

MINUTES
JAMES CITY COUNTY PLANNING COMMISSION
REGULAR MEETING
County Government Center Board Room
101 Mounts Bay Road, Williamsburg VA 23185
September 7, 2022
6:00 PM

A. CALL TO ORDER

Mr. O'Connor called the meeting to order at 6:00 p.m

B. ROLL CALL

Planning Commissioners Present

Tim O'Connor
Rich Krapf
Jack Haldeman
Frank Polster
Barbara Null
Rob Rose
Stephen Rodgers

Staff Present:

Paul Holt, Director of Community Development and Planning
Liz Parman, Deputy County Attorney
Josh Crump, Principal Planner
José Ribeiro, Senior Landscape Planner
Terry Costello, Senior Planner
Thomas Wysong, Senior Planner
John Risinger, Planner
Paxton Condon, Planner

C. PUBLIC COMMENT

Mr. O'Connor opened Public Comment.

As no one wished to speak, Mr. O'Connor closed Public Comment.

D. REPORTS OF THE COMMISSION

Mr. Jack Haldeman stated that the Policy Committee met on August 11, 2022, to continue its role in the Planning Division work program for the remainder of fiscal 2022, and to begin the process of aligning the Zoning Ordinance with the revised 2045 Comprehensive Plan's Goals, Strategies and Actions, per directives from the Board of Supervisors.

Mr. Haldeman stated that staff addressed three of the five Board of Supervisors' Initiating Resolutions, one of which was to complete a draft Ordinance revision that set residential lot sizes consistent with the Rural Lands Designation Description and Development Standards contained in the Comprehensive Plan. Mr. Haldeman stated that the draft also includes language that grandfathers all parcels in existence as of January 1, 2022, that are 25 or fewer acres in size and also eliminates the central well requirement for subdivisions that are consistent

with the stated Rural Lands Designation Description and Development Standards.

Mr. Haldeman stated that staff led a discussion on the draft revision of Zoning Ordinance Sections 24-214 and 24-350, which covered the revised lots sizes and grandfathering, and recommended that the Policy Committee recommend approval of them to the full Planning Commission. Mr. Haldeman stated that staff also recommended such approval for the draft revisions to Sections 19-59 through 19-62 of the Subdivision Ordinance, which cover water and sewer connection requirements for subdivisions. Mr. Haldeman stated that the Committee tabled the recommendation pending clarification of the effect the revisions may have on the Natural and Cultural Assets Plan mapping, wildlife corridors, how new clustering standards would affect the revision, and whether to use setbacks or buffers for protection on scenic roads. Mr. Haldeman stated that staff will schedule another Policy Committee meeting during the week of August 22, 2022, to determine next steps.

Mr. Haldeman stated that the Committee also discussed the Board of Supervisors' second directive: To consider amendments to the Zoning and Subdivision Ordinances to provide additional requirements to protect and preserve scenic roadways consistent with Strategy LU 6.3 of the 2045 Comprehensive Plan. Mr. Haldeman stated that staff had no proposed draft revisions but asked the Committee for feedback on what constitutes a scenic roadway and which tools would best meet the directive.

Mr. Haldeman stated that staff recommended that the Policy Committee define "scenic roadways" as portions of Community Character Corridors (CCC) located outside of the Primary Service Area (PSA). Mr. Haldeman stated that the Committee agreed, but added Croaker Road from I-64 to Sycamore Landing Road to the segments of the following CCCs outside the PSA, which will be considered for additional regulations as part of this Ordinance amendment process:

1. Forge Road (classified as "Open/Agricultural")
2. Old Stage Road (classified as "Open/Agricultural")
3. Richmond Road (classified outside the PSA as "Wooded")
4. Monticello Avenue (classified outside the PSA as "Wooded")
5. John Tyler Memorial Highway (classified outside the PSA as "Wooded")
6. Riverview Road (classified as "Wooded")
7. Centerville Road (classified as "Wooded")
8. Colonial Parkway (classified as "Wooded")
9. Croaker Road from I-64 to Sycamore Landing Road

Mr. Haldeman stated that a study of a visual analysis of viewsheds from Forge Road showed few structures within the distances under consideration. Mr. Haldeman stated that the Committee decided that using setbacks would provide better protection than buffers for these roads because buffering could obscure the viewshed. Mr. Haldeman stated that the Committee also decided that setbacks should be applied to specific roads rather than to zoning districts because applying setbacks to entire districts might impact narrow parcels and would require too much grandfathering to be practical. Mr. Haldeman stated that the Committee believed that implementing an overlay district would also be impractical. Mr. Haldeman stated that the Policy Committee directed staff to further evaluate setbacks for scenic roadway protection and to draft amended Ordinances.

Mr. Haldeman stated that relating further to the Initiating Resolution regarding the R-8 and A-1 Districts, the Committee considered the eleven A-1 cluster configuration subdivision standards for its own focused review. Mr. Haldeman stated that the consultant stated that clustering can produce some benefits, but that they rarely provide protection for rural character. Mr. Haldeman stated that the Committee wanted some assurance that clustered housing would not get too close to scenic roadways.

Mr. Haldeman stated that staff provided a summary of the existing standards for the A-1 cluster configuration, as well as potential considerations for revisions and improvements. Mr. Haldeman further stated that the standards for road frontage/access, buffer/screening and setbacks from roadways were discussed in context with scenic roadways, using setbacks to provide better protection than buffers, which obscure the viewshed.

