

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

1. ROLL CALL

Don Hunt
Mary Jones
Tony Obadal
Jack Fraley
Shereen Hughes
Jim Kennedy
George Billups

STAFF PRESENT

Marvin Sowers, Planning Director
Jenny Lyttle, Assistant County Attorney
Leanne Reidenbach, Planner
Jason Purse, Planner
Toya Ricks, Administrative Services Coordinator
Scott Thomas, Chief Environmental Engineer
Michael Woolson, Senior Watershed Planner
Darryl Cook, Director Environmental Division
John Horne, Development Manager
Matthew Smolnik, Planner

2. MINUTES

A. August 7, 2006 Regular Meeting

Ms. Jones motioned to approve the minutes.

Mr. Obadal seconded the motion.

In a unanimous voice vote the minutes of the August 7, 2006 regular meeting were approved.

3. PUBLIC COMMENT

Mr. Mike Sloan, 2527 Manion, representing Alliance for Responsible Land Use asked Commissioners to consider the beneficiaries of proposed development. He also stated his concerns regarding future generations, quality of life, and cumulative impacts.

Hearing no other requests to speak, the public comment period was closed.

4. COMMITTEE AND COMMISSION REPORTS

A. Development Review Committee (DRC)

Mr. Kennedy stated that the DRC met on September 6. He stated that the Committee granted preliminary approval pending agency comments to SP-84-06 AM Tower Relocation Overhead Utility Waiver and SP-068-06, Oxford Crescent-New Town Block 17, Section 3 & 6. The Committee denied C-75-06 St. Bede Catholic Church Mausoleum Addition due to questions concerning Master Plan consistency.

Mr. Hunt motioned to approve the DRC report.

Ms. Jones seconded the motion.

In a unanimous voice vote the DRC report was approved.

B. Policy Committee

Ms. Jones stated that the Policy Committee met on August 23 to continue its consideration of possible revisions to the residential sections of the Zoning Ordinance. She said the Policy Committee will meet every third Wednesday with the next meeting scheduled for September 20 at 9:30 AM in the Building A conference room.

Mr. Fraley asked the Policy Committee to suspend this review due to pending initiatives for proposed revisions to the Powhatan and Yarmouth Creek Watershed Management Plans and Better Site Design that might impact the Committees' recommendations.

5. PUBLIC HEARINGS

A. SUP-18-06 Stuckey's Redevelopment

B. SUP-23-06 Volunteer Fire Department Flea Market

Mr. Fraley stated that the applicants for Stuckey's Redevelopment and the Volunteer Fire Department Flea Market have requested a deferral until the October Planning Commission meeting and asked if Staff concurred.

Mr. Sowers said Staff concurred.

Mr. Fraley opened the public hearings.

Hearing no requests to speak the public hearings were continued to October 2, 2006.

C. AFD-4-86 Pate's Neck Renewal

D. AFD-1-02 Carter's Grove Renewal

Ms. Leanne Reidenbach presented the staff report stating the State's requirement for the Renewal of Agricultural and Forestal Districts (AFD). She stated that the Pate's Neck AFD is located on approximately 624 acres of land located at 1945 and 1955 Little Creek Dam Road. She also stated that the Carter's Grove AFD is located on approximately 320.36 acres of land located at 8797 Pocahontas Tr., 8766 Pocahontas Tr. and adjoining the James River. The Carter's Grove includes all the land on the above properties with the exception of all land within 50 feet of the road right of way as those properties have been excluded from the district to allow for possible road and/or drainage improvements. Additionally, the Colonial Williamsburg Foundation has requested to withdraw 2.26 acres, leaving 318.1 acres to be renewed in the AFD. Staff requested renewal of the Carter's Grove District for 4 years and 1 month to align renewal dates of all AFDs with the exception of the Pate's Neck District. The applicant for the Pate's Neck District has requested renewal for 6 years. On August 29 the AFD Advisory Committee voted unanimously to approve the renewals (6-0).

Mr. Kennedy asked if a proposal was under consideration for Carter's Grove necessitating the need for road widening.

Ms. Reidenbach stated that no request had been submitted and deferred the question to the applicant.

Mr. Fraley asked for explanation of the 6 year renewal request for the Pate's Neck District.

