

POLICY COMMITTEE MEETING

April 25, 2011

7:00 p.m.

County Complex, Building A

1) Roll Call

Present

Mr. Reese Peck, Chair
Mr. Al Woods
Mr. Jack Fraley

Staff Present

Mr. Allen Murphy
Mr. Tammy Rosario
Mr. Christopher Johnson
Mr. Luke Vinciguerra
Ms. Jennifer VanDyke

Absent

Mr. Tim O'Connor

Mr. Reese Peck called the meeting to order at 7:00 p.m.

2) Minutes

a) March 16, 2011

Mr. Jack Fraley moved for approval for the March 16, 2011 minutes. The minutes for March 16, 2011 were approved as presented.

b) April 13, 2011

Mr. Fraley moved for approval for the April 13, 2011 minutes. The minutes for April 13, 2011 were approved as presented.

3) Old Business

4) New Business

a) Traffic Impact Analysis

Mr. Luke Vinciguerra reviewed staff's proposal for submittal requirement changes pertaining to traffic impact analysis.

Mr. Al Woods stated that the policy should clearly define all documentation that is required for a traffic impact analysis.

Mr. Peck asked why the proposal is for a new policy rather than an ordinance change.

Mr. Vinciguerra stated that the County Attorney made this recommendation.

Mr. Peck stated he would like to have more information informing him on the County Attorney's decision.

Mr. Woods asked if there would be any benefit in granting the Board of Supervisors (BOS) the latitude to negotiate.

Mr. Peck stated that you can draft the ordinance with exceptions, waivers and general criteria to create flexibility.

Mr. Allen Murphy stated that by creating a policy, rather than changing the ordinance, the County retains greater discretion.

Mr. Peck stated that having it in the ordinance would bring greater transparency to the process.

Mr. Woods asked for greater clarity regarding the requirements attached to those properties that are in a corridor with a Level of Service (LOS) of "C" or below.

Mr. Vinciguerra stated that the applicant would have to submit documentation outlining recommended traffic improvements to mitigate the effects of the proposed development. He stated that the applicant would not be required to do the traffic improvements.

Mr. Fraley stated that it would be at the discretion of the Planning Director to decide what, if any traffic improvements be required. Mr. Fraley stated that he supports staff's proposal. He stated that requiring more detailed traffic studies would be beneficial.

Mr. Christopher Johnson stated that even though Virginia Department of Transportation (VDOT) changed their requirements, adding the 527 review study, the County BOS retains the authority to grant approval on special use permits and rezonings.

Mr. Peck stated that policies can be referenced within the ordinance.

Mr. Fraley stated that he is supportive of tying a policy document and the Zoning Ordinance together.

b) Wireless Communications ordinance update

Mr. Fraley stated that overall he is supportive of staff's recommendation regarding the wireless communications ordinance changes. Mr. Fraley stated that he did expect to see a report from the consultant regarding emerging trends and what other jurisdictions are doing.

Mr. Vinciguerra stated that the consultant provided a strike-through version of his recommended changes to the ordinance. He stated that the consultant's strike-through ordinance did not include any analysis. He stated that the staff report did list the proposed changes and provided further logic for staff's recommendations.

Mr. Johnson stated that staff requested locality comparison data from the consultant. He stated that staff reviewed and considered each of the consultant's proposed changes before drafting staff's proposal.

Mr. Fraley presented a memo outlining his own recommendations. Please see attachment number 1.

Mr. Woods asked if the professionals in the room had an opinion to share regarding Mr. Fraley's recommendations.

Ms. Lisa Murphy of LeClairRyan stated that listing the definitions would be helpful. The term "camouflage" is used a little differently by industry professionals and the County. Ms. Murphy stated that she does not think favorably of the consultant's suggestions. She stated that the recommendations made are rigid and that flexibility will be lost. She stated because there are so many variables involved in finding a suitable location it is ideal to have flexibility built into the regulations. She stated that having the distinction made between "camouflage" and "slick stick" would be particularly helpful.

Mr. Fraley stated that a distinction needed to be made between camouflage and slick stick. He stated that he did not include setbacks in his proposal. He stated that his intention was to help clarify where he had seen confusion. He stated he wanted to address the concerns raised by the citizens. He stated that he did not suggest increasing buffers, landscaping requirements, or setbacks. He stated that he would like to see more towers modeled after grain silos, windmills, and light poles. He stated that generally speaking, other localities do not permit cell towers by right in residential areas.

Mr. Stephen Romine of LeClairRyan asked if Mr. Fraley's intent was to make "Tier 1" towers administratively approved.