Mr. Haldeman further stated that the open space/conserved area percentage and open space/conserved area values, configuration, and ownership issues were discussed in the context of the earlier discussion on the A-1/R-8 lot size and the Natural and Cultural Asset Plan mapping and how new clustering standards would affect the revision.

Mr. Haldeman stated that the Policy Committee also met on August 22, 2022 to continue its discussion of the Board of Supervisors' Initiating Resolution pertaining to A-1, R-8, and Subdivision ordinances. Mr. Haldeman stated that Committee members had clarified the effects that the revisions might have on the Natural and Cultural Assets Plan mapping and wildlife corridors, how new clustering standards would affect the revision, and whether to use setbacks or buffers for protection on scenic roads. Mr. Haldeman further stated that there was also a better understanding of how these Ordinances would apply to A-1 and R-8 Districts inside the PSA. Mr. Haldeman stated that the Committee also discussed the effects the revisions may have on the supply of affordable housing in the County.

Mr. Haldeman stated that the Committee unanimously voted to recommend that the Planning Commission recommend approval of the Ordinance revisions, as written in Item Nos. 3, 4, and 5 of the reading material, to the Board of Supervisors.

Mr. Haldeman stated that the Committee then requested of staff that they model three properties to learn how scenic road setbacks and the new 1/20 density designation descriptions will affect them, and whether the new Ordinances will help protect wildlife corridors.

Ms. Null stated that the Development Review Committee (DRC) met at 4 p.m. on August 24, 2022, to consider SP-22-0005. Colonial Veterinary Clinic Parking Expansion. Ms. Null stated that the matter came before the DRC for a determination of Master Plan Consistency.

Ms. Null stated that Mr. Ryan Stephenson, of AES Engineering, on behalf of the applicant, has submitted a site plan for the development of a parking lot, pedestrian accommodation and vehicular entrance to be connected to an existing veterinary clinic located at 3280 Ironbound Road.

Ms. Null stated that the proposed parking would be located on a parcel which is subject to an adopted master plan and recorded proffers. Ms. Null stated that on February 12, 2008, the Board of Supervisors approved Z-0005-2007 to rezone the property located at 112 Ingram Road from R-8, Rural Residential, to B-1, General Business, to allow for the construction of a two-story office building, attached garage, and three parking spaces.

Ms. Null stated that Proffer No. 1 requires that "The Property shall be put to one or more of the following possible uses: business, governmental, contractor's and professional offices and accessory uses thereto as defined in the James City County Zoning Ordinance. All other otherwise permissible uses shall be prohibited. The Property shall be developed generally in accordance with the Plan, with such minor changes as the Development Review Committee determines does not change the basic concept or character of the development."

Ms. Null stated that staff determined that the current proposal does change the basic concept and character of the development from the approved master plan. Ms. Null stated that staff

recommended that the DRC find this proposal not consistent with the adopted master plan and recommend denial to the Planning Commission and that the applicant pursue a Master Plan/proffer amendment through the legislative application process.

Ms. Null stated that Mr. Rodgers asked for a better understanding of how the Committee would determine master plan consistency.

Ms. Null stated that staff stated that it was at the Committee's discretion after reviewing the matter. Ms. Null stated that staff and the Committee discussed the proposed layout of the parcels, the terms of the proffer, and the difference between the original plan which was in keeping with the community character for Five Forks and the proposed parking lot. Ms. Null stated that staff noted that the building in the original plan had architectural details that enhanced the character of the area as opposed to a parking lot.

Ms. Null stated that Mr. Rodgers inquired about the recommendation that the applicant pursue a different procedure.

Ms. Null stated that staff recommends that the applicant pursue a master plan and proffer amendment to remove the building from the master plan and amend proffers to be consistent with the master plan.

Ms. Null stated that staff believes that it requires more than just submitting a site plan. Ms. Null stated that staff further noted that since the property is bound by a master plan and proffers, staff is bound to adhere to it.

Ms. Null stated that Mr. Polster inquired if the Commission finds the proposed parking to be consistent, will the applicant be required to follow through on the landscaping as submitted.

Ms. Null stated that staff would have to review the landscaping plan to ensure that it meets Ordinance requirements and is consistent with the proffer for enhanced landscaping.

Ms. Null stated that Mr. Rodgers inquired if there was a downside of potentially finding the proposal to be consistent with the master plan rather than having the applicant go through the legislative process.

Ms. Null stated that the ensuing discussion revolved around costs involved and the potential for setting precedents.

Ms. Null stated that staff recommends that if the Committee finds this consistent, then the applicant will need to remove internal property lines.

Ms. Null stated that the Committee and staff discussed the requirements of the Primary Principals for Five Forks. Ms. Null stated that the Committee noted that the proposed parking would be in the rear of the business. Ms. Null stated that the Committee reviewed the existing features of the property and the other business and noted that the parking would be well screened. Ms. Null stated that the Committee noted that the proposal does stay within the spirit of the guidelines. Ms. Null stated that the Committee further noted that this is a stable business, and that the owner would be committed to ensuring the aesthetics of the area. Ms. Null stated that the Committee found that the proposal does fit the character of the area.

Ms. Null stated that Mr. Polster made a motion that the proposal be found generally consistent with the master plan for the property with the conditions that the submitted drawings without the building become the master plan for the property and that the proposal undergo landscape review for adherence to the landscape ordinance and the proffers for enhanced landscaping. Ms. Null stated that the Committee recommended that staff work with the applicant regarding

extinguishing internal property lines.

Ms. Null stated that on a roll call vote, the Committee voted to recommend that the Planning Commission find the proposal consistent with the master plan (3-1).

