of the Virginia Department of Transportation, except as specified in paragraph (d) below.

The construction of streets whether public or private shall be guaranteed by appropriate surety, letter of credit, cash escrow or other form of guarantee approved by the county attorney and development manger or designee.

(c) To the extent streets are private rather than public, the applicant must also submit assurances satisfactory to the planning commission that a property owner's community association or similar organization has been legally established under which the lots within the area of the development plan will be assessed for the cost of maintaining private streets and that such assessments shall constitute a pro rata lien upon the individual lots shown on the development plan.

(d) The uniqueness of each proposal for an economic opportunity development requires that the specifications for the width, surfacing, construction and geometric design of streets with associated drainage and the specifications for curbs and gutters be subject to modification from the specifications established in chapter 19. The development manger or designee may, therefore, within the limits hereinafter specified, waive or modify the specifications otherwise applicable for these facilities where the development manger or designee finds that such specifications are not required in the interests of the residents and property owners of the economic opportunity development and that the modifications of such specifications are not inconsistent with the interests of the entire county.

It shall be the responsibility of the applicant to demonstrate to the satisfaction of the development manger or designee with respect to any requested waiver or modification:

(1) That the waiver or modification will result in design and construction that is in accordance with accepted engineering standards;

(2) That the waiver or modification is reasonable because of the uniqueness of the economic opportunity development or because of the large area of the economic opportunity development, within which the nature and excellence of design and construction will be coordinated, preplanned and controlled;

(3) That any waiver or modification as to streets is reasonable with respect to the generation of vehicular traffic that is estimated will occur with the area of the master plan;

(4) That traffic lanes of streets are sufficiently wide enough to carry the anticipated volume and speed of traffic and in no case less than ten feet wide; and

(5) That waivers or modifications as to base and surface construction of streets and as to the condition of ditches or drainage ways be based upon the soil tests for California Bearing Ratio value and erosion characteristics of the particular subgrade support soils in the area.

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 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 for 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 want to have the opportunity to express the 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 square footage 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 the developable land and 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 and etc.

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 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 availability 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.

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SUP-0005-2011

Williamsburg Landing



SPECIAL USE PERMIT-0005-2011. Williamsburg Landing Construction Commencement Extension. Staff Report for the August 3, 2011, Planning Commission Public Hearing

This staff report is prepared by the James City County Planning Division to provide information to the Planning Commission and Board of Supervisors to assist them in making a recommendation on this application. It may be useful to members of the general public interested in this application.

PUBLIC HEARINGS

Planning Commission:
Board of Supervisors:

Building F Board Room; County Government Complex

August 3, 2011 7:00 p.m.
September 13, 2011 (tentative) 7:00 p.m.

SUMMARY FACTS

Applicant: Paul Gerhardt of Kaufman & Canoles, P.C.

Land Owner: Williamsburg Landing, Inc.

Proposal: The applicant has proposed amending the previously approved SUP-0018-2008, to allow an extension of the construction commencement clause for an additional 36 months. The project will result in 100-assisted living units, 100-nursing units, and 87-independent living units.

Location: 5560 Williamsburg Landing Drive

Tax Map/Parcel Nos.: 4820100003

Parcel Size: Approximately 50.01 acres.

Zoning: R-5, Multi-family residential, with proffers.

Comprehensive Plan: Low Density Residential

Primary Service Area: Inside

STAFF RECOMMENDATION

Staff finds the proposal to have minimum additional impacts and be generally compatible with the 2009 Comprehensive Plan. Staff recommends the James City County Planning Commission recommend approval of this application with the attached conditions to the Board of Supervisors.

