

MINUTES
JAMES CITY COUNTY PLANNING COMMISSION
REGULAR MEETING
County Government Center Board Room
101 Mounts Bay Road, Williamsburg, Va 23185
February 1, 2023
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
Rob Rose
Barbara Null
Stephen Rodgers

Staff Present:

Paul Holt, Director of Community Development and Planning
Liz Parman, Deputy County Attorney
Thomas Wysong, Senior 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. O'Connor stated that the Development Review Committee (DRC) did not meet in January and therefore there was no report.

Mr. Haldeman stated that the Policy Committee met on January 12, 2023, to continue discussion of ORD-22-0001. Amendments for Scenic Roadway Protection and consider ORD-22-0003. Amendments for Calculation of Residential Development Density.

Mr. Haldeman stated that at its November 10, 2022, meeting, the Policy Committee, directed by the Board of Supervisors and in keeping with Land Use strategy 6.3, considered additional requirements in the Zoning Ordinance and Subdivision Ordinance to preserve scenic roadways such as Forge Road. Mr. Haldeman stated that the Committee approved enhanced buffering for the Wooded Community Character Corridors (CCCs) identified as scenic for the purpose of this Ordinance amendment. Mr. Haldeman stated that the Committee recommended that:

- Buffering along commercial parcels along Wooded CCCs would be increased from 50 feet to 100 feet.

- Residential major subdivision parcels along Wooded CCCs would be increased from no buffer to 200 feet.
- There would remain no buffer requirements on Open/Agricultural Wooded CCCs where buffers might obscure the scenic vista.
- For timbering activities within the A-1 District, keeping the 50-foot buffer requirement along Wooded CCCs within the Primary Service Area (PSA) and establishing a new 50-foot buffer requirement along Wooded CCCs outside the PSA.

Mr. Haldeman stated that continuing this initiative, the Committee considered staff's recommendations to increase setback requirements within the A-1, General Agricultural, Zoning District, applying them only to those parcels adjacent to scenic roadways located outside the PSA. Mr. Haldeman stated that the recommendations are specifically to:

- Replace the 75-foot buffer along Forge Road outside the PSA with a 400' buffer, exempting lots with a depth of 500 feet or less measured from the road.
- Replace the 75-foot' buffer along Old Stage Road outside the PSA with a 400-foot buffer, exempting lots with a depth of 500 feet or less measured from the road.
- Allow existing structures within the 400-foot setback along both roads to be expanded, provided the structure does not expand further within the setback towards the roadway.

Mr. Haldeman further stated that the Committee reviewed the Rural Roadway Preservation visual analysis and conclusions presented by EPR, PC. Mr. Haldeman noted that Committee members were unclear about what the setbacks were meant to accomplish and what, if any, offsetting benefits should be offered to affected property owners. Mr. Haldeman stated that the Committee decided to seek guidance from the Board of Supervisors at its January 24, 2023, Business Meeting. Mr. Haldeman stated that the Board of Supervisors provided the following in response:

- A request to include Diascund Road in Scenic Roads. When told that Diascund was not a CCC, the Board asked if it could be made a CCC at some later point.
- Agreed to define "Scenic Roadways" as the six CCCs outside the PSA.
- Parcels less than 500 feet deep are exempt from the new 400-foot setback and requested that the Ordinance clarify where on such a vacant parcel a building could go; either 75 feet back from the road or some other distance.
- Requested further consideration on the treatment of parcels grandfathered at 1:3 acres. Could grandfathered lots be broken into smaller lots so that several could be less than 500 feet from the road and thereby exempt from the 400-foot setback?
- Requested that the Committee consider how the 400-foot setback will affect a family subdivision?
- Requested that the Committee address whether pre-plotted lots would be exempt from the 400-foot setback?
- Requested that the Committee investigate the feasibility of an overlay district, especially for Forge Road and possibly for Diascund Road.

Mr. Haldeman noted that Wooded CCCs were not mentioned in the Board's discussion.