E. CONSENT AGENDA

A motion to Approve was made by Frank Polster, the motion result was Passed.

AYES: 5 NAYS: 2 ABSTAIN: 0 ABSENT: 0

Ayes: Haldeman, Null, O'Connor, Polster, Rose

Nays: Krapf, Rodgers

Mr. Rich Krapf requested to remove SP-22-0005 from the Consent Agenda for further discussion.

Ms. Null made a motion to approve the Minutes of the August 3, 2022, Regular Meeting.

On a voice vote, the Commission voted to approve the Minutes of the August 3, 2022, Regular Meeting. (7-0)

Mr. O'Connor opened the floor for discussion on SP-22-0005. Colonial Veterinary Clinic Parking Expansion.

Mr. José Ribeiro, Senior Planner, provided an overview of the application and the parcels involved. Mr. Ribeiro stated that the matter came before the DRC for a determination of master plan consistency as the property proposed for the parking lot is subject to proffers and a master plan.

Dr. Rose inquired about the difference in footprint between the building and the paved parking.

Mr. Ribeiro stated that they appeared to have approximately the same amount of impervious surface.

Mr. Polster stated that the proposal for the parking lot has less impervious surface. Mr. Polster further stated that the proposal for the parking lot includes better landscaping which also carries through to the two other parcels.

Mr. O'Connor inquired if development on the center parcel would require additional review.

Mr. Ribeiro stated that he did not find a master plan for the center parcel. Mr. Holt stated that under the proposed scenario it would not come back for review other than site plan approval.

Mr. Polster stated that if staff follows the recommendation of the DRC to require extinguishment of the internal property lines, it will become one parcel. Mr. Ribeiro stated that a parking lot would not meet the proffers requirements as a primary use, it would become accessory to the veterinary clinic if the boundary lines were removed.

Mr. Holt noted that by extinguishing the property lines, the SUP conditions and proffers would not automatically extend across the entire parcel. Mr. Holt stated that if a plan of development were submitted for the center parcel it would be reviewed administratively and if one were submitted for the corner parcels it would go to the DRC.

Mr. Krapf stated that while, the current proposal does appear to be better plan, his concern is whether the number of changes are so significant that they deviate from the master plan.

Mr. Haldeman stated that he has the same concerns. Mr. Haldeman stated that the proposed changes would not detract from the community character of Five Forks, and it would help a growing local business; however, he finds it to be inconsistent with the adopted master plan. Mr. Haldeman stated that he has concerns about setting precedent for future requests.

Mr. Polster stated that he finds the development is consistent with the principles for development in Five Forks. Mr. Polster further stated that the current owner of the property is invested both in the property and the community. Mr. Polster stated that his decision point is whether the development of the property without the two-story building and the garage a better fit. Mr. Polster further stated that as far as setting precedents, the cases are reviewed on their individual merits. Mr. Polster stated that he finds the proposal to be a benefit to the business as well as the community. Mr. Polster stated determining consistency is a judgement call for the DRC each and every time.

Mr. Krapf noted that circumstances of ownership and development plans can change over time. Mr. Krapf stated that he believes the applicant should formalize the proposal through a master plan amendment.

Mr. Rodgers stated that he believes the parking lot would not enhance the Five Forks area as much as the building and its potential uses would. Mr. Rodgers stated that he does not see the parking lot as consistent with what is in the master plan.

Dr. Rose stated that if the applicant applied for a master plan amendment, the request would be likely to be approved. Dr. Rose stated that he did not feel it was appropriate to require the applicant to spend more time and money for the same outcome. Dr. Rose stated that the important outcome is to ensure that the development enhances the character of the area.

Mr. O'Connor stated that he found the parking lot use to be accessory to the existing use and would be consistent.

Mr. Polster made a motion to find the application generally consistent with the master plan with the conditions that the property owner extinguish the internal property lines and that staff review the landscaping plan to ensure it meets the enhanced landscaping requirements.

On a roll call vote, the Commission voted to find SP-22-0005. Colonial Veterinary Clinic Parking Expansion consistent with the master plan. (5-2)

1. Minutes of the August 3, 2022, Regular Meeting
2. Development Review Committee Action Item: SP-22-0005. Colonial Veterinary Clinic Parking Expansion

F. PUBLIC HEARINGS

1. Z-22-0001 & SUP-22-0012. 5700 Williamsburg Landing Rezoning and SUP Amendment

A motion to Approve was made by Jack Haldeman, the motion result was Passed.

AYES: 7 NAYS: 0 ABSTAIN: 0 ABSENT: 0

Ayes: Haldeman, Krapf, Null, O'Connor, Polster, Rodgers, Rose

Mr. Thomas Wysong, Senior Planner, stated that Mr. Paul Gerhardt of Kaufman & Canoles, P.C. has applied on behalf of Williamsburg Landing Inc. to rezone approximately 2.65 acres from the R-8, Rural Residential District to the R-5, Multifamily Residential District and to amend the existing SUP for the existing Williamsburg Landing Continuing Care Retirement Community (CCRC) to include the existing parking lot and gated access as part of this

development. Mr. Wysong stated that the property is zoned R-8, Rural Residential, is located within the PSA and is designated Airport within the adopted Comprehensive Plan.

Mr. Wysong stated that the subject acreage has been previously approved and developed as a gated entrance and surface parking lot, both accessory to the existing Williamsburg Landing development. Mr. Wysong further stated that no dwelling units or improvements are proposed as part of this rezoning application and SUP amendment. Mr. Wysong stated that if approved, this application would establish zoning consistency within the parcel and have one SUP govern the area.

