

**POLICY COMMITTEE MEETING**

February 3, 2011

6:00 p.m.

County Complex, Building A

**1) Roll Call**

**Present**

Mr. Reese Peck, Chair

Mr. Tim O'Connor

Mr. Jack Fraley

**Absent**

Mr. Al Woods

**Staff Present**

Mr. Allen Murphy

Ms. Tammy Rosario

Ms. Sarah Propst

Mr. Scott Whyte

Ms. Jennifer VanDyke

Mr. Steven Hicks

Mr. Darryl Cook

Mr. John Horne

Mr. Reese Peck called the meeting to order at 6:00 p.m.

**2) Minutes**

**a) January 5, 2011**

Mr. Jack Fraley moved to approve the minutes. The minutes were approved (3-0).

**b) January 6, 2011**

Mr. Fraley moved to approve the minutes. The minutes were approved (3-0).

**3) Old Business**

Mr. Peck discussed the start time of the Policy Committee meetings. It was agreed that starting with the February 23 meeting, the start time would move to 7:00 p.m.

**4) New Business – Development Standards zoning ordinance updates**

**a) Floodplain**

Ms. Sarah Propst presented proposed changes to the language in the Floodplain Overlay District.

Mr. Tim O'Connor asked if there is a definition of "substantial improvements" as found in Sec. 24-595 (a)(3).

Mr. Darryl Cook stated that changes that exceed 50% to any structure would be considered "substantial improvements."

Ms. Propst stated that it could be provided within the text.

Mr. Fraley asked that staff make a recommendation.

Mr. Allen Murphy stated that staff will make a recommendation during Stage Two.

Mr. Fraley stated that in his research he had found that federal regulations encourage localities to enact more stringent regulations than what the federal government requires. Mr. Fraley asked if James City County (JCC) had achieved this measure.

Mr. Cook stated that the proposed changes to Sec. 24-595 (a)(1) would exceed the National Flood Insurance Program (NFIP) requirements. JCC also participates in the community rating system which recognizes those communities that exceed federal standards. Currently JCC has achieved a class eight status, which is several steps above the minimum.

Mr. Fraley asked what the highest step on this rating ladder is, and what could JCC do to achieve a higher rating.

Mr. Cook stated the highest rating is class one. JCC is high above the average with its class eight rating; there are only 12 other localities within the state that have a class eight rating or above.

Mr. Fraley made a recommendation for additional language to be included in Sec. 24-595: "New construction and substantial improvements shall be constructed with materials resistant to flood damage as well as construction methods and practices that minimize flood damage."

Mr. John Horne stated that staff can consider the language.

Mr. Fraley asked, if a restriction can be placed on building in the floodplain.

Mr. Cook stated that JCC did not adopt a floodplain ordinance until February 1991. There are many parcels that are undeveloped within the floodplain.

Mr. Fraley asked if one can state "No future development in the floodplain."

Mr. Horne stated the word "build" could have two different meanings. One meaning would relate to building a structure below the floodplain elevation; this is already addressed in the ordinance. The other pertains to platting new lots in the floodplain. There can be parts of lots that are in the floodplain and other portions out of it.

Mr. Fraley stated he remembers the troubles JCC went through when Peleg's Point was developed. Parcels were flooded with water, leaving property owners unsatisfied with the condition of their property after purchase.

Mr. Horne stated that Sec. 24-596 speaks to platting new lots within the floodplain, creating new standards for new lots. The current ordinance requires that portions of the property in the floodplain be identified by showing elevations. It also talks about the two types of floodplains within JCC, tidal and non-tidal.

Mr. Cook referred to Sec. 24-596 where the two new changes not included in the Planning Division memo are highlighted for discussion. One is to remove the phrase: "any floodplain district having a 100-year elevation greater than 7.5 feet." The other is changing the elevation of those building sites from one foot to two feet above the 100-year flood elevation. JCC has two different types

of flooding: riverine and tidal. The ordinance currently requires for platting, that a lot must have a natural unfilled building site at least one foot above the 100-year flood elevation. The two new studies listed in Sec. 24-590 indicate that flooding has increased in the study areas, above what is shown on the official FEMA floodplain maps. Based on the increased elevation of flooding, Mr. Cook recommends increasing the natural unfilled building site elevation requirement.

