

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

George Drummond
Robin Bledsoe
Chris Basic
Tim O'Connor
Rich Krapf

Staff Present:

Paul Holt, Planning Director
Adam Kinsman, Deputy County Attorney
Jason Purse, Zoning Administrator
Scott Whyte, Senior Landscape Planner

Mr. Holt noted that Mr. Krapf would serve as Chair in the absence of Mr. Woods.

Mr. Rich Krapf called the meeting to order at 7:00 p.m.

2. PUBLIC COMMENT

Mr. Krapf opened the public comment.

There being none, Mr. Krapf closed the public comment.

3. MINUTES

A. February 6, 2013 Regular Meeting

Mr. Basic moved to approve the minutes.

In a unanimous voice vote, the Commission approved the minutes as amended. (5-0)

4. COMMITTEE / COMMISSION REPORTS

A. Development Review Committee (DRC)

Mr. Tim O'Connor stated the DRC met on March 5, 2013 to discuss the following cases:

SP-0097-2012, Village at Candle Station. Mr. O'Connor stated that this case was first heard on January 30, 2013 and deferred to March 5th. The case was brought before the DRC for a determination of master plan consistency for the following proposed changes:

- Increased width of 33 single-family detached lots
- Relocation of seventeen townhome units
- Changes to the townhome cluster area

- Changes to the parking area servicing the townhome cluster area

The DRC voted 4-0 to approve of the proposed changes as being consistent with the master plan.

SP-0037-2012, The Settlement at Powhatan Creek Phase 3. Mr. O'Connor stated that the case was before the DRC for a proposed 1,940 square feet of land disturbance within the 100-foot buffer adjacent to Powhatan Crossing for the purpose of constructing a retaining wall. The proffers require that a disturbance within the buffer, such as a retaining wall, receive DRC approval. The DRC voted 4-0 to approve up to 1,940 square feet of disturbance within the buffer for the construction of a retaining wall.

Mr. O'Connor stated that two other cases were also considered:

- C-0011-2013, Marywood Subdivision, Walking Trails Amendment. The Board of Directors of Marywood solicited feedback from the DRC regarding the removal of two of four mulch trails in the subdivision allowing them to return to their natural state. The DRC was generally supportive of the request.
- C-0012-2013 JCSA, Rt. 199 Water Tower Site, HRSD Pressure Reducing Station. The Hampton Roads Sanitation District submitted conceptual plans for installing a pressure reducing station adjacent to an existing JCSA water storage tank on Rt. 199. The DRC offered feedback to the applicant in advance of submitting an SUP application regarding the most appropriate ways to screen proposed above ground pumps and protect the Route 199 Community Character Corridor.

Mr. Drummond moved to accept the DRC report.

In a unanimous voice vote, the Commission approved the report. (5-0)

B. Policy Committee

Ms. Robin Bledsoe stated the Policy Committee met on and February 15, 2013 to discuss amendments to the zoning ordinance related to pawnshops and payday title loan establishments, to review a proposed enhanced landscape policy and to review proposed zoning ordinance amendments related to landscaping in the Public Lands district and the Economic Opportunity district.

Mrs. Bledsoe stated that regarding case ZO-0004-2013, the Policy Committee reviewed the intent of all appropriate zoning options for pawnshops and payday title loan establishments. The Committee discussed perceived pros and cons of each placement option. Ultimately, the Committee concluded that the placement of pawnshops and payday title loan establishments should be through a Special Use Permit in the M1 and M2. The Committee unanimously recommended that the Planning Commission recommend approval of the same.

Ms. Bledsoe stated that regarding the landscape items, the Policy Committee also reviewed the hard work of the Professional Landscape Assessment Team (PLAT). PLAT submitted a report to the James City County Planning staff recommending changes that will promote best management practices and provide more flexibility to landscape designers while continuing to follow the County's Zoning Ordinance landscape guidelines and requirements. The James City County Planning staff supported those recommendations. After careful consideration the Policy Committee also supported those recommendations. Therefore, pertaining to case ZO-0001-2013, ZO-0002-2013 and ZO-0003-2013 Landscape Ordinance Amendments, the Policy Committee unanimously recommended approval of these items.

Mr. Drummond moved to accept the Policy Committee report.