Mr. Wysong stated that staff has included an SUP condition that would restrict any future redevelopment of this parcel to only be for those uses accessory to the existing CCRC.

Mr. Wysong stated that staff recommends the Planning Commission recommend approval of the proposed rezoning and SUP amendment, subject to the proposed conditions.

Mr. Haldeman stated that he is a resident of Williamsburg Landing; however, he believes that this is not a conflict of interest and intends to participate in the discussion and vote.

Mr. O'Connor opened the Public Hearing.

Mr. Benny Zhang, Kaufman & Canoles, addressed the Commission in support of the application.

As no one further wished to speak, Mr. O'Connor closed the Public Hearing.

Mr. Haldeman made a motion to recommend approval of the application.

On a roll call vote, the Commission voted to recommend approval of Z-22-0001 & SUP-22-0012. 5700 Williamsburg Landing Rezoning and SUP Amendment. (7-0)

2. SUP-22-0013. 3252 N Riverside Drive Contractor's Office and Warehouse

Ms. Terry Costello, Senior Planner, stated that Mr. Lloyd Stephens of Stephens Remodeling, has applied for an SUP to allow for the operation of a contractor's office and warehouse, on a 13.68-acre parcel located at 3252 N Riverside Drive zoned A-1, General Agricultural. Ms. Costello noted that a contractor's office and storage is a specially permitted use in A-1 zoning districts.

Ms. Costello stated that currently Mr. Stephens operates his business from 7845 Richmond Road. Ms. Costello further stated that according to the applicant, the commercial operation includes five full-time employees as well as himself and his wife. Ms. Costello stated that one employee will come to the property once a week, and all other employees work directly at the job sites. Ms. Costello stated that customers typically will not come to the property; however, four to five customers per year may come to the office. Ms. Costello stated that most deliveries go directly to the various job sites. Ms. Costello stated that on average, there would be one delivery to the property a month, and one delivery a month from the Property to a job site. Ms. Costello stated that all equipment will be stored in the warehouse, and all vehicles associated with the business are taken home by employees.

Ms. Costello stated that the Comprehensive Plan designates this property, as well as all of the surrounding parcels, as Rural Lands. Ms. Costello stated that the recommended primary uses

include agricultural and forestal activities; however, appropriately scaled and located direct agricultural or forestal-support uses, home-based occupations or certain uses which require very low intensity setting relative to the site in which it will be located may be considered on the basis of a case-by-case review, provided such uses are compatible with the natural and rural character of the area.

Ms. Costello stated that the proposed SUP conditions were designed to address and enhance compatibility with the natural and rural character of the area and to minimize impacts to adjacent properties by:

- Limiting the area where this activity can occur on the property;
- Limiting storage of equipment and machinery to indoor storage only;
- Limiting the days and times for deliveries;
- Providing vegetative buffer areas and landscaped areas to visually screen storage or parking areas from adjacent properties.

Ms. Costello stated that staff finds that the proposal is compatible with surrounding zoning and development and consistent with the 2045 Comprehensive Plan. Ms. Costello stated that staff recommends the Planning Commission recommend approval of this application to the Board of Supervisors, subject to the attached conditions.

Mr. O'Connor stated that he has concerns over future use of the property. Mr. O'Connor stated that over the years there have been problems associated with stockpiling of materials and debris on such properties. Mr. O'Connor inquired whether it would be possible to include an SUP condition prohibiting stockpiling.

Ms. Costello stated that staff did draft a proposed SUP condition that prohibits stockpiling, and that the applicant is agreeable to the condition.

Mr. Polster inquired if there was a condition related to parking outdoors.

Ms. Costello stated that all equipment and materials will be kept indoors.

Mr. Holt inquired about the condition related to the dumpster. Ms. Costello stated that a condition has been added to require screening of the dumpster and limit the times that the dumpster can be emptied.

Mr. O'Connor opened the Public Hearing.

As no one wished to speak, Mr. O'Connor closed the Public Hearing.

Mr. Krapf made a motion to recommend approval of the application.

On a roll call vote, the Commission voted to recommend approval of SUP-22-0013. 3252 N Riverside Drive Contractor's Office and Warehouse. (7-0)

3. SUP-22-0015. 7294 & 7296 Richmond Rd. Pivot Energy Solar Project

Mr. Holt stated that there would not be a presentation for the matter. Mr. Holt stated that the applicant has requested to continue the matter to the Planning Commission's October 5, 2022, Regular Meeting.

Mr. Holt noted that since the Public Hearing has been advertised, it is necessary to open the Public Hearing and for it to remain open until the October meeting.

Mr. O'Connor opened the Public Hearing.

No one wished to speak at this time.

On a voice vote, the Commission voted to postpone the matter to the Planning Commission's October 5, 2022, Regular Meeting. (7-0)

4. SUP-22-0016. 141 Blow Flats Rd. Battery Storage Facility

A motion to Approve was made by Rich Krapf, the motion result was Passed.

AYES: 7 NAYS: 0 ABSTAIN: 0 ABSENT: 0

Ayes: Haldeman, Krapf, Null, O'Connor, Polster, Rodgers, Rose

Ms. Paxton Condon, Planner, stated that Mr. Brian Quinlan, has applied on behalf of Calvert Energy for an SUP to construct an electrical generation facility at 141 Blow Flats Road. Ms. Condon stated that the 6.87-acre parcel is zoned M-2, General Industrial, and is designated General Industry by the 2045 Comprehensive Plan.