Mr. Fraley asked how many parcels would be affected by this change.

Mr. Cook stated that most floodplain areas are already protected by a Resource Protection Area (RPA) under the Chesapeake Bay Preservation Ordinance. There are some low-lying areas along the James River that are not associated with perennial streams. Those areas that could potentially be affected by the change would be around the south east side of Neck-O-Land Road near Gatehouse Farms, Peleg's Point, Page Landing, and the Gilley Property. Another property further up the James River that could be affected would be Gospel Spreading Farm. Areas off the Chickahominy River in Chickahominy Haven could be affected. There is property off of Menzels Road and Arlington Island Road that could be potentially affected.

Mr. Fraley asked what the practicable effect would be.

Mr. Cook stated any property that does not have a viable building site at least two feet above the 100 year flood elevation or 9.5 feet elevation, would not be platted with new lots.

Mr. Fraley asked how many buildable lots would this measure eliminated.

Mr. Cook stated that the property behind Gatehouse Farms, as an example, could potentially be affected but that he did not have an exact number for lots or acres.

Mr. Horne stated that with this regulation change there may be some big parcels that could not otherwise be subdivided to the fullest extent.

Mr. Murphy stated that the property behind Gatehouse Farms is not developable based on current standards.

Mr. Cook stated that there is a section of Peleg's Point that would be impacted by this proposed change.

Mr. Fraley stated he would like to know the number of lots that would be impacted by this change. Mr. Fraley asked if there is a way to make this policy change location specific.

Mr. Horne stated this would be challenging, though staff can consider it.

Mr. Steven Hicks stated it is important to note that change or no-change, the house will not be placed in the floodplain. The surrounding property may be in the floodplain. Mr. Hicks stated he recommends that the Policy Committee move forward with this policy change recommended by planning staff including raising the elevation of the lowest floor and utilities to two feet above the 100 year flood elevation.

Mr. Fraley asked that staff look into the additional language he suggested and determine how much property would be impacted by an increase in ground elevation.

Mr. Peck stated that it would be difficult to defend a location-specific change. It may seem arbitrary and capricious. Mr. Peck asked how JCC can implement the elevation changes noted in the recent studies.

Mr. Cook stated it would be strictly advisory, not regulatory.

Mr. Peck asked what would be the next step in the process to have the elevation changes reflected on the floodplain map.

Mr. Horne stated that staff would have to work through Federal Emergency Management Agency (FEMA) to change the official floodplain based on the more accurate, new information. This is a lengthy and complex process.

Mr. Peck stated that the land owners would have access to public hearings during that process.

Mr. Fraley asked if the new class eight rating gave property owners a reduction in their flooding insurance rates.

Mr. Cook stated yes; there is a ten percent discount associated with this rating. This serves as an incentive.

Mr. Peck asked how many property owners are in this program.

Mr. Cook stated that there are 890 houses in the program.

Mr. Peck asked how much the discount amounts to.

Mr. Cook stated it is about \$40,000 annually.

Mr. Fraley can remember when frustrated home owners from Peleg's Point were seeking assistance from the County government.

Mr. Peck asked what damages were seen.

Mr. Fraley stated that at one time there were plans to correct some of the problems with Peleg's Point, though it has never come to pass.

Mr. Horne stated that this would be done under the existing bonds that I assume are in affect for those sections.

Mr. Hicks asked if staff is aware of any structural damage to the homes in Peleg's Point.

Mr. Fraley stated that he remembers there being damage to garages and decks, not homes. The property owners were very upset.

**b) Preserving Vegetation During Development**

Mr. Scott Whyte reviewed the staff recommendations concerning landscaping and preserving vegetation during development. The recommendation includes adopting a Specimen Tree Provision, an ordinance option rather than policy. It would then apply to all cases not exclusively to legislative cases.

Mr. Fraley stated he agrees with this.

Ms. Tammy Rosario stated that it should be considered as an incentive.

