

A REGULAR MEETING OF THE PLANNING COMMISSION OF THE COUNTY OF JAMES CITY, VIRGINIA, WAS HELD ON THE SECOND DAY OF SEPTEMBER TWO-THOUSAND AND FIFTEEN, 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:

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

Staff Present:

Paul Holt, Planning Director
Jason Purse, Zoning Administrator
Christy Parrish, Deputy Zoning Administrator
Maxwell Hlavin, Assistant County Attorney
Scott Thomas, Director of Engineering & Resource Protection

Remote Participation

Heath Richardson

Ms. Robin Bledsoe called the meeting to order at 7:00 p.m.

Mr. Holt noted that Mr. Drummond had not yet arrived.

Mr. Paul Holt stated that a quorum was present. Mr. Holt stated that Mr. Heath Richardson was attending to a personal matter out of town and has requested to participate in the meeting remotely from the Mark Center Building in Alexandria, Virginia. Mr. Holt further stated that per the policy adopted by the Commission and consistent with state code the members present must consider and approve a request for remote participation by a majority vote.

Mr. Rich Krapf moved to approve the request for remote participation.

On a roll call vote the Commission approved the request 5-0.

Mr. Richardson joined the meeting via telephone.

2. PUBLIC COMMENT

Ms. Bledsoe opened the public comment.

As no one wished to speak, Ms. Bledsoe closed the public comment.

3. **CONSENT AGENDA**

A. **Minutes from the August 5, 2015 Regular Meeting**

B. **C-0041-2015, Windsormeade Hall Facility Addition MP Consistency**

Ms. Bledsoe reminded the Commission that they are approving the Minutes for the August 5, 2015 meeting which are also the Commission's written findings for the purposes of State Code Section 15.2-2232 which will be forwarded to the Board of Supervisors as such. Ms. Bledsoe noted that the Consent Agenda also included approval of the DRC findings related to masterplan consistency for the Windsor Meade Hall Facility Addition.

Mr. John Wright moved to approve the Consent Agenda.

Mr. Basic noted that he would abstain as he was absent at the August 5 meeting.

The consent agenda was approved by voice vote (5-0-1, Mr. Basic abstaining and Mr. Drummond not yet present)

4. **REPORTS OF THE COMMISSION**

A. **Policy Committee**

Mr. Wright stated that the Policy Committee met on August 13, 2015 to discuss the two ordinance amendments which are before the Commission for consideration on this agenda. Mr. Wright noted that after discussing the flood plain area regulations, the Committee recommended adopting the higher standards for the County's ordinance. Mr. Wright noted that having a stronger ordinance could result in a reduction in flood insurance rates.

B. **Development Review Committee**

Mr. George Drummond stated that the Development Review Committee reviewed the conceptual plan for the Windsor Meade Hall Facility Addition and found it to be consistent with the approved Master Plan.

5. **PUBLIC HEARING**

A. **ZO-0001-2015, Article VI, Division 3 – Floodplain Area Regulations**

Ms. Christy Parrish, Deputy Zoning Administrator, made a presentation to the Commission on the proposed changes to the Floodplain Ordinance. Ms. Parrish stated that in 2009 the Federal Emergency Management Agency (FEMA) initiated a coastal analysis and mapping study for communities along the mid-Atlantic coast to better estimate coastal flood hazards and more accurately define the limits of tidal flooding based on improved technology available. Changes included addition of and/or modifications to Base Flood Elevations, Base Flood Depths, Special Flood Hazard Areas (SFHAs), zone designations, and the regulatory floodway. Ms. Parrish clarified that SFHAs are the areas subject to inundation by the flood having a one-percent (1%) chance of being equaled or exceeded in any given year.

Ms. Parrish stated that as part of the public outreach effort regarding the flood map changes, staff mailed over 2,500 letters regarding the proposed map changes and along with FEMA representatives, held a public Coastal Flood Risk Open House on August 13, 2014, at Legacy Hall.