Ms. Condon stated that the property is inside the PSA, is currently undeveloped, and located next to an existing switch gear station at 147 Blow Flats Road. Ms. Condon further stated that the proposed facility will consist of 15 battery storage containers to be set a hundred feet back from the property lines. Ms. Condon stated that the facility would allow for any surplus of power from the grid to be stored and then used later during times of higher demand or shortages.

Ms. Condon stated that Virginia Code Section 15.2-2232 provides that unless a utility facility is shown on the adopted Comprehensive Plan or other master plans for the County, the local Planning Commission and a governing body shall review the plan to determine whether the location, character, and extent of the project is consistent with the adopted Comprehensive Plan.

Ms. Condon stated that staff finds this proposal to be compatible with surrounding development and consistent with the adopted Comprehensive Plan and Zoning Ordinance. Ms. Condon stated that staff recommends that the Planning Commission find this application consistent with the 2045 Comprehensive Plan and recommend approval of this application to the Board of Supervisors, subject to the proposed conditions.

Mr. Haldeman noted that the concrete pad for the battery units is located in an area designated as wetlands. Mr. Haldeman inquired what type of permitting would be required for the wetlands impacts.

Ms. Condon stated that the applicant will be required to obtain a U. S. Army Corps of Engineers permit for impacts to the wetlands before the Stormwater and Resource Protection Division could provide any approvals for the project. Ms. Condon further stated that the project will be reviewed again at the site plan stage. Ms. Condon noted that the Wetlands Board would not need to review the project.

Dr. Rose inquired why the project did not need approval from the Wetlands Board.

Ms. Condon stated that this is because it involves non-tidal wetlands.

Mr. O'Connor opened the Public Hearing.

Mr. Michael L. Pelfrey, 186 Blue Water Road, property owner, addressed the Commission in support of the application.

As no one further wished to speak, Mr. O'Connor closed the Public Hearing.

Mr. O'Connor opened the floor for discussion by the Commission.

Mr. O'Connor stated that he had discussed fire and life safety issues with staff and the applicant since there are no National Fire Protection Association standards for these types of facilities. Mr. O'Connor noted that no final inspection or Certificate of Occupancy will be approved until these questions are resolved.

Mr. Krapf made a motion to recommend approval of the application.

On a roll call vote, the Commission voted to recommend approval of SUP-22-0016. 141 Blow Flats Road. Battery Storage Facility. (7-0)

Mr. Krapf made a motion to find the facility in substantial accord with the Comprehensive Plan.

On a roll call vote, the Commission voted to find the facility in substantial accord with the Comprehensive Plan.(7-0)

5. ORD-22-0002. Amendments for R-8, Rural Residential and A-1, General Agricultural Lot Size and Related Requirements

A motion to Approve was made by Frank Polster, the motion result was Passed.

AYES: 4 NAYS: 3 ABSTAIN: 0 ABSENT: 0

Ayes: Haldeman, Krapf, Null, Polster

Nays: O'Connor, Rodgers, Rose

Mr. Thomas Wysong, Senior Planner, stated that in the fall of 2021, the Board of Supervisors unanimously approved the James City County 2045 Comprehensive Plan: *Our County, Our Shared Future*. Mr. Wysong stated that this long-term vision for the County includes preserving the County's rural character as a priority, which was an important concern shared by the citizens of the County during the plan update process.

Mr. Wysong stated that in the spring of this year, the Board of Supervisors adopted an Initiating Resolution pertaining to the R-8, Rural Residential and A-1, General Agricultural Districts. Mr. Wysong stated that the resolution contained three specific directives.

Mr. Wysong stated that the first directive was to amend the Zoning and Subdivision Ordinances to revise the R-8 and A-1 Districts to be consistent with the stated Rural Lands Designation Description and Development Standards contained in the adopted 2045 Comprehensive Plan. Mr. Wysong stated that these standards state that "subdivision of lots should occur at a density of no greater than one residence per twenty acres."

Mr. Wysong stated that the second directive is to include language that grandfathers all parcels in existence as of January 1, 2022, that are 25 or fewer acres in size.

Mr. Wysong stated that the third directive is to include language that eliminates the central well requirement for subdivisions that are consistent with the stated Rural Lands Designation Description and Development Standards.

Mr. Wysong stated that in response to these directives, staff prepared draft Ordinance language to:

- Increase the minimum lot size in the A-1 and R-8 zoning districts from three acres to 20 acres, with all parcels in existence as of January 1, 2022, that are 25 or fewer acres in size being grandfathered with the existing three-acre minimum lot size.
- Increase the overall density for the A-1 cluster configuration option from one unit per two acres to one unit per 20 acres.
- Eliminate the central well requirement for new major subdivisions, meaning these subdivisions are required to have individual wells on each lot.

Mr. Wysong stated that the prepared draft language was reviewed by the Policy Committee at its August 11 and August 22 meetings. Mr. Wysong further stated that the Policy Committee recommended this language proceed to the Planning Commission by a vote of 4-0.

Mr. Wysong stated that staff recommends that the Planning Commission recommend approval of the attached draft Ordinance to the Board of Supervisors.

Ms. Null requested confirmation that the language that is in the adopted Comprehensive Plan is what is in the resolution and nothing has been changed.

Mr. Wysong confirmed that the language is identical.

Ms. Null requested confirmation that language in the Initiating Resolution also matches.

Mr. Wysong stated that it does.

Ms. Null requested confirmation that all meeting related to this matter were open to the public.

Mr. Wysong confirmed that the meetings were open to the public.