Mr. Fraley stated his perception is that JCC citizens want more regulation than the sum of recommended changes seen here. At minimum, all related policies should be brought together under one umbrella. It is discouraging to see the Chesapeake Bay Preservation Ordinance cited here; it does not offer enforceable language. Mr. Fraley found several localities in Virginia that offer a tree ordinance; this would be a preferred method. There should be a tree inventory requirement and we should define what it would encompass.

Mr. Whyte stated JCC does have a tree preservation plan requirement, which accomplishes much of the same.

Mr. Fraley stated there should be a tree inventory. The buffer needs to be inventoried in terms of the forested areas. A chart would be provided, identifying and defining the trees. There should be a matrix that provides species of trees, roots severance (tolerant, sensitive, intermediate), soil compaction (whether certain trees are tolerant), mature size growth and the hazard potential rating. We should prohibit clear-cutting in JCC. A general definition of clear-cutting would be the removal of a significant amount of trees and vegetation from an area such that it has a negative effect to the overall character, ecosystem, and/or the water quality of the parcel. Settler's Market should never happen again.

Mr. Fraley cited the *Code of Virginia* that speaks on preservation of trees. Mr. Fraley suggested the following language: "An Ordinance to safeguard trees on private and public property, providing protection to an important asset to the natural ecosystem, character, and quality of life in JCC for both present and future generations."

Mr. Fraley stated that the Board of Supervisors (BOS) would need to support this effort to make it happen.

Mr. Hicks asked if the presented materials are in the ballpark. Staff will need to move forward. Mr. Hicks asked Mr. Fraley if he is suggesting that staff look to get a response from the BOS during their next work session.

Mr. Whyte stated that currently the policies governing this are in the Chesapeake Bay Preservation Ordinance and the Landscape Ordinance. The clearing plans are required under the Chesapeake Bay Preservation Ordinance. These are the most effective tools in preserving existing trees.

Mr. Murphy stated that there are buffer requirements as well. It sounds as though Mr. Fraley would like a generalized inventory within the buffer areas, not tree by tree.

Mr. Fraley agreed.

Mr. Murphy stated that the larger concern is to prevent another Settler's Market. Settler's Market was an anomaly in the sense that there was one large site plan for the entire property. If they would have had the ability to develop it all as planned there would not have been one tree left. The economy was responsible for slowing down the development of this site.

Chris Basic of Greensprings Landscape Architecture stated that the alternative to New Town's compact, urbanized development would be a sprawling development.

Mr. Peck stated that he agrees there needs to be more codification within the policy, making it more predictable. Mr. Peck stated that he would prefer a tree ordinance to pull this all together in one place. The citizens of JCC do appreciate the wooded lots, this is a priority. Mr. Peck asked why there is nothing here talking about residential areas.

Mr. Whyte stated that many other localities do regulate residential areas.

Ms. Rosario stated that JCC has not regulated that area in the past, and staff had not heard dissatisfaction with residential areas during the public input meetings. In the public input meetings the citizens had discussed improving our landscaping policies for commercial sites.

Mr. Murphy stated there is regulation in residential areas with required landscaped or wooded buffers along Community Character Corridors (CCC), perimeter buffers, and street trees.

Mr. Peck stated that other localities do require a tree inventory; it should be considered further.

Mr. Murphy stated overall JCC does have a fair amount of regulation requiring landscape elements.

Mr. Whyte provided an illustration depicting tree preservation requirements for a commercial site. Comparatively JCC requires three-times more tree preservation than the tree canopy ordinance governing Fairfax County, Virginia.

Ms. Sarah Kadec, 3504 Hunters Ridge, stated early on in the ordinance update process the James City County Concern Citizen's group (J4C's) submitted a paper with their own suggestions.

Mr. Whyte stated that staff had reviewed this item.

Ms. Kadec stated that the J4C's paper provided examples of several localities (specifically Virginia Beach) that have a tree canopy ordinance.

Ms. Rosario stated that it is hard to compare the regulations governing those localities that are more urban to JCC.

Mr. Whyte stated that the new legislation enabling localities to further regulate tree canopy benefits urban communities more than others.

