

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

Rich Krapf
Tim O'Connor
Chris Basic
Robin Bledsoe
George Drummond
John Wright, III

Staff Present:

Paul Holt, Planning Director
Scott Whyte, Senior Landscape Planner II
Luke Vinciguerra, Planner
Leo Rogers, County Attorney

Absent:

Heath Richardson

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

Mr. Rogers introduced new staff attorneys Max Hlavin and Allie Kotula.

Mr. Krapf recognized Mr. Richard Bradshaw, Commissioner of the Revenue who was also in attendance.

2. PUBLIC COMMENT

Mr. Krapf opened the public comment.

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

3. CONSENT AGENDA

A. Minutes from the July 2, 2014, Planning Commission meeting

B. Development Review Committee

- i. SP-0045-2014, Lightfoot Marketplace
- ii. SP-0050-2014, Whitehall Clubhouse Site Plan Amendment

Mr. George Drummond moved to approve the Consent Agenda, with the recommended revisions to the minutes.

In a unanimous vote, the Commission approved the Consent Agenda 6-0; Mr. Heath Richardson being absent.

4. REPORTS TO THE COMMISSION

A. Policy Committee

Mr. Tim O'Connor stated that the Policy Committee met on July 10, 2014 with Robin Bledsoe, Rich Krapf and Tim O'Connor in attendance to consider Case No. ZO-001-2014, Chicken Keeping in General Residential District, R-2 and Residential Redevelopment District, R-3.

Mr. O'Connor stated that at its June 24, 2014 meeting the Board of Supervisors approved an initiating resolution to reconsider chicken keeping in the R-2 and R-3 zoning districts. Staff provided the Policy Committee with copies of all previous materials and minutes from earlier discussions. Staff also provided information on R-2 parcels located outside the Primary Service Area (PSA), the only community being Chickahominy Haven. Of the 390 lots in Chickahominy Haven, there are approximately 187 lots zoned R-2 with 77 of those lots having RPA to the rear of the structures. Of the remaining 110 lots, approximately 80 of those lots have restrictive covenants that prohibit the keeping of chickens, leaving a net of 30 lots eligible to be considered for chicken keeping.

Mr. O'Connor noted that currently there are no areas zoned R-3.

Mr. O'Connor stated that as there was minimal benefit from considering lots zoned R-2 which are outside the PSA, the Policy Committee recommends not limiting a draft ordinance to lots outside the PSA in R-2.

Mr. O'Connor stated that at the time of the meeting no applications had been received to keep chickens in R-1 and there had only been one general inquiry.

Mr. O'Connor stated that the Policy Committee's reconsideration also included review of previously submitted materials such as York, Poquoson, Fauquier and Prince William counties ordinances for chicken keeping. Mr. O'Connor noted that the City of Williamsburg does not permit chicken keeping in their Zoning Ordinance but elects to enforce nuisances through Animal Control. The policy Committee directed staff to create draft ordinances for R-2 and R-3 as separate zoning applications without the language allowing for the dispatch of chickens. It was not the Policy Committee's intention that the dispatch of chickens be included in the ordinance for chicken keeping.

Mr. O'Connor stated that by a vote of 2-1 the Policy Committee voted to move the ordinances forward for the benefit of a public hearing.

B. Regional Issues Committee

Ms. Robin Bledsoe stated that the Regional Issues Committee met on July 22, 2014. The main focus of the meeting was a presentation by Mr. Jeffrey Lunsford, Deputy Executive Director of Administration, for the Jamestown-Yorktown Foundation. Mr. Lunsford discussed the continued popularity of Historic Jamestown and highlighted the American Revolution Museum at Historic Yorktown which replaces the Yorktown Victory Center. Mrs. Bledsoe state that the Committee

was also provided the final summary report of the Historic Triangle Coordinated Comprehensive Plan review. Ms. Bledsoe noted that the Committee was also given an update on Virginia Department of Transportation projects.

5. PUBLIC HEARING CASES

Mr. Krapf noted that the first thirteen cases for Public Hearing were Agricultural and Forestal District (AFD) renewals or additions and that the process would be to hold one Public Hearing; however, each case would be voted on separately.

Mr. Paul Holt noted that the Commission had two documents in front of them; one being an FAQ sheet on Agricultural and Forestal Districts and the second a copy of an e-mail from Mr. Carter Cowles, III in support of renewing the Mill Creek AFD.

A.- M. Agricultural and Forestal District Renewals and Additions.