Staff Contact: Jason Purse

Phone: 253-6685

PROJECT DESCRIPTION

Mr. Paul Gerhardt has applied to amend the SUP conditions for SUP-0018-2008 to allow for an extension to the construction time limit that was established for 36-months in January 2009. The extension would allow for additional time to construct the previously approved 100-bed nursing home facility, 100 assisted living units, and 87 independent units. The property is located at 5560 Williamsburg Landing Drive, is zoned R-5, Multi-family Residential, and is designated Low-Density Residential on the Comprehensive Plan. A special use permit is required because nursing homes and facilities for the residence and/or care of the aged are specially permitted uses in the R-5, Multi-family residential district.

Currently, the existing construction commencement condition expires in January 2012. The applicant has indicated that due to the extensive renovations necessary for the Landing Building, and due to the current economic climate, Williamsburg Landing will not be able to commence construction on the project within the allotted 36-month time period. The applicant is requesting an additional 36-month construction window for this project. No other changes are proposed to this project at this time.

Project History

In 2008, Williamsburg Landing, Inc. applied to amend the proffers and special use permit to allow an additional ten assisted living units and an additional ten nursing units. That application resulted in 100-assisted living units, 100-nursing units, and 87-independent living units.

Currently the parcel contains assisted living, nursing, and independent units. Sixty-one (61) *assisted* living units exist and another twenty-five (25) assisted living units have been approved via an approved development plan. Under approved proffers and SUP conditions, ninety (90) assisted living units are permitted; the applicant proposes to amend the limit to allow one hundred (100) assisted living units. Fifty-eight (58) *nursing* units exist, with ninety (90) currently permitted and this proposal is to raise the limit to one hundred (100) nursing units. Sixty-three (63) *independent* units currently exist, with one hundred (100) currently permitted. Please see table below for unit counts. At this time two hundred seven (207) total units are either built or already approved per a valid site plan (182 built with an additional 25 approved).

The parcel to the south currently contains twenty-seven (27) independent living units and the parcel to the east currently contains two hundred twenty (220) independent living units. A review of the history of these parcels indicates these parcels are not subject to the proffers or special use permit conditions or the caps noted therein.

COMPREHENSIVE PLAN

The site is designated Low Density Residential on the 2009 Comprehensive Plan Land Use Map. Recommended uses include very limited commercial establishments, single family homes, duplexes, and cluster housing with a recommended gross density of 1 unit per acre up to 4 units per acre in developments that offer particular public benefits. The Comprehensive Plan also recommends projects be located inside the Primary Service Area, provide adequate screening from adjacent uses and minimize impact on major roads by limiting access points.

The Williamsburg Landing development is located within the Primary Service Area. Furthermore, the existing development provides adequate buffers and screening from both Rt. 199 as well as adjacent residential neighborhoods, and provides internal on-site collector roads and access off of Lake Powell Road rather than Rt. 199. Staff finds the proposed development to be consistent with the 2009 Comprehensive Plan.

RECOMMENDATION

Staff finds the proposal to have minimum additional impacts and be generally compatible with the 2009 Comprehensive Plan. Staff recommends the James City County Planning Commission recommend approval of this application with the attached conditions to the Board of Supervisors.

1. Development of the site shall be generally in accordance with the master plan entitled "Williamsburg Landing Conceptual Plan" and dated November 7, 2008, as determined by the Director of Planning. Minor changes may be permitted by the Director of Planning, as long as they do not change the basic concept or character of the development.
2. If construction has not commenced on the project within 36 months from the issuance of the special use permit, it shall become void. Construction shall be defined as obtaining permits for building construction and installation of footings and/or foundations.
3. This special use permit shall be limited to the following specially permitted uses:
 - Single-family dwellings
 - Nursing homes and facilities for the residence and/or care of the aged

These specially permitted uses are in addition to those generally permitted uses specified in Proffer 1 of the Amended Proffers. Nursing home facilities shall be limited to one 100-bed nursing home. Assisted living units shall be limited to 100 units. Independent units shall be limited to 87 units.

4. This special use permit is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

Jason Purse

Allen J. Murphy, Jr.

