

**MINUTES**  
**JAMES CITY COUNTY PLANNING COMMISSION**  
**REGULAR MEETING**  
**County Government Center Board Room**  
**101 Mounts Bay Road, Williamsburg VA 23185**  
**July 3, 2018**  
**6:00 PM**

**A. CALL TO ORDER**

Mr. Heath Richardson called the meeting to order at 6:00 p.m.

**B. ROLL CALL**

**Planning Commissioners Present:**

Heath Richardson  
Rich Krapf  
Tim O'Connor  
Danny Schmidt  
Jack Haldeman  
Frank Polster  
Julia Leverenz

**Staff Present:**

Paul Holt, Director of Community Development and Planning  
Max Hlavin, Assistant County Attorney  
José Ribeiro, Senior Planner II  
Roberta Sulouff, Senior Planner  
Alex Baruch, Senior Planner

**C. PUBLIC COMMENT**

Mr. Richardson opened Public Comment.

As no one wished to speak, Mr. Richardson closed Public Comment.

**D. REPORTS OF THE COMMISSION**

Mr. Jack Haldeman stated that the Policy Committee met on June 14, 2018 to consider a legislative application deferral policy for the Planning Commission. Mr. Haldeman stated that Mr. Paul Holt, Director of Community Development and Planning, introduced draft language that mirrors the Board of Supervisors deferral policy. Mr. Haldeman stated that the proposed policy limits the period during which an applicant may request a deferral to 100 days in total from the time that the application is deemed complete, if it has not yet been advertised, or from the date of the first advertisement. Mr. Haldeman stated that this is consistent with State Code. Mr. Haldeman stated that the Director of Planning may grant a deferral prior to advertising after considering six specific factors, and the Planning Commission may grant a deferral after the application is advertised and after opening a public hearing. Mr. Haldeman further stated that the applicant may withdraw the application at any time.

Mr. Haldeman stated that the Committee made a few minor changes to the draft policy and voted unanimously to forward the draft policy to the Planning Commission.

Mr. Rich Krapf stated that the Development Review Committee (DRC) met on June 20, 2018, to review two Conceptual Plans.

Mr. Krapf stated that the first case was C-0038-2018, Chickahominy Riverfront Park Improvements.

Mr. Krapf stated that James City County Parks & Recreation has submitted a proposal to build an additional boathouse and to relocate an existing RV/boat storage area. Mr. Krapf stated that the proposal also includes other improvements such as a public launch area for paddle craft and public rental operations.

Mr. Krapf stated that a 2009 SUP Condition requires that changes or improvements to the site be reviewed by the DRC for a determination of consistency with the Chickahominy Riverfront Master Plan and the Shaping Our Shores Report.

Mr. Krapf stated that the additional boathouse and RV/boat storage area are not shown on the current Master Plan; however, the storage facility was in place at the time the County acquired the property. Mr. Krapf further stated that the additional boathouse is requested because the existing boathouse is under an exclusive lease agreement with the College of William & Mary and the second one is needed to serve the Williamsburg Boat Club and the community as a whole.

Mr. Krapf stated that the RV/boat storage area is currently next to the existing boathouse but would be relocated to a larger area to generate additional revenue by providing more services.

Mr. Krapf stated that staff is recommending that the applicant be required to develop a Spill Prevention Plan to address potential oil and fuel leaks at the facility.

Mr. Krapf stated that the DRC voted 4-0 that these improvements were generally consistent with the approved Master Plan and the Shaping Our Shores report.

Mr. Krapf stated that the DRC also considered C-0025-2018, Forest Heights/Neighbors Drive Rezoning Amendment.

Mr. Krapf stated that Mr. Douglas Harbin submitted a Conceptual Plan proposing to amend the 2011 rezoning application for Forest Heights, Neighbors Drive and Richmond Road improvements.

Mr. Krapf stated that the original Master Plan showed approximately 27 acres for single-family detached residences. Mr. Krapf stated that the remaining 20 acres was proposed as the location of a new Salvation Army facility with offices, a community meeting space, accessory uses and future residential units.