Mr. Luke Vinciguerra, Planner, provided the Commission with a summary of the AFD renewal process and the districts under review. Mr. Vinciguerra also provided an overview of the property being considered for addition in the Mill Creek AFD.

Mr. Krapf opened the floor for questions from the Commission.

Mr. O'Connor inquired if there was only one AFD withdrawal.

Mr. Vinciguerra stated that the property owner of the parcels in the Williamsburg Farms AFD has requested not to renew the district; therefore the district will cease to exist.

Mr. Krapf opened the public Hearing for the following cases:

Case No. AFD-01-89-1-2014, Armistead Agricultural & Forestal District Renewal
Case No. AFD-05-86-1-2014, Barnes Swamp Agricultural & Forestal District Renewal
Case No. AFD-01-02-1-2014, Carter's Grove Agricultural & Forestal District Renewal
Case No. AFD-10-86-1-2014, Christenson's Corner Agricultural & Forestal District Renewal
Case No. AFD-06-86-1-2014, Cranston's Pond Agricultural & Forestal District Renewal
Case No. AFD-02-86-1-2014, Croaker Agricultural & Forestal District Renewal
Case No. AFD-09-86-1-2014, Gordon Creek Agricultural & Forestal District Renewal
Case No. AFD-12-86-1-2014, Gospel Spreading Church Farm Agricultural & Forestal District Renewal
Case No. AFD-03-86-1-2014, Hill Pleasant Farm Agricultural & Forestal District Renewal
Case No. AFD-07-86-1-2014, Mill Creek Agricultural & Forestal District Renewal
Case No. AFD-11-86-1-2014, Yarmouth Creek Agricultural & Forestal District Renewal
Case No. AFD-09-86-4-2014, 4346 Centerville Rd., Gordon Creek Addition
Case No. AFD-07-86-2-2014, 8557 Diascund Rd., Mill Creek Addition

Mr. Krapf noted that he would recuse himself from the vote on Case No. AFD-07-86-1-2014, Mill Creek Agricultural & Forestal District Renewal as he resides within that district.

There being no speakers, Mr. Krapf closed the public hearing.

Mr. Krapf opened the floor for discussion by the commission for motions.

Mr. Basic inquired if the motions were to be for individual districts.

Mr. Krapf confirmed.

Mr. John Wright inquired if there were residences on any of the parcels enrolled in an AFD and could more properties be added by a property owner.

Mr. Holt stated that additional properties could be added. Mr. Holt further stated that information on adding properties to an AFD had been included with the property owner and adjacent property owner notification letters which were sent out at the beginning of the renewal process.

Mr. Wright inquired about limitations on commercial enterprises on land enrolled in an AFD.

Mr. Holt responded that commercial agricultural or silvicultural activities are permitted. Mr. Holt stated that any other activities are reviewed on an individual basis and the activity must be directly related to an agricultural or forestal use.

Mr. Basic moved to recommend approval of Case No. AFD-01-89-1-2014, Armistead Agricultural & Forestal District Renewal.

On a roll call vote, the Planning Commission voted to recommend approval of the application with the conditions listed in the staff report by a vote of 6-0; Mr. Richardson being absent.

Mr. Wright moved to recommend approval of Case No. AFD-05-86-1-2014, Barnes Swamp Agricultural & Forestal District Renewal.

On a roll call vote, the Planning Commission voted to recommend approval of the application with the conditions listed in the staff report by a vote of 6-0; Mr. Richardson being absent.

Mr. Drummond moved to recommend approval of Case No. AFD-01-02-1-2014, Carter's Grove Agricultural & Forestal District Renewal.

On a roll call vote, the Planning Commission voted to recommend approval of the application with the conditions listed in the staff report by a vote of 6-0; Mr. Richardson being absent.

Ms. Bledsoe moved to approve Case No. AFD-10-86-1-2014, Christenson's Corner Agricultural & Forestal District Renewal.

On a roll call vote, the Planning Commission voted to recommend approval of the application with the conditions listed in the staff report by a vote of 6-0; Mr. Richardson being absent.

Mr. O'Connor moved to recommend approval of Case No. AFD-06-86-1-2014, Cranston's Pond Agricultural & Forestal District Renewal.

On a roll call vote, the Planning Commission voted to recommend approval of the application with the conditions listed in the staff report by a vote of 6-0; Mr. Richardson being absent.

Mr. Wright moved to recommend approval of Case No. AFD-02-86-1-2014, Croaker Agricultural & Forestal District Renewal.

On a roll call vote, the Planning Commission voted to recommend approval of the application with the conditions listed in the staff report by a vote of 6-0; Mr. Richardson being absent.