Mr. Haldeman noted that the Board discussed the possibility of tradeoffs for parcels with the new 400-foot setback including compensation for the longer driveways, utility lines, reduced developable land, etc.

Mr. Haldeman stated that this matter is pending more analysis.

Mr. Haldeman stated that the Committee next addressed a request made by the Board of Supervisors to consider amending how residential density is calculated, with a direction to explore using net acreage. Mr. Haldeman stated that a stepped approach is currently used in

the R-1, Limited Residential, R-2, General Residential, R-3, Residential Redevelopment, R-4, Residential Planned Community, R-5, Multifamily Residential PUD, Planned Unit Development, MU, Mixed Use, and Cluster Overlay Districts. Mr. Haldeman noted that these Districts are primarily found inside the PSA. Mr. Haldeman noted that the R-6 and R-8 Districts use gross acreage.

Mr. Haldeman stated that if the County's sole intent is to minimize development capacity on any given parcel, it should use net acreage method of calculating density. Mr. Haldeman stated that gross acreage produces the largest number of housing units and the largest density per acre of developable land, then the Alternative Single Number, then the Alternative Stepped Method, with net acreage yielding the fewest and smallest. Mr. Haldeman noted that there are, however, other considerations.

Mr. Haldeman stated that points in favor of methods other than net acreage:

- Comprehensive Plan consistency: Low Density Residential and Medium Density Residential recommends density ranges based on gross acreage, while MU and Economic Opportunity (EO) use net acreage.
- Net acreage will reduce density in residential districts which are mostly within the PSA. This might increase development pressure in the Rural Lands. Moving to net acreage would violate the spirit of the compromise made at the time of the Comprehensive Plan revision, which recommended a zoning ordinance change from 3-acre density to 20-acre density in the Rural lands in exchange for accommodating residential growth within the PSA.
- Reducing densities could reduce opportunities for workforce housing. (Although density bonus points could help with that).
- Costs such as homeowners association dues could be increased with lower density.

Mr. Haldeman stated that points in favor of methods other than gross acreage:

- Community character - compatibility of new development with adjacent existing communities and protecting open space – residents' consistent support for rural character.
- Lower demands on public facilities.
- Lower traffic congestion – reduces automobile dependency.
- Less impervious surface – less stormwater runoff and better aquifer re-charge.
- Fiscal issues (can cut both ways).

Mr. Haldeman stated that the Committee reviewed Ordinances from the City of Williamsburg, York County, Suffolk, and Fauquier County and found different approaches by each.

Mr. Haldeman stated that the Committee was divided on this issue, with two Committee members favoring the net acreage, another member was unsure of what was meant to be accomplished, and another member proposing unspecified compensation to affected landowners for the loss of development rights attributed to steep slopes and Resource Protection Area. Mr. Haldeman stated that the Committee decided to seek guidance for the Board of Supervisors on these questions at its January 24, 2023, Business Meeting.

Mr. Haldeman stated that:

- All Board members agree that this is a high priority and that the Board is "looking for an Ordinance that will transition us to a net developable density." "... as fast as we can."
- No additional direction required.
- Board wants to consider pros and cons.
- This dovetails with cumulative impact and the watershed study.

- Must avoid “pockets of ultra-high density.”

Mr. Haldeman stated that the Committee will continue its deliberations on these issues at a special meeting called for February 23, 2023, at 2:30 p.m.

E. CONSENT AGENDA

1. Minutes of the January 4, 2023, Regular Meeting

Mr. Haldeman 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. AFD-22-0019. 1245 Stewarts Road Barnes Swamp AFD Withdrawal

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

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

Ayes: Polster, Rodgers

Nays: Haldeman, Krapf, Null, O'Connor, Rose

Mr. Thomas Wysong stated that Mr. Tim Mills has requested to withdraw 23.84 acres of their 52.15-acre parcel from the Barnes Swamp Agricultural and Forestal District (AFD). Mr. Wysong stated that the parcel is located at 1245 Stewarts Road, is zoned A-1, General Agricultural, is designated Rural Lands on the 2045 Comprehensive Plan Land Use Map, and is outside the PSA.