Ms. Reidenbach stated that it was in keeping with previous renewals for the district based on the applicant's request.

Mr. Hunt added that the property owners have continuously maintained that they have no desire to change the use of the property.

Mr. Fraley opened the public hearings.

Mr. Keith Johnson representing the Colonial Williamsburg Foundation, owners of Carter's Grove, stated he was available for questions.

Mr. Kennedy asked if there were plans to re-open the facility and why the land area along the entrance road was being excluded.

Mr. Johnson said there are no plans at this time. He stated that exclusion of land at this time allows for flexibility in the future should a proposal be developed.

Hearing no other requests to speak the public hearings were closed.

Mr. Hunt motioned to recommend approval of both applications.

Mr. Obadal seconded the motion.

In a unanimous roll call vote both applications were recommended for approval (7-0).
AYE (7): Hunt, Obadal, Jones, Hughes, Kennedy, Billups, Fraley; NAY: (0).

6. PLANNING COMMISSION CONSIDERATION

A. Revisions to Powhatan Creek and Yarmouth Creek Watershed Management Plans

Mr. Scott Thomas and Mr. Michael Woolson presented the recommendations stating that after two work sessions with the Board of Supervisors, staff was directed to present their proposals to the Planning Commission for feedback prior to drafting final recommendations for Board adoption.

Mr. Thomas presented the history of developing the current Watershed Management Plans along with suggestions for revisions.

Mr. Woolson stated that the main efforts toward implementation are through legislative acts. He stated that Rezoning and Special Use Permit requests are reviewed for consistency with the Watershed Management Plans' priorities and recommendations. Mr. Woolson detailed the recommended revisions.

Mr. Kennedy stated that in 2002 the Board of Supervisors adopted the articles they had been asked by staff to approve. He stated that there was no request to adopt the three remaining articles.

Mr. Woolson stated that the three articles were deferred pending additional development of them by staff.

Mr. Kennedy asked if other stakeholders would be involved drafting the revisions.

Mr. Horne stated that the Board had not made any specific request. He said the two public work sessions were well attended and well publicized.

Mr. Kennedy said that in 2002 stakeholders were notified individually by mail.

Mr. Horne said there were no mailed notices to individual land owners.

Mr. Kennedy stated that ultimately the decision lies with the Board of Supervisors. He questioned why the Planning Commission was being asked to review the recommendations.

Mr. Fraley stated that he was pleased that the Board asked for Planning Commissioners' input because there is no requirement to do so.

Mr. Obadal thanked the Board for the opportunity to provide input. He stated his concerns that Staff did not have time to fully consider any suggestions from the Commission. Mr. Obadal suggested an overlay ordinance that would exclude existing uses and site plans that had been finalized through a "grandfather clause" in an effort to address some of the concerns previously expressed by members of the Board. He presented suggestions by himself and Ms. Hughes and suggested including in both studies specific language protecting intermittent streams in addition to the proposed credit inducement.

Mr. Woolson commented that ordinance requirements for RPA buffers are 100 feet and that the proposal under consideration is for 50 feet for intermittent streams.

Mr. Obadal said they are open to any language or alternative that fully protects intermittent streams. He continued his comments suggesting inclusion of language that would protect non-RPA (Resource Protection Area) wetlands, the keeping of priority #11 perhaps stating that impervious cover should be minimized and watershed management practices maximized in order to assure recharge.

Mr. Thomas read aloud proposed priority #11.

Mr. Obadal stated that their proposal is broader.

Mr. Horne clarified the proposal relative to intermittent streams and isolated wetland buffers.

Mr. Obadal stated that with respect to buffers and staff recommendations for three zones they recommend allowing expansion of the second zone into the outer zone in order to reflect individual needs.

Mr. Fraley clarified that the Board has asked for Commissioners' suggestions and that it should not effect staff's presentation or how they decide to move forward.

Mr. Obadal stated that it was his hope the staff would take the recommendations into consideration.

Mr. Fraley noted that with regard to the three buffer zones the Board directed staff to allow for flexibility in order to best protect the water quality. He stated that he did not see that reflected in the proposal.

Mr. Woolson and Mr. Thomas explained that this was the same presentation with Board comments noted.

Ms. Hughes asked what changes have been proposed that are outside the Watershed Management Plan that Mr. Kennedy now felt required another process.