Mr. Drummond moved to recommend approval of Case No. AFD-09-86-1-2014, Gordon Creek Agricultural & Forestal District Renewal.

On a roll call vote, the Planning Commission voted to recommend approval of the application with the conditions listed in the staff report by a vote of 6-0; Mr. Richardson being absent.

Ms. Bledsoe move to recommend approval of Case No. AFD-12-86-1-2014, Gospel Spreading Church Farm Agricultural & Forestal District Renewal.

On a roll call vote, the Planning Commission voted to recommend approval of the application with the conditions listed in the staff report by a vote of 6-0; Mr. Richardson being absent.

Mr. Basic moved to recommend approval of Case No. AFD-03-86-1-2014, Hill Pleasant Farm Agricultural & Forestal District Renewal.

On a roll call vote, the Planning Commission voted to recommend approval of the application with the conditions listed in the staff report by a vote of 6-0; Mr. Richardson being absent.

Mr. O'Connor moved to recommend approval of Case No. AFD-07-86-1-2014, Mill Creek Agricultural & Forestal District Renewal.

On a roll call vote, the Planning Commission voted to recommend approval of the application with the conditions listed in the staff report by a vote of 5-0-1; Mr. Krapf abstaining and Mr. Richardson being absent.

Mr. Wright moved to recommend approval of Case No. AFD-11-86-1-2014, Yarmouth Creek Agricultural & Forestal District Renewal.

On a roll call vote, the Planning Commission voted to recommend approval of the application with the conditions listed in the staff report by a vote of 6-0; Mr. Richardson being absent.

Mr. Holt noted that Case No. AFD-09-86-4-2014, 4346 Centerville Rd., Gordon Creek Addition had been withdrawn after it had been advertised and while the required public hearing was held, no vote was required.

Mr. Drummond moved to recommend approval of Case No. AFD-07-86-2-2014, 8557 Diascund Rd., Mill Creek Addition.

On a roll call vote, the Planning Commission voted to recommend approval of the application with the conditions listed in the staff report by a vote of 6-0; Mr. Richardson being absent.

N. Case Nos. ZO-0001-2014, ZO-0002-2014, ZO-0003-2014, Zoning Ordinance Amendments for the Keeping of Chickens in R-2, General Residential and R-3, Residential Redevelopment Zoned Areas of the County

Mr. Krapf stated that one public hearing would be held for all of the cases listed; however, each case would require a separate vote.

Mr. Holt noted that there had been a typographical error on page 121 and a corrected page has been provided. Mr. Holt further clarified that Case No. ZO-00001-2014 related to amendments to Special Regulations, ZO-0002-2014 related to amendments to the R-2, General Residential District and ZO-0003-2014 related to the R-3, Residential Redevelopment District.

Mr. Scott Whyte, Senior Landscape Planner II, presented a report to the Commission on the proposed ordinance amendments.

Mr. Krapf opened the floor to questions by the Commissioners.

Mr. Wright stated that he did not see any language in the proposed ordinances stipulating that the regulations were subject to being superseded by HOA covenants and restrictions.

Mr. Whyte responded that HOA covenants and restrictions were not addressed at the recommendation of the County Attorney and that violations of HOA covenants and restrictions would be a civil matter. Mr. Whyte further stated that the County would not approve chicken keeping applications where there was a conflict with HOA restrictions.

Mr. Wright inquired whether County staff would be checking to determine if HOA restrictions existed.

Mr. Whyte stated that the applicant would be required to state on the application whether there are HOA restrictions.

Mr. Wright stated that he is concerned that the County could incur costs if involved in litigation related to an HOA violation.

Mr. Krapf inquired if the application requires the applicant to state whether there are HOA restrictions.

Mr. Whyte confirmed.

Mr. Krapf inquired if the applicant is required to provide a copy of the HOA covenants and restrictions.

Mr. Whyte stated that a copy of the HOA covenants and restrictions is not required.

Ms. Bledsoe inquired how many applications have been filed to date.

Mr. Whyte responded that no applications have been received.

Mr. Krapf clarified that currently the ordinance only allows for chicken keeping in R-1, Limited Residential District.

Mr. Drummond stated that he has a concern about the five-foot setback for coops.

Mr. Krapf stated that this portion of the ordinance is for R-1, Limited Residential District and has already been approved by the Board of Supervisors.

Mr. Whyte confirmed and stated that the setbacks are five feet from the property line and twenty-five feet from any adjacent dwelling.