Mr. Wysong stated that in 2022, the County notified property owners multiple times of the impending renewal period for the AFDs and the need for property owners to submit a written request should they wish to withdraw property from the AFD. Mr. Wysong stated that letters were mailed in May and August informing each property owner within an AFD that a written request to withdraw property needed to be submitted prior to the September Board of Supervisors meeting. Mr. Wysong stated that no request was submitted by the applicant prior to the September Board of Supervisors meeting which means that this request was received after the Board acted on the AFD renewals and is outside the renewal period.

Mr. Wysong further stated that withdrawal requests made outside the renewal period must meet the criteria set forth by the Board of Supervisors' Policy Governing the Withdrawal of Property from AFDs. Mr. Wysong stated that those criteria are:

1. It is caused by a change in circumstances that could not have been anticipated at the time the application was made for inclusion in the District. Mr. Wysong stated that this is historically interpreted to be the death of a property owner. Mr. Wysong stated that, thankfully, this is not the case.
2. It serves a public purpose, as opposed to the proprietary interest of the landowner that could not otherwise be realized upon expiration of the AFD. Mr. Wysong stated that staff interprets this as the construction of a public facility. Mr. Wysong noted that the applicant is proposing a minor residential subdivision which would not serve a public purpose.
3. Would not cause disruption to the existing District. Mr. Wysong noted that the proposed withdrawal would not negatively impact the District.
4. Is in conjunction with a proposal to convert the land use of a property to a different use than is currently in place; the new land use would be in conformance with the

Comprehensive Plan. Mr. Wysong noted that the proposal is for the development of a minor subdivision and the Comprehensive Plan discourages residential development in rural lands.

Mr. Wysong stated that at its January 19, 2023, meeting, the AFD Advisory Committee voted 7-0 to recommend approval of the withdrawal request to the Planning Commission and the Board of Supervisors.

Mr. Wysong further stated that staff cannot support this request for withdrawal due to it not fully meeting all four of the criteria set forth in the Board's policy. Mr. Wysong stated that staff recommends that the Planning Commission recommend denial of this request to the Board of Supervisors.

Mr. Polster inquired if there is a future plan to further subdivide Lot 5.

Mr. Wysong stated that the current plat does not show that lot and he would defer to the applicant.

Mr. Krapf inquired what approval a conceptual plan grants and the timeline for the applicant to take action.

Mr. Wysong stated that is an option for someone to present a plan for a property to staff and receive feedback on whether that use could potentially work and what steps would be necessary to go forward. Mr. Wysong stated that staff does not provide approval letters, but rather comment letters with recommendations. Mr. Wysong further stated that there is no deadline for moving forward.

Mr. Polster inquired about the shared driveway exception.

Mr. Wysong stated that the applicant did bring the exception request to the DRC and that the DRC recommendation was confirmed by the Planning Commission in 2021.

Mr. Haldeman inquired what address is used for mailing the AFD Property Owner notifications.

Mr. Holt stated that the Real Estate Assessment database includes a mailing address for the property owner which is what staff uses to mail out notifications.

Mr. O'Connor opened the Public Hearing.

Timothy Mills, 306 The Maine, applicant, addressed the Commission in favor of the application.

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

Mr. Polster inquired about the Master Plan for the property.

Mr. Mills noted that the minor subdivision will be developed in two sections. Mr. Mills provided the Commission with a rendering of the parcels.

Mr. Krapf inquired if there would be another structure on Lot 5.

Mr. Mills stated that there would only be one dwelling; however, the barn will be replaced with a newer structure.

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. Rodgers stated that he does find that the August 17, 2022, letter is not totally clear about the deadline for action.