Mr. Krapf asked for clarification on the rural cluster. Mr. Krapf stated that his understanding is that the developer would have flexibility with lot size as long as the density of the development maintains the density of one unit per 20 acres of developable land.

Mr. Wysong stated that this is correct.

Mr. O'Connor inquired if that constituted a cap on the number of units.

Mr. Wysong stated that the subdivision could have some smaller lots but overall, no more dwelling units than one per 20 acres.

Mr. Haldeman inquired about the minimum lot size for the cluster.

Mr. Wysong stated that it is one acre as the Ordinance is currently drafted.

Mr. Rodgers inquired how it was determined that 25 acre lots should be grandfathered and allowed to develop with the existing three-acre minimum lot size.

Mr. Wysong stated that this was the acreage specified by the Board of Supervisors in the Initiating Resolution.

Dr. Rose inquired why the date of January 1, 2022, was selected and the impacts on properties that might be in the process of being subdivided.

Mr. Wysong stated that this is the date that the Board of Supervisors specified in the Initiating Resolution. Mr. Wysong stated that lots created after that date would need to conform with what is adopted in the Ordinance.

Mr. Krapf inquired if a property would still be grandfathered if it is sold at any point.

Mr. Wysong stated that the change in ownership would not affect the status.

Mr. O'Connor inquired what other Ordinance changes are being considered.

Mr. Wysong stated that the Board adopted initiating resolutions to consider the setbacks off of scenic roads and standards for rural clusters which are different than the density.

Mr. Holt noted that there are several additional initiating resolutions; however, they are unrelated to the A-1 and R-8 districts.

Mr. O'Connor inquired if there is one that deals with developable acreage.

Mr. Holt stated that the one related to developable acreage does allow for consideration to be given for undevelopable acreage, more specifically defined as Resource Protection Area, flood plain, and steep slopes. Mr. Holt stated that while these calculations do not speak directly to minimum lot size, they could factor into overall density of a new development.

Mr. O'Connor inquired about the minimum number of lots to require a homeowners association.

Mr. Holt stated that it would have to be a major subdivision.

Mr. O'Connor opened the Public Hearing.

Mr. Eric Joss, 3006 Forge Road, Friends of Forge Road, addressed the Commission in support of the Ordinance amendments.

Mr. C. Michael Apperson, 4950 Fenton Mill Road, addressed the Commission in opposition to the Ordinance amendments.

Mr. Bruce Abbott, 4478 Centerville Road, addressed the Commission in opposition to the Ordinance amendments.

Mr. Payten Harcum, 3183 Chickahominy Road, addressed the Commission in opposition to the Ordinance amendments.

Mr. Donald A. Hazelwood, 9808 Fire Tower Road, addressed the Commission in opposition to the Ordinance amendments.

Ms. Sheila Chandler, 7900 Newman Road, addressed the Commission in opposition to the Ordinance amendments.

Mr. Ronald Bowmer, 115 Wilderness Lane, addressed the Commission in opposition to the Ordinance amendments.

Mr. Randy Taylor, 204 Crescent Drive, addressed the Commission in opposition to the Ordinance amendments.

Mr. Louis Condelee, 100 E. Byrd Street, addressed the Commission in opposition to the Ordinance amendments.

Mr. Gary Massie, 8644 Merry Oaks Lane, addressed the Commission in opposition to the Ordinance amendments.

Mr. David Brown, 1502 Bush Neck Road, addressed the Commission in opposition to the Ordinance amendments.

Ms. Mary Aadahl, 2724 Forge Road, addressed the Commission in opposition to the Ordinance amendments.

As no one further wished to speak, Mr. O'Connor closed the Public Hearing.

Mr. O'Connor opened the floor for discussion by the Commission.

Mr. Polster stated that this issue has been in the works for two years starting with the public input for the Comprehensive Plan update. Mr. Polster stated that the consultant looked at many other counties to see how their rural lands were zoned. Mr. Polster noted that both Albemarle County and Loudoun County have the one lot per 20 acres ratio. Mr. Polster further stated that during the public meetings, one of the specific questions presented in an activity was the minimum lot size. Mr. Polster stated that although the majority of the responses did not come from owners of rural lands, the response leaned dramatically toward the one lot per 20 acres. Mr. Polster stated that one of the issues that the Planning Commission wrestled with was the investment that citizens have in these properties that represents their livelihood and a nest egg for the future. Mr. Polster stated that this is the first time that the Commission has been able to hear about the individual impacts of the potential changes. Mr. Polster stated that he encourages the citizens to provide the same feedback at the Board of Supervisors Public Hearing.

Mr. Haldeman stated that one concern he noted was the ability to give a small parcel of land to an immediate family member. Mr. Haldeman stated that this is still available under the Ordinance provisions.

Mr. Holt stated that under the current Ordinance, it is possible to create a family subdivision parcel less than three acres if an SUP is granted. Mr. Holt further stated that the same provision carries forward under these Ordinance amendments.

Mr. Haldeman stated that he voted for the Comprehensive Plan land use changes, and he further voted for the amendments at the Policy Committee level and intends to recommend approval to the Board of Supervisors. Mr. Haldeman stated that the Rural Lands designation description states: "Residential development is not a recommended use and is discouraged outside the Primary Service Area in the Rural Lands." Mr. Haldeman stated that this statement has been in the County's Comprehensive Plans since inception. Mr. Haldeman further stated that all of the residential zoning districts as well as residential Comprehensive Plan designations are within the PSA. Mr. Haldeman stated that the goal of the Community Character chapter in the Comprehensive Plan is: "The County will be a good steward of the land by preserving and enhancing the scenic, cultural, rural, farm, forestal, natural, architectural, and historic qualities that are essential to the County's distinctive character, economic vitality, and overall health and quality of life of its residents." Mr. Haldeman stated that 75% of the responses from the community engagement efforts supported this goal. Mr. Haldeman stated that the goal of the Land Use chapter is to "Achieve a pattern of land use and development that reinforces and improves the quality of life for citizens by encouraging infill, redevelopment, and adaptive reuse within the PSA; limiting development on rural and natural lands outside the PSA; and achieving the other eight goals of this Comprehensive Plan."