Mr. Krapf suggested that since the setbacks had already acted on by the Board, if Mr. Drummond had a concern about the setbacks he could make a comment for the record during Commission Discussions and Requests for review of the setbacks.

Mr. Wright inquired whether a chicken keeping permit could be revoked if it is later found that HOA restrictions exist.

Mr. Whyte confirmed.

Mr. Wright stated that this would give the HOA recourse through the County to abate a violation.

Ms. Bledsoe requested clarification whether the County would act on violations.

Mr. Krapf stated that the County would revoke the permit; however, violations of HOA covenants and restrictions would remain a civil matter.

Mr. O'Connor inquired about the lot size requirement for R-3, Residential Redevelopment District.

Mr. Holt stated that no applications have been submitted for an R-3 district to be able to gauge potential lot size. Mr. Holt further stated that it was the desire of the Policy Committee to keep the requirements the same across the three districts.

Mr. Basic noted that currently there is no land zoned R-3.

Mr. Krapf opened the floor for disclosure by the Commissioners regarding any conversations with applicants.

No disclosures were noted.

Mr. Krapf opened the public hearing for Case Nos. ZO-0001-2014, ZO-0002-2014 and ZO-0003-2014.

There being no speakers, Mr. Krapf closed the public hearing.

Mr. Krapf opened the floor for discussion by the Commission. Mr. Krapf requested that the cases be discussed individually, starting with ZO-0003-2014.

Mr. Wright inquired whether chicken keeping could be reconsidered when an application for an R-3 development plan is reviewed.

Mr. Holt clarified that, if the ordinance amendments are approved, then it could not be reconsidered as part of a development plan review. Mr. Holt noted that any changes would require a separate legislative action for an ordinance amendment.

Ms. Bledsoe inquired whether there was an advantage or disadvantage to creating an ordinance for a zoning designation that is not currently in use.

Mr. Rogers responded that this is done frequently and the regulations provide a framework for the future use of the land.

Mr. Holt noted that the same situation exists with the EO district. The zoning designation exists and regulations have been established for land in that district; however, there are currently no properties with that designation.

Ms. Bledsoe noted that she did not find an advantage to regulating chickens in R-3 when there were no property owners requesting to keep chickens.

Mr. Basic concurred but noted that establishing such land use regulations would give more definition to the district which could be used to determine compatibility with surrounding land use during consideration of rezoning cases.

Mr. O'Connor noted that the subdivision ordinance would apply to any R-3 development plan and the subdivision ordinance requires there to be an HOA.

Mr. Rogers confirmed.

Mr. Krapf noted that the HOA might or might not allow chickens.

Ms. Bledsoe noted that the primary reason for not recommending chicken keeping in the R-3 district during the first review was the land use issue.

Mr. O'Connor noted that one of the concerns was the potential for there to be cluster developments in R-3 where lots were close together.

Ms. Bledsoe inquired whether there had been any recent changes to warrant a different analysis.

Mr. Basic stated that the Policy Committee's earlier determination was on target.

Ms. Bledsoe moved to recommend denial of ZO-0003-2014.

Mr. Holt noted that a yes vote would be to deny ZO-0003-2014.

On a roll call vote, the Planning Commission voted to recommend denial of ZO-0003-2014 by a vote of 6-0; Mr. Richardson being absent.

Mr. Krapf requested that the next item for discussion be the draft ordinance for ZO-0002-2014, R-2, General Residential District.

Mr. Basic noted that neighboring jurisdictions have not had a large number of applications for chicken keeping and the County has not yet received any applications. Mr. Basic stated that, regardless of the benefits of backyard chicken keeping, the impact of making sweeping changes for a large portion of the County was too great.

Mr. Krapf stated that when chicken keeping was considered in R-1, he voted in favor of it because of the low density in that district. Mr. Krapf also stated that he had been interested to see how many applications were generated and what types of complaints were reported using chicken keeping in R-1 as a test case.

Mr. Krapf further stated that the Statement of Intent for the R-2, General Residential District calls for the district to be composed of certain quiet, low-density residential areas plus certain open areas where similar residential development is likely to occur. The regulations for this district are designed to stabilize and protect the essential characteristics of the district, to promote and encourage the clustering of residential developments to maximize shared and purposeful open space. Mr. Krapf noted that the emphasis on clustering the residential development was contrary to the criteria he considered when reviewing the ordinance to allow chicken Keeping in R-1, Limited Residential. Mr. Krapf stated that he would not be supportive of permitting chicken keeping in the R-2 district.