CONCUR:



Steven W. Hicks

ATTACHMENTS:

1. Location Map

MEMORANDUM

DATE: August 3, 2011

TO: The Planning Commission

FROM: Allen J. Murphy, Jr., Planning Director/ Assistant Development Manager

SUBJECT: Ordinance Amendments - Fee Waivers

Attached for your review are ordinances amending Chapter 19, Subdivisions, Section 19-15, Fees, and Chapter 24, Zoning, Section 24-7, Administrative Fees. Amendments to these chapters authorize waiver of required application, plan review, permit and inspection, and other fees when the owner of the subject premises is the United States of America, the Commonwealth, the County, the James City Service Authority, the Williamsburg Area Transit Authority, the Williamsburg Regional Library, or the Williamsburg-James City County Public Schools.

As the result of recent discussion regarding fee waivers to assist with disaster recovery, staff realized that it had been customary to waive fees for such entities; however, it was determined that the authority to waive fees set forth by ordinance lies only with the Board of Supervisors. These are essentially housekeeping ordinances that will allow staff to handle these waivers administratively.

It should be noted that similar amendments to Chapter 4, Building Regulations; Chapter 8, Erosion and Sediment Control; Chapter 22, Wetlands; and Chapter 23, Chesapeake Bay Preservation are also set to be presented to the Board of Supervisors for consideration.

Staff recommends that the Planning Commission recommend approval of the attached Subdivision Ordinance and Zoning Ordinance amendments to the Board of Supervisors.

Allen J. Murphy, Jr.

AJM/bk

Attachments

- Draft Ordinance – Chapter 19, Subdivisions.
- Draft Ordinance – Chapter 24, Zoning.

ORDINANCE NO. _____

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 24, ZONING, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE I, IN GENERAL, SECTION 24-7, ADMINISTRATIVE FEES.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 24, Zoning, is hereby amended and reordained by amending Article I, In General, Section 24-7, Administrative fees.

Chapter 24. Zoning

Article I. In General

Sec. 24-7. Administrative fees.

(a) Fees shall be charged at the time of application to offset the cost of making inspections, issuing permits, advertising notices and other expenses incident to the administration of this chapter or to the filing or processing of any appeal or amendment thereto. The following fees shall be charged and collected at the time of application:

Procedure

Fee

- | | | | |
|-----|---|-------|------------------------------------|
| (1) | Rezoning | | \$1,200.00 plus \$75.00 per |
| | | | acre, not to exceed \$15,000.00 |
| (2) | Applications for special use permits: | | |
| a. | Generally (General special use permits processed with | | \$1,000.00 plus \$30.00 |
| | a rezoning shall pay a rezoning fee only)..... | | per acre, not to exceed \$5,000.00 |
| b. | Manufactured home on an individual lot. | | 100.00 |
| c. | Family subdivision under section 24-214. | | 100.00 |
| d. | Amendment to a special use permit. | | 400.00 |

- e. Wireless communications facilities under division 61,500.00
- (3) Master plan review:
 - a. Initial review of any Residential Cluster, Mixed Use or a PUD
with less than 400 acres (PUD's with 400 acres or more shall
pay a rezoning fee only) 200.00
 - b. Revision of approved plan:
 - 1. Residential Cluster 75.00
 - 2. R-4, PUD, Mixed Use 150.00
- (4) Site Plan Review:
 - a. Administrative review:
 - 1. Residential structures or improvements, \$600.00, plus \$60.00 per residential unit.
 - 2. Nonresidential structures or improvements, \$600.00, plus \$0.024 per sq. ft. of building
area.
 - 3. Mixed Use structures or improvements, \$600.00, plus \$60.00 per residential unit plus
\$0.024 per sq. ft. of nonresidential building area.
 - b. Planning commission review:
 - 1. Residential structures or improvements, \$1,800.00, plus \$60.00 per residential unit.
 - 2. Nonresidential structures or improvements, \$1,800.00, plus \$0.024 per sq. ft. of building
area.
 - 3. Mixed Use structures or improvements, \$1,800.00, plus \$60.00 per residential unit plus
\$0.024 per sq. ft. of nonresidential building area.
 - c. Amendment to an approved plan:
 - 1. Residential structures or improvements, \$100.00, plus \$10.00 per residential unit.
 - 2. Nonresidential structures or improvements, \$100.00, plus \$0.004 per sq. ft. of building
area.
 - 3. Mixed Use structures or improvements, \$100.00, plus \$10.00 per residential unit plus
\$0.004 per sq. ft. of nonresidential building area.