In a unanimous voice vote, the Commission approved the report. (5-0)

Mrs. Bledsoe added a comment that she commended the PLAT Committee and staff for their excellent job preparing the landscape recommendations.

Mr. Krapf also complimented staff on the project.

5. PUBLIC HEARING CASES

ZO-0001-2013/ZO-0002-2013/ZO-0003-2013 Landscaping Ordinance Amendments

Mr. Scott Whyte, Senior Landscape Planner noted that three ordinance amendments and an enhanced landscape policy were being presented for consideration.

Mr. Whyte stated that ZO-0001-2013 is a resolution to amend the substitution, modification and transfer section of the Landscape Ordinance and adoption of an enhanced landscaping policy. The resolutions are based on recommendations proposed by the PLAT Committee and were initiated by the Board of Supervisors at the January 22, 2013 meeting. Mr. Whyte further stated that ZO-0002-2013 and ZO-0003-2013 are resolutions recommending minor changes to the Public Lands and Economic Opportunity zoning districts which were initiated by the Planning Commission on February 6, 2013.

Mr. Whyte stated that the PLAT recommended amending the modification, substitution and transfer section 24-91 of the zoning ordinance to:

- Give additional flexibility to landscape designers to mitigate existing site constraints such as narrow and unusually shaped parcels, sloped topography, and natural or man made obstacles
- Provide language to mitigate utility easements that exist on site that may inhibit the application of ordinance requirements as written
- Give designers the ability to mitigate site restraints by allowing for modifications to landscape quantity in exchange for qualitative improvements, while ensuring that the intent of the ordinance is maintained

Mr. Whyte noted the Planning Commission had been provided a copy of questions and concerns received from a citizen regarding the PLAT Committee recommendations.

Mr. Whyte further stated that the PLAT Committee recommended creation of an enhanced landscape policy to:

- Be more proactive at the application stage of a proposal by specifically defining what enhanced landscaping means for a site-specific development proposal
- Ensure that the specific application of enhanced landscaping will be initially proposed by the applicant's landscape design professional to address specific needs of that particular development
- Provide flexibility so that enhanced landscaping will not necessarily be limited to increased numbers or sizes of plants. Hardscapes, pedestrian accommodations, ornamental fencing public art and other types of amenities should be considered

Mr. Whyte stated that ZO-0002-2013 and ZO-0003-2013 are minor changes to the Public Lands and Economic Opportunity districts to coordinate the requirements for these districts with the requirements of the landscape section of the zoning ordinance.

Mr. Whyte noted that the proposed amendments to the Public Lands district include:

- Adding a reference to the landscape requirements for right-of-way landscaping and construction zone setback to §24-535.4 for setback requirements.
- Adding a reference to landscape requirements concerning planting requirements for side and rear yards to §24-535.6.

Mr. Whyte noted that further discussion on whether the term "yard" was a building set back or a required landscape area resulted in "yard" being changed to "landscape areas" and reference both in §24-96 and §24-101 (c) as shown in the amendment provided at the dais.

Mr. Whyte stated that the third change was to add Public Lands to a list of districts in §24-101 that require side and rear yard plantings.

Mr. Whyte noted that the only change to the Economic Opportunity district added a reference to the landscape requirements for right-of-way and construction zone setbacks to §24-536.8.

Mr. Krapf stated that he presumed that Mr. Whyte would follow up on the citizen questions and invited the other Planning Commissioners to include any questions they had regarding the citizen's comments in the current discussion.

Mr. Basic inquired whether there were other districts in the ordinance that already refer to side and rear yards and whether in essence the original text was consistent with how the rest of the ordinance is written.

Mr. Whyte responded that Mr. Basic was correct; however, the change was made to clarify the requirements for individuals not familiar with the landscape ordinance.

Mr. O'Connor inquired whether there was an appeal process included in the ordinance and whether appeals would go to the DRC or the Planning Commission.

Mr. Whyte responded that he would look into the process.

Mr. Krapf stated that the other ordinance amendments reviewed by the Planning Commission allow for the Planning Director to sign-off on a waiver with the appeal process to either body.

Mr. O'Connor stated that he wanted to echo Ms. Bledsoe's earlier comments that a lot of work went into preparing the amendments and that it made sense to give some flexibility rather than sticking to a strict formula.

Mr. Krapf requested that Mr. Whyte tell the Planning Commission about the various professionals that made up the PLAT.