Mr. Haldeman stated that guidance from the Comprehensive Plan includes: guide new residential development to areas served by public utilities and that are convenient to public transportation, major thoroughfares, employment centers, schools, recreation facilities, and shopping facilities; foster the development of "complete communities" by locating new housing proximate to transit service, shopping, employment areas, recreational areas, schools, and community facilities; pursue a more compact development pattern within the PSA and reduce the need to develop on rural and environmentally sensitive lands outside the PSA; provide a more compact development pattern within the PSA and reduce new development in rural lands outside the PSA, as well as potential reductions in the PSA; and the land use statement that "It is intended that most residential, commercial, and industrial development will occur within the PSA."

Mr. Haldeman stated that there is no ambiguity about County's intention for the Rural Lands, nor has there been since the first Comprehensive Plan was adopted in 1975. Mr. Haldeman further stated that the preceding statements did not materialize out of thin air; they are the product of exhaustive periodic Comprehensive Plan reviews and outreaches to County residents.

Mr. Haldeman stated that for the most recent Comprehensive Plan update a survey was conducted by the University of Virginia. Mr. Haldeman stated that some of the findings were:

- Efforts to protect and improve the natural environment including water quality, air quality, and environmentally sensitive areas: 95.2% said that it was very or somewhat important but only 80% were satisfied with County's efforts.
- Efforts to protect and preserve the County's rural character. 85.2% said it was important, but only 69.5% were satisfied.
- 93.6% felt that the level of residential development in the County was about right or too high.

Mr. Haldeman stated that during the Public Engagement phase 97.4% of responses indicated that it was important (86.1% very important, 11.3% somewhat important) for the County to do more to improve efforts to protect and preserve our natural environment. Mr. Haldeman further stated that 36.7% chose protecting and preserving natural environment as most important for the County to improve, making it the highest ranked choice. Mr. Haldeman stated that 90% of the responses ranked that it was important (64.8% very important, 25.2% somewhat important) for the County to do more to improve efforts to protect and preserve our rural character; and 71.3% supported protecting as much rural and environmentally sensitive land as possible.

Mr. Haldeman stated that the PSA was established in the first Comprehensive Plan, adopted in 1975 stating that "The PSA should provide for adequate economic growth and County housing needs at all levels of affordability." Mr. Haldeman stated that it did and it does: The population of the County increased from 17,000 to nearly 80,000 from 1970 until now. Using County data, Planning staff estimates that there is capacity for 10,600 additional dwelling units within the PSA, which could increase the county's population by almost one-third, assuming 2.1 people per dwelling unit. Mr. Haldeman stated that there have been dozens of new businesses located in the County in the past fifty years, and there remains 3,400 acres of land suitable for additional nonresidential development within the PSA. Mr. Haldeman stated that the County's residential, commercial, and industrial development policies have been and are expansive, but they drew the line -literally- at the Rural Lands; but the line didn't hold.

Mr. Haldeman stated that the three-acre density restriction and the central well requirement no longer discourage residential development. Mr. Haldeman stated that the Planning Commission Working Group (PCWG) considered the experience of other high-growth Virginia counties and learned that "Experience in growing localities like James City County has shown that it is very hard to achieve long-term successful rural protection without supportive agricultural zoning. Rural zoning with minimum lot sizes of one to 10 acres is generally not conducive to the protection of rural character over the long-term as it gradually converts the landscape both visually and functionally into a large lot residential character as land is subdivided into lots. In general, the most successful zoning for rural protection has been achieved in the 20-50 acres per dwelling unit range of density". Mr. Haldeman stated that this has proved to be the case in James City County, as the total number of dwelling units in the County has increased by approximately 5.4% from 2015 to 2019, while the number of dwelling units located in land designated for Rural Lands has increased by approximately 7% during that same time, at an average of 57 units annually". Mr. Haldeman stated that this growth directly contradicts the goals of the County and the stated wishes of County residents. Mr. Haldeman noted that the County has discouraged residential development in the Rural Lands for decades with sound environmental, economic, fiscal, and quality-of-life reasons for that policy and that the policy is supported by strong majorities of County residents. Mr. Haldeman stated that unfortunately, the present system has not been working which is why he plans to vote for the amendments.

Mr. Krapf stated that every land use case that comes forward affects individuals and the Commission is cognizant of those impacts. Mr. Krapf stated that throughout the Comprehensive Plan update there were numerous opportunities for public input. Mr. Krapf stated that the one fact that came out of the review, is that if the goal is control development in rural lands, the current practices are not effective. Mr. Krapf further stated that based on other jurisdictions one unit per 20 acres is the bare minimum and that one unit per 50 acres is a better ratio; however, there was no appetite for the larger minimum lot size. Mr. Krapf stated that ultimately the goal is to have a better tool to control residential growth in rural lands. Mr. Krapf stated that development does not occur in a vacuum; there are always associated impacts such as needs for schools, infrastructure, transportation, and emergency service. Mr. Krapf stated that those expenses are born by the citizens of the County. Mr. Krapf further stated that the Commission is charged with making good land use recommendations to the Board of Supervisors and that the Commission's guiding document is the Comprehensive Plan which is the citizens' document. Mr. Krapf stated that for the landowners who cannot or do not want to farm their land, he hopes that the County will be proactive in implementing the recommendations of the Rural Economic Development Committee. Mr. Krapf stated that he intends to support the Ordinance amendments.