4. Residential or nonresidential structures or improvements where the number of dwelling units or area of building area, pavement, or open space is not changed more than 15 percent, \$100.00.
- d. Zoning administrator and fire department review only, \$20.00.
- e. Each additional review after second resubmission, \$250.00 not to include resubmissions that are the result of substantial redesign due to other agency comments.
- (5) Sign permits, \$5.00 per square foot of gross sign area.
- (6) Appeals to the board of zoning appeals, \$500.00.
- (7) Application for a height limitation waiver to the board of supervisors, \$200.00
- (8) Application for administrative variance, \$250.00
- (9) Public hearing applicant deferral request when the applicant fails to meet a staff imposed deadline for additional information relevant to the application except where deferral is the result of a commission or board action, \$350.00 per request.
- (10) Conceptual plan review, \$25.00.
- (11) Zoning verification request, \$100.00.
- (12) Stormwater inspection fees: There shall be a fee for the inspection of public stormwater installations and private stormwater installations required in accordance with section 23-10(4). Such fee shall be \$900 per practice for each best management practice constructed and \$.90 per foot for every foot of stormwater drain or channel constructed and shall be submitted at the time of filing an application for a land disturbance permit.

(b) Where the owner of any premises is the United States of America, the commonwealth, the county or instrumentalities thereof, the James City Service Authority, the Williamsburg Area Transit Authority, the Williamsburg Regional Library, or the Williamsburg-James City County Public Schools, the payment of any fee established in this section is hereby waived.

MEMORANDUM

DATE: August 3, 2011

TO: The Planning Commission

FROM: Allen J. Murphy, Jr., Planning Director/ Assistant Development Manager

SUBJECT: Ordinance Amendments - Fee Waivers

Attached for your review are ordinances amending Chapter 19, Subdivisions, Section 19-15, Fees, and Chapter 24, Zoning, Section 24-7, Administrative Fees. Amendments to these chapters authorize waiver of required application, plan review, permit and inspection, and other fees when the owner of the subject premises is the United States of America, the Commonwealth, the County, the James City Service Authority, the Williamsburg Area Transit Authority, the Williamsburg Regional Library, or the Williamsburg-James City County Public Schools.

As the result of recent discussion regarding fee waivers to assist with disaster recovery, staff realized that it had been customary to waive fees for such entities; however, it was determined that the authority to waive fees set forth by ordinance lies only with the Board of Supervisors. These are essentially housekeeping ordinances that will allow staff to handle these waivers administratively.

It should be noted that similar amendments to Chapter 4, Building Regulations; Chapter 8, Erosion and Sediment Control; Chapter 22, Wetlands; and Chapter 23, Chesapeake Bay Preservation are also set to be presented to the Board of Supervisors for consideration.

Staff recommends that the Planning Commission recommend approval of the attached Subdivision Ordinance and Zoning Ordinance amendments to the Board of Supervisors.

Allen J. Murphy, Jr.

AJM/bk

Attachments

- Draft Ordinance – Chapter 19, Subdivisions.
- Draft Ordinance – Chapter 24, Zoning.

ORDINANCE NO. _____

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 19, SUBDIVISIONS, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE I, GENERAL PROVISIONS, SECTION 19-15, FEES.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 19, Subdivisions, is hereby amended and reordained by amending Article I, General Provisions, Section 19-15, Fees.

Chapter 19. Subdivisions

Article I. General Provisions

Sec. 19-15. Fees.