Mr. Krapf stated that, according to the applicant, the Salvation Army is no longer interested in this site and so has proposed adding 46 multi-family units and commercial or institutional uses within an approximate 12-acre area. Mr. Krapf stated that the 46 multi-family units represent a reduction of 16 units from the 62 units originally proposed for the Salvation Army site.

Mr. Krapf further stated that the applicant also indicated the possibility of an Assisted Living Facility to replace the Salvation Army uses shown on the original Master Plan.

Mr. Krapf stated that proposed units will be designated Workforce Housing.

Mr. Krapf stated that no action was required by the DRC. Mr. Krapf stated that the case which will come before the full Planning Commission at a future meeting.

## **E. CONSENT AGENDA**

1. Minutes of the May 22, 2018 Joint Work Session
2. Minutes of the June 6, 2018 Regular Meeting
3. Development Review Committee Action Item: Case No. C-0038-2018. Chickahominy Riverfront Park Improvements

Mr. Krapf made a motion to approve the Consent Agenda.

On a voice vote the commission voted to approve the Consent Agenda (7-0).

## **F. PUBLIC HEARINGS**

1. ZO-0002-2018 and SO-0002-2018. Zoning and Subdivision Ordinance Amendments for Bicycle and Pedestrian Accommodations

Mr. Alex Baruch, Senior Planner stated that at the May 23, 2017 Joint Work Session, the Board of Supervisors and the Commission directed Staff to research the possibility of adding bicycle and pedestrian accommodations as binding master plan elements along with revising the Zoning Ordinance. Mr. Baruch further stated that currently transportation impacts for legislative cases are addressed through three administrative policies and corresponding submittal requirements. Mr. Baruch stated that these policies include first, the Pedestrian Accommodations Master Plan which was implemented as a binding resource in determining pedestrian accommodation requirements external to a development unless otherwise required by the Pedestrian Accommodation Section of the Zoning Ordinance; second, the Regional Bikeways Master Plan which encourages the coordinated development of a comprehensive system of bikeways throughout the region; and third, the Traffic Impact Analysis Submittal Requirement Policy (TIA) which was designed to provide guidance to applicants regarding the minimum content requirements for a TIA. Mr. Baruch stated that the TIA and its recommendations often form the basis for transportation related proffers and Special Use Permit (SUP) conditions.

Mr. Baruch stated that examples of infrastructure these policies have guaranteed includes multi-use-paths, bicycle lanes, traffic lights and turn lanes. Mr. Baruch further stated that the ability to get these improvements, especially if located offsite is extremely limited without the use of proffers.

Mr. Baruch stated that after review of enabling legislation in State Code and the ordinances of peer localities, staff suggests that the Planning Commission consider including language in Section 24-35 Pedestrian accommodations, to extend the requirements of the section to bicycle facilities per the adopted Regional Bikeways Master Plan.

Mr. Baruch further stated that, unlike bicycle and pedestrian accommodations, most transportation improvements commonly identified through the TIA cannot be addressed through master plan requirements, submittal requirements, or other administrative processes, as many of those improvements are considered "off-site." Mr. Baruch stated that staff recommends the addition of language which more explicitly addresses VDOT's role in the site plan and subdivision approval process and states that the County cannot approve a site plan

or subdivision plan unless VDOT has given their approval.

Mr. Baruch stated that staff also recommends the addition of language to the TIA policy to provide guidance in its use in a post-proffer framework. Mr. Baruch stated that, to date, the policy has been used as a tool to assess proffers and SUP conditions. Mr. Baruch stated that staff also recommends the addition of an adequate facilities test, similar to the adequate public schools facilities test, to provide clarity on how the policy should be used in cases without SUP or proffer options. Mr. Baruch stated that the test would be applied to any case requiring a TIA per the submittal requirements. Mr. Baruch stated that if the TIA recommends any off-site improvements or identifies any off-site impacts, and the applicant can mitigate those impacts through the master plan or other processes, then the plan would pass the test. Mr. Baruch further stated that if any off-site impacts cannot be mitigated, the plan would fail the test. Mr. Baruch stated that in much the same spirit as the schools test, the additional language would not be an absolute divining rod, but a measure to take into consideration in the evaluation and recommendation process. Mr. Baruch stated that the policy currently outlines steps for identifying impacts, but does not give staff, the Commission, or the Board of Supervisors any direction for instances when those impacts cannot be addressed.