Mr. Whyte responded that the PLAT included a wide variety of landscape professionals. Mr. Basic, Mr. Peters, commercial landscape design, Mr. Merritt and Mrs. Krapf, residential landscape design and Gordon Chapel, institutional landscape design. Mr. Whyte noted that the scope of work had been narrowed to considering planting density only.

Mr. Krapf noted that it was particularly effective that the PLAT Committee talked about the issues from a design standpoint with staff doing the follow-up to create the ordinance language.

Mr. Whyte noted that it was helpful to have different the perspectives on the committee.

Mr. Basic noted that there were four landscape architects and one certified landscape designer on the committee. This speaks to the first of the questions posed by the citizen.

Mr. Holt noted, in response to Mr. O'Connor's question on the appeal process, that the ordinance language states "Depending upon whether the landscape plan is subject to commission or administrative review, the commission or planning director shall approve, deny, conditionally approve or defer action on such request..."

Mr. Krapf opened the public hearing.

There being none, Mr. Krapf closed the public hearing.

Mr. Holt requested that there be a motion and a vote on each of the three ordinance items.

Ms. Bledsoe moved to recommend approval of Z0-0001-2013, Professional Landscape Assessment Team, Amendments to Chapter 24, Division 4, Landscaping and Creation of an Enhanced Landscaping Policy.

In a unanimous roll call vote, the Commission recommended approval. (5-0)

Mr. Basic moved to recommend approval of Z0-0002-2013, Amendments to Chapter 24, Division 16, Public Lands, as amended.

In a unanimous roll call vote, the Commission recommended approval. (5-0)

Mr. Drummond moved to recommend approval of Z0-0003-2013, Amendments to Chapter 24, Division 17, Economic Opportunity.

In a unanimous roll call vote, the Commission recommended approval. (5-0)

ZO-0004-2013, Pawnshops and Payday & Title Loan Establishments

Mr. Jason Purse, Zoning Administrator, stated that on January 22, 2013, the Board of Supervisors adopted an initiating resolution to consider amending the Zoning Ordinance to address pawn shops and payday and title loan establishments. Based on discussions with the Policy Committee on January 17 and February 15, 2013, staff has prepared changes to three sections of the zoning ordinance for this meeting. Definitions for pawn shops and payday/title loan establishments have been added to Section 24-2, Definitions. Mr. Purse noted that the definitions for both of these uses mirrors the State Code language. Pawn shops and payday/title loan establishments are also proposed to be included as specially permitted uses in the M-1, Limited Business/Industrial and M-2, General Industrial Districts.

Mr. Purse stated that staff has consulted with the County Attorney's office and they have stated that these uses cannot be completely prohibited in the zoning ordinance. After discussions with the Policy Committee, the M-1, Limited Business/Industrial, and M-2, General Industrial Districts were deemed to be the most appropriate areas for these uses. Mr. Purse noted that if the ordinances are approved as presented, any pawn shop or payday/title loan establishment would need to have a special use permit application reviewed by the Planning Commission within the context of a public hearing process and ultimately be approved by the Board of Supervisors. During that process site specific details, Comprehensive Plan designations and adjacent property impacts would all be taken into consideration.

Mr. Purse stated that staff recommends that the Planning Commission recommend approval of the proposed ordinance changes to the Board of Supervisors. At its February 15, 2013 meeting, the Policy Committee voted 4-0 to recommend approval of these changes.

Mr. Krapf opened the public hearing.

Ms. Suzanne Stern, 128 Spring Branch, spoke to the nature of the pawnshop/payday title loan process and demonstrated the effect of the interest and fees incurred in that process. She noted the difficulty of meeting the loan terms. Ms. Stern noted that Ms. Bledsoe stated in a newspaper article that these businesses do serve a purpose. Ms. Stern noted that she hoped that it can be demonstrated that they serve a good purpose for the community.

Mr. Jay Dunbar, 2724 Linden Lane, stated that he is a licensed pawnbroker in the city of Hampton and has wanted to open a pawnshop in the County. Mr. Dunbar requested that the Planning Commission not establish regulations that would be excessively restrictive. He noted that pawnshops and payday title loans are heavily regulated by the Commonwealth. Mr. Dunbar further noted that pawnbrokers provide a service not only to their customers but also to law enforcement agencies. Mr. Dunbar stated that 70 percent of items pawned are redeemed and that most pawnbrokers are willing to work with their customers.