Ms. Parrish noted that FEMA published a public notice of the proposed flood hazard determinations in the Federal Register in September 2014 and in the Virginia Gazette in October 2014, which advertised a 90-day appeal period allowing individuals to appeal the proposed flood hazard determinations if that person believed his or her property rights would be adversely affected. Ms. Parrish stated that FEMA did not receive any appeals of the proposed flood hazard determinations. Ms. Parrish further stated that now that the 90-day appeal period is over, staff received a Letter of Final Determination from FEMA dated June 16, 2015. This letter states that the changes to the maps are final and will become effective as of December 16, 2015.

Ms. Parrish stated that James City County is required, as a condition of continued eligibility in the National Flood Insurance Program (also known as the "NFIP"), to adopt or show evidence of adoption of floodplain management regulations that meet the standards of the NFIP regulations prior to December 16, 2015. Ms. Parrish stated that James City County participates in the FEMA Community Rating System ("CRS") which recognizes and rewards communities that carry out floodplain management activities beyond the minimum criteria of the NFIP by reducing flood insurance rates in the community. The County's participation in the CRS has resulted in 15 percent lower flood insurance premiums than the national average.

Ms. Parrish stated that current special flood hazard areas in James City County are known as Zones A & AE and that these areas are subject to inundation by the 1% annual chance flood even also known as the 100-year flood. Ms. Parrish stated that the requirements for new construction and substantial improvements include that the lowest floor including basement or cellar must be two feet above the one percent annual chance flood; utilities and sanitary facilities including mechanical, plumbing and electrical systems and gas lines must be floodproofed up to the level of two feet above the one percent annual chance flood.

Ms. Parrish stated that as the James City County Floodplain ordinance was last updated in 2011 and that staff is not recommending large, wholesale changes. Ms. Parrish stated that the changes would include: additional definitions, authority to regulate by VA Code, abrogation and severability language per FEMA, terminology, effective date of map and study (December 16, 2015), ensure all federal and state permits be obtain when applicable, update permit titles, additional language to ensure all construction methods and materials minimize flood damage, clarifying floodproofing for nonresidential structures is up to the level of two feet freeboard, language to ensure enclosed space below the lowest floor is solely for parking, building access or storage and have permanent openings designed to allow the exit of floodwaters and clarifying that altering or repairing existing structures in the special flood hazard area to an extent of or amount of less than 50 percent of its market value be elevated to conform to the Virginia Uniform Statewide Building Code.

Ms. Parrish noted that James City County is required to incorporate two new floodplain designations that are reflected on the new maps:

Ms. Parrish stated that the first is the "AO" zones which are areas subject to inundation by one percent (1%) annual chance shallow flooding (usually sheet flow on sloping terrain) where average depths are between one and three feet. Ms. Parrish noted that regulations for new construction and substantial improvements in this zone would have the same freeboard requirements of two feet above the base flood elevation or depth as indicated on the maps; nonresidential structures may also use watertight

floodproofing in accordance with the Building Code; and adequate drainage paths around structures on slopes shall be provided to guide floodwaters around and away from proposed structures.

Ms. Parrish stated that the second is the “V” zones which are areas subject to inundation by the one percent (1%) annual chance flood event with additional hazards due to storm-induced velocity wave action of three feet or greater. Ms. Parrish stated that these parcels are generally located along the York River and James River. Ms. Parrish stated that staff has identified 213 parcels, including four (4) residential dwellings, that have portions of this designation. Ms. Parrish stated that new construction and substantial improvements in these zones will be required to be elevated two feet above the base flood elevation on pilings or columns which could include a breakaway foundation for aesthetic purposes.

Ms. Parrish stated that FEMA has also added a Limit of Moderate Wave Action (LiMWA) line to the FIRMs that primarily follow the shoreline to indicate the potential for moderate waves that may cause damage to structures. Ms. Parrish further stated that the area in front of the LiMWA line is also referred to as the “Coastal AE” zone which is defined as areas that have been delineated as subject to wave heights between 1.5 feet and 3 feet and identified on the FIRM as AE areas that are seaward of the LiMWA line.