Mr. Baruch stated that at its May 10th meeting, the Policy Committee voted 5-0 to recommend approval of the draft Ordinances and policy language and forward the matter to the Commission. Mr. Baruch stated that staff recommends that the Planning Commission recommend approval of the ordinance amendments and policy language to the Board of Supervisors.

Ms. Julia Leverenz requested that staff take this opportunity to update references in Section 24-35 from "planning director or his designee" to "planning director or designee."

Ms. Roberta Sulouff, Senior Planner, stated that staff would make those changes prior to the Board of Supervisors meeting.

Mr. Richardson opened the Public Hearing. As no one wished to speak, Mr. Richardson closed the Public Hearing.

Mr. Holt noted that the Commission would also need to vote on the amendments to the TIA policy.

Ms. Leverenz made a motion to recommend approval of the Zoning Ordinance and Subdivision Ordinance amendments and the policy amendment, as amended, to the Board of Supervisors.

On a roll call vote, the Commission voted to recommend approval of ZO-0002-2018 and SO-0002-2018, Zoning and Subdivision Ordinance Amendments for Bicycle and Pedestrian Accommodations and amendments to the Traffic Impact Analysis Policy (7-0).

2. ZO-0001-2018 and SO-0001-2018. Zoning and Subdivision Ordinance Amendments for the Natural Resource Policy and ZO-0003-2018 and SO-0003-2018. Zoning and Subdivision Ordinance Amendments for the Archaeological Policy.

Mr. José Ribeiro, Senior Planner II, stated that James City County is endowed with many natural resources, including threatened and endangered species and rare natural communities. Mr. Ribeiro stated that the County is also one of the oldest settlement areas in the country and has numerous documented and unknown archaeological sites. Mr. Ribeiro stated that in order

to better protect these resources, the James City County Natural Resource and Archaeological Policies were adopted by the Board of Supervisors in 1999 and 1998.

Mr. Ribeiro stated that the Natural Resource Policy seeks to identify and conserve areas with significant natural resource potential and the Archaeological Policy seeks to identify and protect areas where significant archaeological potential exists. Mr. Ribeiro stated that if it is determined that a significant natural or cultural resource exists, the current policies require that conditions or proffers requiring compliance with the policy are included for all appropriate Rezoning and SUP applications.

Mr. Ribeiro stated that the Natural Resource Policy requires that a natural resource inventory for a subject area be submitted for approval prior to land disturbance. Mr. Ribeiro stated that staff reviews the inventory in conjunction with the Department of Conservation and Recreation's Division of Natural Heritage (DCR/DNH). Mr. Ribeiro stated that if the inventory confirms that a natural heritage resource exists or could be supported, a conservation management plan and/or mitigation plan is submitted to the County for approval.

Mr. Ribeiro further stated that the Archaeological Policy typically requires that a Phase I Archaeological Study be submitted for approval prior to land disturbing. Mr. Ribeiro stated that staff reviews the study in conjunction with the Department of Historic Resources (DHR) which determines if the study meets its standards and has been conducted under the supervision of a qualified archaeologist. Mr. Ribeiro stated that if further archaeological study is required, the current Archaeological Policy provides standards for the study and/or for mitigation plans.

Mr. Ribeiro stated that these policies have helped staff evaluate applications and make recommendations on legislative cases.

Mr. Ribeiro stated that given the recent updates to the Code of Virginia which mandates that proffers may no longer be accepted for residential rezonings, staff has identified updates to incorporate parts of these policies in the Zoning and Subdivision Ordinances to ensure that natural and cultural resources are preserved.

Mr. Ribeiro stated that the Policy Committee reviewed the revisions to the Natural Resource and Archaeological language at its meetings in September 2017, February 2018 and April 2018. Mr. Ribeiro stated that the Policy Committee concurred with the recommendation to add the requirement to complete and submit an initial species inventory for natural heritage resources and/or a Phase I Study for archaeological resources as a submittal requirement for site plans and major subdivisions. Mr. Ribeiro stated that the Policy Committee also provided guidance on different aspects of the proposed languages including exemption criteria.