Mr. Murphy stated staff will further consider drafting a tree ordinance, one that addresses clear-cutting.

Mr. Fraley stated that this would help with predictability for applicants.

Mr. Whyte stated that another proposed change includes staff assisting applicants by providing a site visit during the conceptual stage of development review.

Mr. Fraley stated this sounds promising, though he would like to add to it documenting an inventory during the conceptual review stage.

Mr. Peck asked if there were different regulations in place during the time frame when Monticello Marketplace was reviewed compared to New Town.

Mr. Murphy stated that there were no proffers offered for Monticello Marketplace. This was an older rezoning dating back to the 1980's.

Ms. Rosario stated that the planner working on this project spent a lot of time on it beyond basic site plan requirements. Also, the planner found an applicant that was very responsive to the suggestions of staff.

Mr. Murphy stated that the applicant, Mr. Jim Gressick, was very helpful.

Mr. Basic stated that the landscaping has also matured over time.

Mr. Jack Fowler, 109 Wilderness Lane stated that he is upset to see entire parcels clear-cut for timbering purposes. A buffer should be required to prevent clear-cutting all the way to the road.

Ms. Rosario stated that there is a portion of the ordinance update process that addresses timbering. This topic will be discussed at the next meeting.

Mr. Fraley stated that the proposed text, "existing specimen and mature trees receive extra tree credits to encourage developers to preserve trees" may need to be strengthened.

Mr. Whyte stated that this will help encourage developers to preserve existing trees rather than clear-cut and replant.

Mr. Murphy stated that this may preserve trees with more value.

Mr. Whyte stated that many replantings also perish before they become specimen trees.

Mr. Fraley stated he has noticed that many plantings in new commercial developments do not fare well. Mr. Fraley asked why commercial centers are not granted access to water for irrigation systems.

Mr. Whyte stated that it is a myth that you need an irrigation system to have planted trees and shrubs survive. Often the plants are perishing because they are over watered, or they have been planted using improper planting techniques. Some plants are do not fare well because they are not placed in an ideal location.

Mr. Basic stated that the plant does require more water for the first two years after planting.

Mr. Whyte stated that JCC discourages the instillation of irrigation systems. It is written in the ordinance that landscaping must be maintained, though enforcing is very difficult.

Mr. Fraley asked if commercial centers could be given access to public utilities to water plants.

Mr. Murphy stated that the James City County Service Authority (JCSA) does permit access to public water to establish plants within a specified period of time. It may be for six months or more.

Mr. Peck stated that this is a water conservation issue as well.

Mr. Murphy stated that there are drought tolerant plants.

Mr. Peck stated that there are other water conservation techniques that could help alleviate this problem.

Mr. Tim O'Connor stated landscapers will guarantee the plants for a year or two. When the recreation center for Kingsmill was constructed efforts were taken to preserve certain trees on the site. During the construction phase the roots were disturbed and later the trees perished.

Mr. Whyte stated that this is not uncommon, and in the past it has been an embarrassment. There are methods that could improve the process.

Mr. Fraley stated that even if the tree does perish, it is worth the effort to try preserving it.

Mr. Whyte stated that communication between staff and the applicant is most helpful. In his experience, Mr. Whyte has found that the applicant is willing to work with staff.

Mr. Peck stated that two elements he would like to see are the creation of one governing policy that would be an umbrella for all landscaping and tree preservation elements. Also, he would like to see new regulations for clear-cutting/phased development and residential tree canopy.

Ms. Rosario asked if there was further interest in requiring an inventory.

Mr. Fraley and Mr. Peck stated yes; they are interested in a tree inventory.

### **c) CCC Buffer Treatment**

Mr. Whyte discussed the proposed changes for buffer treatments, and provided a map illustrating where changes would take place.

Mr. Fraley asked that staff explain what "treatments" are in the section Explanation for Proposed Treatments and Designations on Map. Mr. Fraley noted there is a study for Toano and another for Five Forks. Mr. Fraley asked would those studies affect these considerations in any way.

Mr. Whyte stated yes.