Ms. Parrish stated that while this line will not impact flood insurance rates, FEMA along with DCR recommends that localities adopt the “Coastal AE” zone in its ordinance to help reduce risk of structural damage from moderate wave action. Ms. Parrish further stated that if adopted, construction standards for new construction and substantial improvements would be the same as the “VE” zones. Ms. Parrish noted that staff has identified 284 parcels, including four residential dwellings and three non-residential structures other than sheds and water-dependent structures that have portions of this “Coastal AE” designation.

Ms. Parrish stated that York County, Gloucester County and the City of Norfolk have adopted the “Coastal AE” zone as a higher standard in their floodplain ordinances. Ms. Parrish further stated that adopting the “Coastal AE” zone as part of the zoning ordinance will be beneficial to our CRS rating and could provide additional savings to insurance as well as protect new and substantially improved structures from wave impacts.

Ms. Parrish stated that the floodplain ordinance has been considered by the Policy Committee at its July 16 and August 13 meetings. After discussion, the Committee agreed that promoting safe construction now and for future events was most important and approval of the “Coastal AE” as a higher standard and require all new construction and substantial improvements to be elevation as if located in “VE” zones.

Ms. Parrish stated that staff recommends that the Planning Commission recommend approval of the ordinance amendments to the Board of Supervisors.

Ms. Parrish noted that Scott Thomas, Director of Engineering & Resource Protection was also on hand for technical questions.

Ms. Bledsoe opened the floor for questions from the Commission.

Mr. Wright inquired what the effect of the changes would be on a property owner in an existing floodplain if the property were damaged.

Ms. Parrish stated that if totally destroyed, the property would have to be rebuilt to the higher standard. If damage was less than 50% of the value, they could rebuild to the building code requirements.

Mr. Wright inquired if building back to the higher standard would improve their insurance rates.

Ms. Parrish stated that they would likely see a reduction in the insurance rate.

Mr. Tim O'Connor inquired if the 300 CRS points obtained by adopting the higher standards would bring the County half-way to the next CRS rating level.

Ms. Parrish confirmed.

Mr. O'Connor noted that the benefits of obtaining the 300 CRS points was a large factor for the Policy Committee in recommending adoption of the higher standards.

Mr. O'Connor further noted that most of the parcels affected by the new Coastal AE standards are already subject to RPA limitations.

Ms. Parrish stated that many of the parcels may not be developable.

Mr. Rich Krapf stated that endorsement of the higher standards by the Williamsburg Area Association of Realtors was a significant factor in was an important factor for the Policy Committee in making its recommendation.

Mr. Heath Richardson stated that he supports adopting the higher standards and recommending approval to the Board of Supervisors.

Ms. Bledsoe thanked staff for their efforts in bringing these amendments forward.

Ms. Bledsoe inquired if there had been any citizen input.

Ms. Parrish stated that no specific input had been received by staff to date as part of the ordinance update process; however, many citizen did attend the public meeting to learn more about the changes and to learn about their risk.

Ms. Bledsoe opened the public hearing.

As no one wished to speak Ms. Bledsoe closed the public hearing.

The Commission commended staff on their efforts to present very technical ordinance changes in a concise and understandable format.

Mr. Krapf moved to recommend approval of adopting the Coastal AE standards and to recommend approval of the revised ordinance.

On a roll call vote, the Commission voted to recommend approval of ZO-0001-2015, Article VI, Division 3 – Floodplain Area Regulations with incorporation of the Coastal AE standards (7-0)

B. ZO-0005-2015, Article VIII-Appeals

Mr. Purse stated that the Virginia State Code sections pertaining to variances were amended during the 2015 legislative session and went into effect July 1, 2015.