Mr. Holt stated that the specific verbiage regarding withdrawal of property and all of the hearing dates were specified in the initial letter sent out in May 2022. Mr. Holt noted that the August letter was sent because staff determined a need to amend the terms of the Districts to be consistent with changes in State Code.

Mr. Krapf stated that if he had a pending project and received a letter stating that the Board of Supervisors would meet on a certain date, he would have at least called to inquire if he needed to do anything related to this Public Hearing. Mr. Krapf stated that his concern is, once again, setting a precedent by making an exception. Mr. Krapf stated that although he is sympathetic to the dilemma, he finds that this does not meet three of the criteria set by the Board of Supervisors for withdrawal of property from an AFD.

Mr. Polster stated that there is judgment involved in considering all the circumstances. Mr. Polster noted that the applicant did all the due diligence prior to acquiring the property. Mr. Polster stated that the Commission should consider the application in light of what is best for the County, the community, and the applicant. Mr. Polster stated that he intends to support the application.

Mr. O'Connor stated that he remains concerned about approving withdrawals because AFDs are a major tool to control growth outside the PSA. Mr. O'Connor noted that he was opposed to the shared driveway exception when it came before the DRC. Mr. O'Connor noted that this is a growth issue to him and that the AFDs are useful in preserving rural lands.

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

On a roll call vote, the motion did not pass. (2-5)

G. PLANNING COMMISSION CONSIDERATIONS

There were no items for Planning Commission consideration

H. PLANNING DIRECTOR'S REPORT

1. Planning Director's Report - February 2023

Mr. Holt stated that he did not have anything to add other than to note that in response to discussion with the Board of Supervisors, staff has scheduled a special meeting of the Policy Committee to be held on Thursday, February 23, 2023, at 2:30 p.m. to discuss ORD-22-0003. Amendments for Calculation of Residential Density. Mr. Holt noted that this meeting was in addition to the meetings already scheduled to discuss the Capital Improvements Program requests.

I. PLANNING COMMISSION DISCUSSION AND REQUESTS

Dr. Rose inquired about regulations for vape shops and whether it would also apply to cannabis dispensaries.

Mr. Holt stated that staff would be looking to the work done by the City of Williamsburg in drafting its Ordinance since the City staff had done much of the heavy lifting in developing the Ordinance language.

Mr. O'Connor noted that he has received a number of calls with concerns over lighting. Mr. O'Connor noted that the existing regulations cover lighting outdoors but do not address concerns about lighting and signs inside a building which are visible from the outside.

Mr. Holt stated that staff is aware of the concerns and will be addressing those concerns by reaching out to the various property businesses.

Ms. Null noted that intense lighting visible from the road can be distracting and create a safety issue.

Mr. Holt noted that currently County Code specifies that glare from any exterior lighting cannot trespass outside the property lines.

Mr. Haldeman inquired if the lighting regulations were governed by State Code.

Mr. Holt stated that the enabling legislation in State Code determines what the County can regulate.

Mr. Krapf inquired if State Code would permit the County to regulate the interior signs.

Mr. Holt stated that he would need to review the enabling legislation to determine what the County may be able to regulate and enforce.

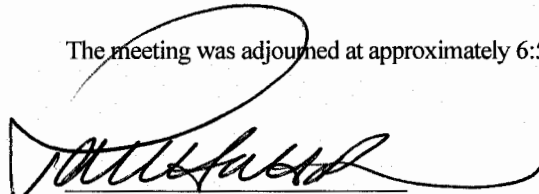
Mr. Krapf inquired when staff would begin looking at the Ordinance amendments for vape shops.

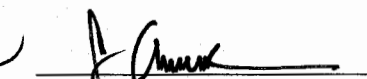
Mr. Holt stated that the Board of Supervisors indicated that this should be a priority, so staff would be prioritizing that work item.

J. ADJOURNMENT

Mr. Haldeman made a motion to adjourn.

The meeting was adjourned at approximately 6:53 p.m.


Paul D. Holt, III, Secretary


Tim O'Connor, Chairman