Kelly Dunbar, 2724 Linden Lane, stated that through her education and work experience she has learned about people and providing customer service. She further stated that pawnshops provide a necessary service to the community and that the owners strive to provide good services.

As there no further comments, Mr. Krapf closed the public hearing.

Mr. Krapf noted that the speakers addressed many of the issues considered by the Policy Committee.

Ms. Bledsoe noted that initially she did not want to allow pawnshops in any zoning district because she was concerned by some of their practices. Ms. Bledsoe noted that through further research she determined that pawnshops are heavily regulated, even by Homeland Security. Mr. Bledsoe further noted that they have a national organization that regulated what they do. Ms. Bledsoe stated that the most compelling information in her research were the statistics on the number of individuals who cannot afford to have checking accounts. She stated that while she does not agree with some of the practices, she does believe that pawnshops do provide a service for these individuals and she did not feel that she had the right to deny them access to the service.

Ms. Bledsoe stated that the issue before the Planning Commission was to determine the best possible placement for pawnshops. Mrs. Bledsoe noted that after discussion at two meetings regarding what would work best and still serve the pawnshops and the community they serve, the two districts identified in the ordinance amendment had been identified. Ms. Bledsoe noted that they might not be ideal; however, they meet the intent of the zoning descriptions and are in locations where they are accessible to the citizens who need the services. Mrs. Bledsoe further stated that the County did not have the right to prohibit pawnshops and regardless of her personal opinion, it is only fair that County citizens are allowed access to the services.

Mr. Krapf stated that one of the items the Policy Committee carefully reviewed and considered was the Statement of Intent of each zoning district. Mr. Krapf noted that in formulating its recommendation the Policy Committee tried to hone in on what each district called for. Mr. Krapf further noted that the Policy Committee felt that proximity to residential developments was not desirable and stated that as with any business there were positives and negatives. Mr. Krapf also remarked on how well the industry is regulated by the Commonwealth. Mr. Krapf stated that the Policy Committee ultimately determined that the Statement of Intent for the M-1 and M-2 districts best matched the criteria being considered.

Mrs. Bledsoe noted that the intent behind requiring a Special Use Permit was to ensure that there was discussion on the placement and impact of each request.

Mr. Krapf noted that with the Special Use Permit, there are performance measures that can be required on a site specific basis such as limiting hours of operation to mitigate impacts on the surrounding area. Mr. Krapf further noted that each application would be considered on its individual merits as it comes through the Special Use permit process which makes it a stronger ordinance to ensure quality for the County.

Mr. Basic noted that pawnshops are a sensitive issue and commended staff and the Policy committee for their efforts. Mr. Basic further noted that inclusion of the Special Use Permit process provides flexibility and modest control.

Mr. O'Connor moved to recommend approval of ZO-0004-2013, Pawnshops and Payday & Title Loan Establishments.

In a unanimous roll call vote, the Commission recommended approval. (5-0)

7. PLANNING DIRECTOR'S REPORT

Mr. Holt noted that other than what has been included in the Planning Commission packets, there is nothing further to report at this time.

8. PLANNING COMMISSION DISCUSSION AND REQUESTS

Mr. Krapf noted Mr. Woods' e-mail regarding the Board of Supervisors coverage for the remainder of the year and the first several months of 2014.

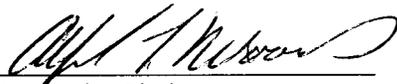
Mr. O'Connor noted that he presented the Planning Commission Annual Report to the Board of Supervisors at their February 26, 2013 meeting. Mr. O'Connor shared the Board of Supervisors' appreciation of the work that was done.

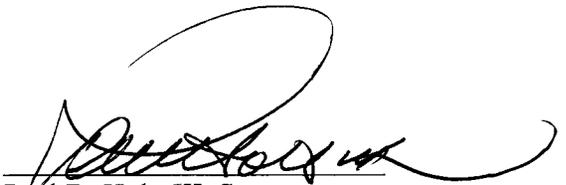
Mr. Krapf thanked Mr. O'Connor for his leadership over the previous year.

9. ADJOURNMENT

Mr. Basic moved to adjourn.

The meeting was adjourned at 7:48 p.m.


Al Woods, Chairman


Paul D. Holt, III, Secretary