Mr. Purse stated that unlike rezonings and special use permits, a consideration of applications for variances are reviewed by the Board of Zoning Appeals (BZA), instead of the Planning Commission and Board of Supervisors; however, the new changes must be reflected in our Zoning Ordinance, which requires Policy Committee, Planning Commission, and Board of Supervisors approval. Mr. Purse stated that State Code empowers the BZA to hear and decide appeals of determinations made by the Zoning Administrator, as well as the ability to grant a variance.

Mr. Purse stated that a variance is permission to depart from the literal requirements of a zoning ordinance, as they relate to height, area and size of a structure. The State Code further provides guidelines that must be met in order for the BZA to grant a variance, and since they are a quasi-judicial body the scope of their approvals must strictly follow those requirements.

Mr. Purse stated that the definition of “variance” would be amended to “... in the application of the zoning ordinance, a reasonable deviation from those provisions regulating the shape, size, or area of a lot or parcel of land, or the size, height, area, bulk, or location of a building or structure when the strict application of the ordinance would unreasonably restrict the utilization of the property...” Mr. Purse stated that the unreasonable restriction clause pertained to whether any structure can be built or any use on the property can take place.

Mr. Purse stated that the other change pertains to the criteria for granting a variance which include unreasonable restriction and hardship not shared by other property owners in the same zoning district.

Mr. Purse further stated that the burden would now be on the applicant to prove that they met all the criteria to receive a variance.

Mr. Purse noted that the BZA is only empowered to act in accordance with the standards prescribed by statute and that variance may only be granted to achieve parity with other properties in a zoning district due to the special characteristics of the property.

Mr. Purse stated that Staff recommends that the Commission recommend approval of the ordinance changes to the Board of Supervisors.

Ms. Bledsoe opened the public hearing.

As no one wished to speak, Ms. Bledsoe closed the public hearing.

Mr. Chris Basic moved to recommend approval of the ordinance amendments to the Board of supervisors.

On a roll call vote, the Commission voted to recommend approval of ZO-0005-2015, Article VIII-Appeals (7-0).

6. PLANNING DIRECTOR’S REPORT

Mr. Holt stated that there was nothing more to add other than what was submitted in the Planning Commission packet.

Mr. O'Connor inquired about the next steps in funding for the Skiffes Creek Connector/Route 60 Relocated project.

Mr. Paul Holt stated that by the end of September staff intends to submit an application for HB 2 funding. Mr. Holt stated that this is an annual funding cycle and that HB 2 is a program put in place by the General Assembly to help prioritize transportation projects throughout the Commonwealth. Mr. Holt further stated that this is a highly competitive program; however, with the amount of funding needed to complete the project it is the County's best option to obtain funding.

Mr. Richardson stated that he appreciated staff's efforts to allow remote participation in this meeting.

7. **COMMISSION DISCUSSION AND REQUESTS**

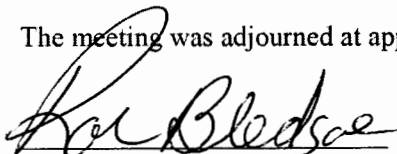
Ms. Bledsoe reminded Mr. Richardson that he is the Planning Commission representative to the Board of Supervisors meeting for the month of September.

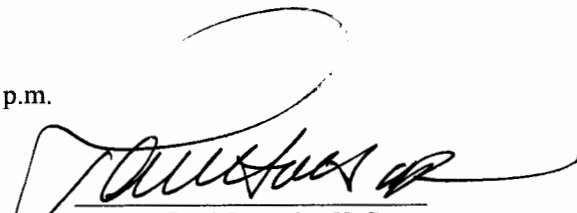
8. **ADJOURNMENT**

Ms. Bledsoe called for a motion to adjourn.

Mr. Wright moved to adjourn.

The meeting was adjourned at approximately 7:43 p.m.


Robin Bledsoe, Chairwoman


Paul D. Holt, III, Secretary