Mr. Ribeiro stated that at the joint Planning Commission and Board of Supervisors work session on February 27, 2018, the Board of Supervisors concurred with the recommended language. Mr. Ribeiro stated that at the Board of Supervisors work session on May 22, 2018, the Board provided comments and additional guidance to move the revisions forward to the Planning Commission.

Mr. Ribeiro stated that staff recommends the Planning Commission recommend approval of the Subdivision and Zoning Ordinance revisions to the Board of Supervisors.

Mr. Richardson opened the Public Hearing.

As no one wished to speak, Mr. Richardson closed the Public Hearing.

Ms. Leverenz noted that the word "should" is used in several instances throughout the draft

Ordinance and inquired if the correct word is "shall."

Ms. Leverenz referenced a footnote in Section 24-23 stating that "A total of 12 copies of the master plan should be submitted...".

Mr. Holt stated that in this instance "should" is correct since there are instances where fewer copies may be needed.

Ms. Leverenz further referenced a requirement that states "Supplemental information should be submitted in accordance with the "Supplemental Submittal Requirements for Special Use Permits and Rezonings".

Mr. Holt stated that "should" is correct.

Ms. Leverenz next referenced a proposed requirement in Section 24-50 that states "The Phase III study should identify in accordance with accepted practices...".

Mr. Holt stated that this for this particular instance the correct word is shall. Mr. Holt stated that the wording is "shall" in the adopted policy and that he does not note any discussion at the Policy Committee level to make the change to "should." Mr. Holt stated that the correction would be made prior to consideration by the Board of Supervisors.

Ms. Leverenz further noted some concerns in Section 19-27. Ms. Leverenz stated that in subsections (q) (3) and (r) (3) the word "a" should be removed.

Mr. Holt noted that the changes would be made prior to consideration by the Board of Supervisors.

Mr. Haldeman made a motion to recommend approval of the Zoning Ordinance and Subdivision Ordinance amendments.

On a roll call vote, the Commission voted to recommend approval of ZO-0001-2018 and SO-0001-2018. Zoning and Subdivision Ordinance Amendments for the Natural Resource Policy and ZO-0003-2018 and SO-0003-2018. Zoning and Subdivision Ordinance Amendments for the Archaeological Policy (7-0).

## **G. PLANNING COMMISSION CONSIDERATIONS**

### **1. Legislative Application Deferral Policy**

Mr. Holt stated that during the Planning Commission and Board of Supervisors joint work session on May 22, 2018, the Board of Supervisors requested that the Commission develop a legislative application deferral policy. Mr. Holt noted that the proposed policy follows the framework of the Board's deferral policy and incorporates State Code requirements for Planning Commission actions. Mr. Holt noted that the Policy Committee was in support of the draft policy.

Mr. Tim O'Connor stated that it is important to note that the 100-day limit in the proposed policy is based on the State Code requirements and that the policy confirms the Commission's standard practices.

Mr. Richardson inquired about the process for adopting the policy.

Mr. Holt stated that this would be a policy to be adopted by the Commission by motion and vote.

Mr. Krapf made a motion to adopt the Legislative Application Deferral Policy.

On a roll call vote the Commission voted to adopt the Legislative Application Deferral Policy (7-0).

#### **H. PLANNING DIRECTOR'S REPORT**

##### **1. Planning Director's Report - July 2018**

Mr. Holt stated that he had nothing in addition to the report provided in the Agenda Packet.

Mr. Polster stated that he would like to see updates to the timeline on the Pocahontas Trail Corridor Study web page.

Mr. Holt stated it is likely that VDOT will set up a project web page as a transition from the study to the next phase.

Mr. Holt stated that staff will be applying for funding through several sources. Mr. Holt stated that he hoped there would be updates regarding funding and next steps toward the end of the summer.

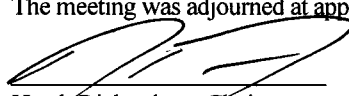
#### **I. PLANNING COMMISSION DISCUSSION AND REQUESTS**

There were no requests or items for discussion.

#### **J. ADJOURNMENT**

Mr. Haldeman made a motion to adjourn.

The meeting was adjourned at approximately 6:33 p.m.

  
Heath Richardson, Chair

  
Paul D. Holt, III, Secretary