Mr. Fraley questioned how Toano and Norge are considered urban/suburban.

Ms. Rosario stated that the term urban/suburban would also include village. The older historic buildings establish the streetscape in those areas rather than a wooded buffer.

Mr. Hicks made one suggestion to the map, to designate the intersection of Centerville Road and Route 60 as an urban/suburban CCC. This section would encompass Thomas Nelson and Premium Outlets.

Mr. Fraley stated he liked the proposed map.

Mr. O'Connor asked if it would be easier to provide codified information rather than the suggested illustration.

Mr. Whyte stated that the illustration will serve as a visual representation to augment the other requirements spelled out in the text.

#### **d) Parking Lot Landscaping**

Mr. Whyte discussed the proposed changes for parking lot landscaping requirements. This area has been very problematic for a number of reasons, one reason being that it is an inhospitable location for plants. One portion of the text was conflicting with another in regards to parking lot design. The original intent was to promote a staggered design with parking islands but, this is difficult for designers to achieve. It is far easier to line-up the islands. Traditionally staff had been accepting of trees being about 90' - 100' apart along with the islands. Staff's proposed changes would coordinate these elements with islands and trees.

Ms. Rosario stated that this was the first part of the recommendation. There are other parts of the recommendation that speak to distribution and excavation.

Mr. Whyte stated that part of the proposal includes changing the distribution of the recommended one tree and two shrubs for every five parking spaces. Often a significant portion of the required landscaping for parking lots was placed in strips near the perimeter of the parking lot; the changed text would require the plants be located and evenly distributed within the perimeter of the parking lot. Lastly, staff is suggesting changes in policy regarding excavation. Often developers are not putting quality top soil within the islands, making it difficult for any plant to thrive.

Mr. Peck stated that plantings being evenly distributed are advisable, though should not appear to be repetitious. Having variation would be ideal.

Mr. Whyte stated variety can be seen in the different species of plants. This is intended to be a minimum for parking lot requirements; if the applicant wants to stack shrubs along the drive isles they can exceed the requirement.

Ms. Ann Hewitt, 147 Raleigh, asked if certain species of plants can be required.

Mr. Whyte stated that native plants are suggested. There also is a requirement for a mixture of plants: 35% deciduous shade trees, 15% ornamental trees and 35% evergreen trees. Staff has

recommended a change to these percentages for 25% evergreens rather than 35%. Staff also recommends limiting evergreens to large parking lots.

Mr. Fraley asked why we do not require native plants.

Mr. Whyte stated that the market could not support it. Designers would be left with too few options.

Mr. Basic stated that requiring native plants would eliminate a landscaper's creative license. A plant being non-native does not mean that it is either invasive or inappropriate for this area.

Mr. Fraley stated that it would bring greater predictability to have all these elements spelled out.

Mr. O'Connor stated that the current percentage requirements are enough.

Mr. Whyte stated that in the *Community Appearance Guide* native plants and drought-resistant plants are recommended. Mr. Whyte asked if Mr. Basic has more feedback on the presented materials.

Mr. Basic stated that from a landscaper's perspective the proposal looks good.

Mr. Whyte noted that the proposal still exceeds the parking lot requirements of most other jurisdictions.

**e) Outdoor Operations and Storage**

Mr. Whyte discussed the proposed changes for outdoor operations and storage requirements. Mr. Whyte asked if there were any comments or concerns to address.

There were no questions from the committee or any members of the audience.

**f) Streetscape Policy**

Mr. Fraley asked if it was possible to delay Streetscape Policy until the next Policy Committee meeting.

Ms. Rosario stated that delaying would be fine.

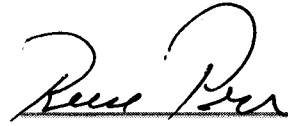
Mr. Fraley did ask staff to consider reviewing sidewalk waivers administratively rather than with the Development Review Committee (DRC).

Mr. Hicks stated staff will discuss this matter.

**5) Adjournment**

Mr. Peck moved to adjourn.

The meeting was adjourned at 7:50 p.m.

  
\_\_\_\_\_  
Reese Peck, Chair of the Policy Committee