Fees shall be charged to offset the cost of reviewing plats and plans, making inspections and other expenses incident to the administration of this chapter. The following fees shall be charged and collected as provided below:

- (1) *General plan review.* There shall be a fee for the examination of every plan reviewed by the agent or commission. For all subdivisions that do not require public improvements, the fee for a major or minor subdivision shall be \$200.00 per plan plus \$70.00 per lot for each lot over two lots in the subdivision plat. For all subdivisions that require public improvements, the fee for a major or minor subdivision shall be \$250.00 per plan plus \$70.00 per lot for each lot over two lots in the subdivision plat. The fee for townhouse or condominium subdivisions which have undergone site plan review shall be \$50.00. The fee shall be submitted to the agent at the time of filing the plat for review. Any check shall be payable to the James City County treasurer. An additional fee of \$250.00 shall be collected for any review after the second re-submission not to

include resubmittals that are the result of substantial redesign due to additional agency comments.

(2) *Inspection fee for water and sewer lines.* There shall be a fee for the inspection by the service authority of public water and sewer system installations. Such fee shall be \$1.43 per foot for every foot of sewer main or water main constructed and shall be submitted as specified by the service authority regulations.

(3) *Inspection fee for stormwater installations.* There shall be a fee for the inspection by the stormwater division of public stormwater installations and private stormwater installations required in accordance with section 23-10(4). Such fee shall be \$900 per practice for each best management practice constructed and \$.90 per foot for every foot of stormwater drain or channel constructed and shall be submitted at the time of filing an application for a land disturbance permit.

(4) *Fees waived. Where the owner of any premises is the United States of America, the commonwealth, the county or instrumentalities thereof, the James City Service Authority, the Williamsburg Area Transit Authority, the Williamsburg Regional Library, or the Williamsburg-James City County Public Schools, the payment of any fee established in this section is hereby waived.*

New Cases for July

Case Type	Case Number	Case Title	Address1	Description	Full Name	District
Conceptual Plans	C-0026-2011	Chambrel Memory Care Facility	3800 TREYBURN DRIVE	Construction of a 32 bed memory care facility west of Treyburn Drive and south of Carriage Road at Chambrel. Submitted to the DRC for master plan consistency.	Luke Vinciguerra	04-Jamestown
	C-0027-2011	Nettles Creek Farm	2001 BUSH NECK ROAD	Determining the subdivision potential of property in the Gordon's Creek AFD.	Chris Johnson	02-Powhatan
	C-0028-2011	New Town Sec. 6 Blk. 20 Lighting Revisions (TPMG)	5424 DISCOVERY PARK BLVD	As-built sheet based on CO inspection showing revised lighting chart and stair placement.	Leanne Reidenbach	04-Jamestown
	C-0029-2011	Alex Hardwood Subdivision Lot 37	8650 POCAHONTAS TR	Subdivision of Lot 37 and boundary line adjustment between Lots 37 and 1.	Jose Ribeiro	05-Roberts
	C-0030-2011	Greensprings Governor's Ridge Open Space Proffer Amend.	FRANCES BERKELEY	Attempting to sell 4 acres of the 18-acre open space area as lots for single family homes.	Jason Purse	03-Berkeley
Master Plan	MP-0002-2011	New Town Settler's Market Sec. 9 MP Amend.	4509 CASEY BLVD and 5020 SETTLERS MARKET BLVD	Proposes changes to the layout of the residential portion of Settler's Market (Sec. 9) of New Town. Moves all residential uses to north of Settler's Market Blvd. Decreases number of units and changes type to townhomes.	Leanne Reidenbach	04-Jamestown
Site Plan	SP-0066-2011	Lake Powell Forest Common Area Shelter SP Amend.	LAKE POWELL FOREST COMMON AREA	Construct covered shelter in HOA common area.	Jose Ribeiro	05-Roberts
	SP-0067-2011	Williamsburg Crossing Car Wash	5117 JOHN TYLER HWY	Construction of an automated car wash at the Williamsburg Crossing Shopping Center.	Leanne Reidenbach	03-Berkeley
	SP-0068-2011	Patriots Colony Sidewalk SP Amend.	3400 JOHN TYLER HWY	Sidewalk addition from the 5-story apartment building to the parking lot northwest of the Recreation Pond.	Jason Purse	03-Berkeley
	SP-0069-2011	Zine's Produce S.P. Amend.	2644 JOHN TYLER HWY	Applicant proposes a 432 square foot farmer's market.	Luke Vinciguerra	03-Berkeley
	SP-0070-2011	Powhatan Secondary Colonies SP Amend. Trail Improvements	4400 NEWS ROAD	Trail relocation (to move upslope out of wet areas) and bridges at existing drainage ways. The project is being constructed as an Eagle Scout project.	Jose Ribeiro	04-Jamestown
	SP-0071-2011	New Town Sec. 3 & 6 Blk 15 Discovery Park Veteran's Memorial	5380 DISCOVERY PARK BLVD	Construction of a veteran's memorial tower and associated hardscape in Discovery Park.	Leanne Reidenbach	04-Jamestown
Special Use Permit	SUP-0005-2011	Williamsburg Landing SUP Amend.	5560 WILLIAMSBURG LANDING DR	Applicant requests an extension of project commencement deadline provided for in SUP-0018-2008.	Jason Purse	05-Roberts