Mr. Rodgers stated that he does not completely follow how the acreage limit to be grandfathered under the current Ordinance regulations was determined and how it works to advance the County's goals.

Mr. Holt stated that the Board of Supervisors discussed the matter as part of the deliberation of the Comprehensive Plan and as part of developing the Initiating Resolution. Mr. Holt stated that the feedback from the public is what informed those decisions.

Mr. Polster stated that, as he recalled, staff presented information to the Board of Supervisors with a breakdown of the parcels that would be impacted under different scenarios and the decision was based on the number of parcels that would be affected by the one unit per 20 acres.

Mr. Rodgers stated that his question was primarily centered around why the properties under 25 acres were chosen to be grandfathered.

Mr. Holt stated that this came from citizen feedback during the Comprehensive Plan considerations and meeting related to the Ordinance amendments.

Dr. Rose stated that he struggles with the need to preserve rural landscapes and the impact on the citizens. Dr. Rose stated this is a large jump in minimum acreage only to correct a problem that others created. Dr. Rose stated that he finds it difficult to balance the desire for the scenic views and community character with the impact of these changes on the landowners. Dr. Rose stated that he would like to see more flexibility and less of an increase in the minimum acreage. Dr. Rose stated that he is inclined not to support the amendments.

Ms. Null stated that there is enough land within the PSA to accommodate future development needs. Ms. Null further stated that she does not want to see the rural lands destroyed by housing developments. Ms. Null further stated that the amendment will allow for economic endeavors while preserving the character of the area.

Mr. O'Connor stated that it is always in the forefront of his mind that these rural lands represent the landowners investment and financial security. Mr. O'Connor stated that he is not comfortable with the impacts of the Comprehensive Plan update being borne by the landowners. Mr. O'Connor stated that he finds that the Ordinance amendments are incomplete without more clarity on the cluster requirements and the impacts of other potential Ordinance amendments. Mr. O'Connor stated that although he did vote for the Policy Committee to advance the matter to the Planning Commission for the Public Hearing, he is not inclined to support the amendments until the other Ordinance amendments are drafted.

Ms. Null inquired if there was an option to defer the matter.

Mr. Holt stated the Ordinance amendments have not yet been advertised for a Public Hearing before the Board of Supervisors. Mr. Holt stated that if the Commission wished to defer the matter, it would need to be to a date and time certain to maintain the continuity of the Public Hearing.

Mr. O'Connor stated that he is not an advocate of a deferral.

Mr. Polster stated that he is finding it difficult to consider this Ordinance amendment in light of the possible further impacts of the Ordinance revisions that are pending.

Mr. Holt stated that what is before the Commission for decision should be fairly clear cut; however, any further Ordinance amendments will be publicly advertised and will be the subject of Public Hearings.

Mr. Polster stated that his comments were primarily to ensure that the public understands that there will be more changes to come.

Mr. Polster made a motion to recommend approval of the Ordinance amendments.

On a roll call vote, the Commission voted to recommend approval of ORD-22-0002. Amendments for R-8, Rural Residential and A-1, General Agricultural Lot Size and Related Requirements. (4-3)

G. PLANNING COMMISSION CONSIDERATIONS

There were no items for Planning Commission Consideration.

H. PLANNING DIRECTOR'S REPORT

1. Planning Director's Report - September 2022

Mr. Holt highlighted the update on the Skiffe's Creek Connector project. Mr. Holt noted that the project is on schedule and should be completed this calendar year.

I. PLANNING COMMISSION DISCUSSION AND REQUESTS

Mr. Polster noted that he believes the County will see more battery storage units in residential development coming forward. Mr. Polster noted that the costs associated with decommissioning these units is astronomical. Mr. Polster stated that this is something to be aware of and consider for possible Ordinance updates. Mr. Polster noted that it would be crucial to look at the hazmat component of these units.

Mr. O'Connor noted that the residential battery, or virtual power plant, technology is expanding quickly. Mr. O'Connor further noted that he has concerns about what impacts it will have on fire and rescue.

Ms. Null inquired if permits were required for solar panels.

Mr. Holt stated that it does require an electrical permit and an inspection.

Mr. Haldeman inquired about a reference to a housing development on the Williamsburg side of Strawberry Plains Road. Mr. Haldeman noted that he hopes the County would be able to provide feedback on the proposal.

Mr. Holt stated that feedback would be provided from staff level.

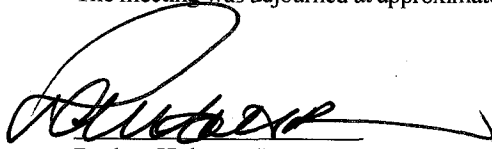
Mr. Krapf inquired if there were a table of the number of parcels by acreage.

Mr. Holt noted that most likely this was a working paper provided during the Comprehensive Plan update.

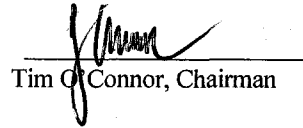
J. ADJOURNMENT

Mr. Polster made a motion to adjourn

The meeting was adjourned at approximately 8:52 p.m.



Paul D. Holt, III, Secretary



Tim O'Connor, Chairman