Mr. Kennedy stated that his concern was that when changes are made the government is obligated to notify those affected and allow them the opportunity to respond.

Ms. Hughes stated her agreement with eliminating reference to the RPA extension and with incorporating intermittent streams and unconnected wetland buffers into the 10 point BMP (Best Management Practices) approval system. She said she would like to see a move away from only encouraging stormwater basins and towards recharging water back into the groundwater system. Ms. Hughes stated that a three zone buffer system with specific goals is mentioned in the Powhatan Creek Watershed Management Report and suggested sticking with that.

Mr. Fraley asked Ms. Hughes what she meant by "sticking with that."

Ms. Hughes explained that three zone buffering is mentioned as being a part of a good buffer system.

Mr. Fraley stated that currently there is no 300 foot buffer, that it is negotiable.

Ms. Hughes stated that the buffer can be negotiated if a larger buffer system is approved.

Mr. Fraley explained that the 300 foot variable buffer is actually only 100 feet. He said the rest is negotiable; that there is no 300 foot requirement.

Mr. Woolson concurred with Mr. Fraley.

Mr. Fraley asked who negotiates it.

Mr. Woolson stated that it depends on the parcel size and features and the project proposal. He stated that staff is proposing to negotiate a wider buffer in areas where it makes sense.

Mr. Fraley stated that negotiation has a stronger connotation for rezoning.

Mr. Woolson agreed.

Ms. Hughes suggested that the language of enhanced buffers could be used.

Mr. Horne stated that during the legislative process the Commission and the Board have the broadest prerogative and receives the broadest information as to the overall alignment of uses on the site. He said it would be difficult to write that type of flexibility into an Ordinance.

Ms. Hughes stated that in the Yarmouth Creek Watershed there are 4,876 acres in the A-1 District. She asked what happens if no one desires a rezoning.

Mr. Fraley said by-right uses would be addressed separately.

Ms. Hughes said she concurred with not dropping priorities #3, and #11 or the impervious surface goals. She said the primary reason to keep the 10 percent level is because there is increased stream and surface water degradation above that level. Ms. Hughes stated that the desire is to achieve recharge back to the groundwater system so that it can feed the wetlands and flexibility should be allowed.

Mr. Hunt stated that in order to solve the problem height limitations should be raised to allow vertical parking.

Mr. Billups stated that he wanted to see coordination and consistency and he believes staff has looked at those aspects in developing the Plans. He stated his confidence that staff would develop a plan that conforms to state and local regulations.

Ms. Jones agreed with Ms. Hughes. She also stated her approval of allowing flexibility within the previously proposed three zone riparian buffer.

Mr. Fraley stated that the Commission was not attempting to change Staff's proposal but was offering comments and feedback as requested by the Board.

Mr. Horne stated Staff's intent to incorporate Commissioner's comments during the next discussion with the Board.

Mr. Fraley asked for comments regarding application of the proposed changes to by-right uses.

Mr. Horne stated that although the Board asked staff to review options there was not much discussion with the Board about incorporating the proposed legislative changes into Ordinances.

Mr. Woolson highlighted properties on two maps that may be developed by-right within the two watersheds. He stated that possible recommendations by the Rural Lands Committee had not yet been considered.

Ms. Hughes asked if the developable properties fell under the Special Stormwater Criteria. She also asked if the three zone riparian buffer is considered a Special Stormwater Criteria feature.

Mr. Woolson answered yes for the most part. He also stated that the expanded buffer is a Special Stormwater Criteria option.

Ms. Hughes confirmed with Mr. Woolson that even in a by-right situation the Special Stormwater Criteria has to be applied in those areas.

Mr. Thomas added that it would be able to receive credit under that program.

Ms. Hughes said it does give staff some control and discretion in terms of development.

Mr. Thomas said that the criteria meet a lot of the objectives in the Powhatan Plan.

Mr. Obadal stated that the tools and goals of the two studies are similar.

Mr. Thomas stated that the initial Watershed Management Plan format was designed to be used as a template for other watersheds with each being tweaked according to different types of development and stakeholder interest.

Mr. Obadal asked if the Gordon Creek Watershed, which is substantially less developed, would still have similar tools and goals.