Mr. Wright stated that he is reluctant to encourage something that might result in legal disputes. Mr. Wright further noted that he does not see a need for allowing chicken keeping in the R-2 district where the density is higher.

Mr. O'Connor stated that it would be possible for a master planned R-2 community to have town homes or clustered homes, apartments and single family residences. Mr. O'Connor further stated that based on the results of the survey, with a majority opposed to chicken keeping, he would not support chicken keeping in the R-2 district.

Ms. Bledsoe stated that she believes individuals choose to reside in a neighborhood based on the experience they expect to get. For example, someone choosing to live in New Town would anticipate a different lifestyle than a person choosing to live in Kingsmill. Ms. Bledsoe further noted that changing that experience for those residents who are currently in a neighborhood because a few individuals want to keep chickens is the wrong way to proceed. Ms. Bledsoe stated that she believed the discussion should occur when the majority of residents favor or request the change. Ms. Bledsoe noted that she was anticipating the County receiving more applications for chicken keeping and individuals asking when chicken keeping would be allowed in R-2 and R-3. Ms. Bledsoe stated that the lack of interest indicates that there is not a large interest in chicken keeping. Ms. Bledsoe further noted that she appreciated the diligence and passion of the group that supported chicken keeping; however, she did not feel they represented a majority of the citizens. Ms. Bledsoe stated that she did not support allowing chicken keeping in R-2.

Ms. Bledsoe moved to recommend denial of ZO-0002-2014.

Mr. Krapf clarified that a yes vote would be to deny ZO-0002-2014.

On a roll call vote, the Planning Commission voted to recommend denial of ZO-0002-2014 by a vote of 6-0; Mr. Richardson being absent.

Mr. Krapf called for discussion of ZO-001-2014.

Mr. Holt clarified that staff understood that the recommendation of the Policy Committee was that in drafting ordinances, R-1, R-2 and R-3 should have the same stipulations on chicken keeping. Mr. Holt stated that staff also understood that the Policy Committee requested that the harvesting of chickens not be permitted in the residential districts. Mr. Holt stated that the proposed ordinance amends the existing language so that harvesting of chickens would not be permitted in R-1, R-2 or R-3.

Mr. O'Connor stated the dispatching of chickens which many people consider to be pets was inconsistent with the nature of residential communities.

Ms. Bledsoe moved to recommend approval of the ordinance amendment for ZO-0001-2014.

Mr. Drummond asked for confirmation that the motion was to approve an ordinance amendment to prohibit the harvesting of chickens in any of the residential districts.

Mr. Holt confirmed.

On a roll call vote, the Planning Commission voted to recommend approval of ZO-00012-2014 by a vote of 6-0; Mr. Richardson being absent.

6. PLANNING DIRECTOR'S REPORT

Mr. Holt noted that FEMA is in the process of updating the flood insurance rate maps for James City County and that there would be an open house on August 13 at Legacy Hall from 5 to 7 p.m. to allow citizens to review the preliminary maps and learn more about their flood risk. FEMA and staff will be on hand to answer questions. Mr. Holt further noted that the maps could also be viewed at the Development Management office.

Mr. Holt noted that the first Planning Commission Work Session on the draft text for the Comprehensive Plan update would take place on August 7 at 4 p.m.

7. COMMISSION DISCUSSION AND REQUESTS

Mr. Krapf noted that Ms. Bledsoe would be the Planning Commission representative to the Board of Supervisors meeting for August and would be filling in for Mr. Richardson who is on two week active duty.

Mr. Krapf stated that even though the Planning Commission Working Group would be meeting in the Board Room and would be televised, it would be appropriate to wear the less formal attire as for subcommittees such as the Development Review Committee or Policy Committee.

Mr. O'Connor inquired if the Policy Committee would be meeting in August.

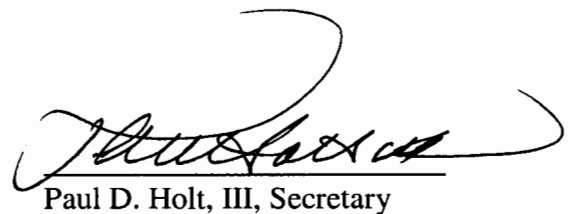
Mr. Holt stated that the Policy Committee would not meet in August.

8. ADJOURNMENT

Mr. O'Connor moved to adjourn to August 7, 2014 at 4 p.m.

The meeting was adjourned at approximately 7:54 p.m.


Richard Krapf, Chairman


Paul D. Holt, III, Secretary