Subdivision	S-0032-2011	Greensprings West Torrington Trail BLE	3063, 3067, 3071 TORRINGTON TRAIL	Boundary line extinguishments to combine lots 313 and 314 into Lot 315.	Jose Ribeiro	03-Berkeley
	S-0033-2011	Nixon Centerville Road BLA	6314 CENTERVILLE RD	Extinguishing the lot lines at 101 Ruth Lane and dividing that land between 6314 Centerville and 107 Ruth Lane.	Luke Vinciguerra	02-Powhatan
Subdivision Ordinance Amendment	SO-0001-2011	Subdivision Ordinance Update	N/A		Ellen Cook	N/A
Zoning Ordinance Amendment	ZO-0001-2011	Zoning Ordinance Update	N/A		Ellen Cook	N/A
	ZO-0002-2011	Amendment to Chapter 24, Zoning, Section 24-7, Administrative Fees	N/A	Adding a provision that fees may be waived for the James City Service Authority, the Williamsburg Area Transit Authority, the Williamsburg Regional Library, and Williamsburg-James City County Schools	Chris Johnson	N/A
	ZO-0003-2011	Economic Opportunity District	N/A	To create a new zoning district to accommodate the newly created Economic Opportunity designation on the 2009 Comprehensive Plan Land Use Map	Jason Purse	N/A

PLANNING DIRECTOR'S REPORT
August 2011

This report summarizes the status of selected Planning Division activities during the past month.

- **New Town.** A Design Review Board meeting was not held in July. Electronically, the DRB approved an amendment to WindsorMeade Marketplace to remove two buildings. The DRB is in the process of considering the binding master plan and design guidelines for the revised residential portion of Section 9 (only the illustrative conceptual plan was reviewed at the June meeting).
- **Ordinance Update.** The Policy Committee held two meetings in July to discuss draft ordinance language for Economic Opportunity and the commercial districts, and to review the initial draft of the green building policy and cluster overlay district. A Board work session was held on July 26th to discuss Stage 2 materials for development standards and cumulative impacts, and for an update on the Transfer of Development Rights study. One Policy Committee meeting is tentatively scheduled for August 30th to discuss residential districts and multiple use districts.
- **Training.** Three staff members attended the annual conference for the Virginia Chapter of the American Planning Association at the end of July.
- **Monthly Case Report.** For a list of all cases received in the last month, please see the attached document.
- **Board Action Results** – July 12th and July 26th
HW-0001-2011 Kingsmill Marriott Tower - Approved



Allen J. Murphy, Jr.