Mr. Woolson said it would be more similar to the Yarmouth Creek Plan because of the Primary Service Area (PSA) impact.

Mr. Thomas stated that he would agree based on Staff's historical knowledge of the terrain and features.

Mr. Obadal stated that Gordon Creek is very pristine where as the Yarmouth Creek is somewhat spoiled because of its proximity to development.

Mr. Woolson agreed.

Mr. Fraley asked for Mr. Horne view.

Mr. Horne stated that the Ordinance impact in the Yarmouth Creek Watershed is almost entirely A-1 with low-density development that will be subject to a new Rural Lands initiative. He stated that in the Powhatan Creek Watershed there are two areas of concern; the parcels on the corner of Jamestown and Neck-O-Land Roads and Eastern State. Mr. Horne stated that he did not think any of the other parcels were large enough or have enough reach of intermittent or perennial stream or wetlands to make any meaningful impact. He added that the A-1 and R-8 parcels are all inside the PSA and historically will not be developed by-right.

Mr. Hunt stated that a lot of the stormwater in the Yarmouth Creek Watershed is being absorbed by the Little Creek Reservoir.

Mr. Fraley stated that with respect to the A-1 areas outside the PSA it is apparent that densities will be lowered therefore he feels less urgency for by-right restrictions.

Mr. Hunt agreed.

Mr. Thomas thanked the Commissioners for their time. He stated his hope that the final recommendations will be trusted by the Planning Commission and the Board.

Mr. Fraley stated Staff had the Commissions confidence.

Mr. Fraley opened the discussion for public comment.

Mr. Gregory Hancock stated his expertise in Hydrology and Environmental Science and commended James City County for its outstanding efforts at watershed protection. Mr. Hancock gave suggestions to increase regulatory efforts to more aggressively preserve natural features within the watersheds.

Hearing no other requests the public comment period was closed.

Mr. Fraley stated that the Commissioners comments will be noted in the minutes. He also stated that Staff has agreed to consider them prior to the next presentation to the Board. Mr. Fraley asked for any additional recommendations.

Mr. Obadal asked to review the final recommendations early enough to comment on it.

Mr. Horne stated that Staff will present the Planning Commissions comments to the Board for feedback prior to drafting the specific language. He stated that the Commission will be included in the drafting process as well.

Ms. Jones asked if the goal is to fully adopt the final recommendations.

Mr. Horne said yes.

B. Regional Issues Committee – Comprehensive Plan Coordination

Mr. Sowers reviewed the request by the Regional Issues Committee (RIC) to coordinate the timing of the Comprehensive Plan Reviews for James City County, York County, and the City of Williamsburg. He stated that the current schedule for James City County will be followed for the 2008 update with the next review originally slated for 2012 to be pushed to 2010 and include joint forums and discussions.

Mr. Kennedy asked why efforts were not being combined for the 2008 review instead of waiting until 2010.

Mr. Horne stated that Williamsburg will be completing its current review within the next two months and that York County completed its review a year ago.

Mr. Fraley opened the discussion for public comment.

Hearing no requests the public comment period was closed.

Mr. Billups stated that there has been ongoing joint coordination with the other jurisdictions on common and important issues.

Mr. Fraley added that the Mr. Billups is the Planning Commissions representative to the RIC.

Mr. Fraley stated the Commissions' support for the request after asking if any of the Commissioners disagreed with RIC's proposal.

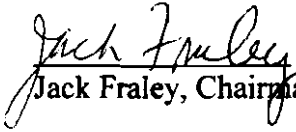
7. PLANNING DIRECTOR'S REPORT

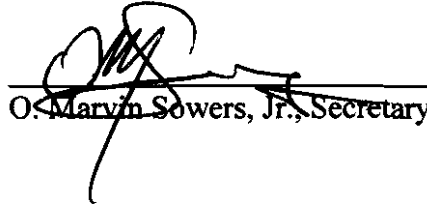
Mr. Sowers called the Commissioners attention to the Planning Director's Report included in their packets and asked for any comments.

Ms. Hughes stated that Better Site Design Committee meetings are open for public attendance but does not allow for public comment.

8. Adjournment

There being no further business the Planning Commission adjourned at 9:15 PM.


Jack Fraley, Chairman


O. Marvin Sowers, Jr., Secretary