Mr. Fraley stated, yes.

Mr. Romine stated that Mr. Fraley's approach seems to speak more to the aesthetic aspects of towers. He pointed out that "Tier 3" towers are only permitted outside of the Primary Service Area (PSA). He would prefer to see some flexibility to allow a conventional monopole in the PSA with a special use permit.

Mr. Fraley stated that the industry is moving towards shorter towers.

Mr. Romine stated that shorter towers are only suitable when there are larger towers available to support it and create a "back bone" in the network.

Ms. Murphy stated that the industry is looking to make strong in building, data penetration within a smaller area. She stated that the towers can be smaller and closer to the areas they serve. She stated that there are still areas in Hampton Roads that do not have that basic "back bone" network.

Mr. Woods asked for staff's reaction to Mr. Fraley's recommendations.

Mr. Murphy stated that requiring special use permits in residential areas is feasible. He stated that his largest concern would be adopting administrative regulations without retaining administrative discretion. He stated that universal standards should not be adopted for all locations outside the PSA

and outside residential areas. He stated that the Planning Director still needs to have room for discretionary judgment.

Mr. Fraley stated that in those ordinances he has read from other jurisdictions, he has not seen language that allows for discretionary judgment in a significant way.

Mr. Murphy stated that the visible presence of a tower is of primary importance. He stated that there are many factors that contribute to visibility, making it essential to allow for discretionary judgment.

Mr. Woods stated that he does not want to compromise setbacks and buffering, particularly within residential areas. He stated that he is interested in seeing a formal response from staff, incorporating the ideas brought forward from Mr. Fraley.

Mr. Fraley stated that he feels that the buffering currently required is sufficient.

Mr. Murphy stated he agrees. He stated that there are those cases where additional setbacks would not significantly improve the visual impact of a tower.

Mr. Woods asked if the citizens present had any feedback.

Mr. Bill Halteman, 109 Randolph's Green asked how temporary towers would be addressed.

Mr. Fraley stated that temporary towers need to be defined and included in the ordinance.

Mr. David Neiman, 105 Broomfield Circle stated that towers should not be permitted in residential areas, by right.

Ms. Sarah Kadec, 3504 Hunters Ridge stated that a master plan of the County needs to be created for wireless communications. She stated that creating a master plan would provide a savings to cellular service providers and better inform decisions on ideal placement. She stated that by right and administrative decisions need to be better explained to the public.

Mr. Romine stated that the current verbiage "by right, per administrative approval" is misleading. He stated that by right means something different from one jurisdiction to the next. In many other localities, by right means that plan review would be required for a building permit.

Mr. Fraley stated that staff reviews the proposal to confirm that the tower meets the standards described in the ordinance.

Mr. Peck stated that there is a difference between a ministerial task and a discretionary task.

Mr. Romine stated that with the administrative review you would expect an expedited process. He stated that due to the appeals process you end up with just as much scrutiny as a legislative review.

Mr. Neiman stated that public hearings should be a greater part of the process; it is in the residents' interest.

Mr. Peck stated that the legislative body needs to gauge the public's comfort level regarding this process.

c) Urban Development Areas

Mr. Peck made a presentation on why it is important to not adopt a resolution certifying compliance with the state's Urban Development Areas (UDA) requirements. Please see attachment number 2.

Ms. Tammy Rosario stated that complying with the statute's provisions was not as black and white as depicted in Mr. Peck's presentation. She stated that there is no specific methodology outlined in the statute. Staff reached out to their peers, and they concurred that staff's methodology is reasonable. She stated that there is also no method to calculate population projections that does not have a margin of error. She stated that staff's population projections for 2010 ended up falling short due to a flaw in the HMS database. She stated that the data pulled from the HMS system did not account for the population living in assisted living facilities. She stated that development potential can be calculated in a number of different ways and that staff used a conservative approach. When the survey arrived in 2010 staff had already anticipated methods in the Comprehensive Plan to accommodate growth and the provisions of the statute. Areas had already been designated as high-density growth areas with the intention to use new-urbanist/traditional neighborhood development principles. She stated that if we withdrew our certification take extra time to review our policies we would miss the July 1, 2011 deadline. She stated that undertaking a separate process would take staff away from other projects including the Zoning Ordinance update.

Mr. Murphy stated that he feels the approach staff has taken works. He stated that staff has a proposal that preserves the integrity of the 2009 Comprehensive Plan. The new legislation from the state should not be taken as an impetus to reexamine intended land use patterns. The Historic Triangle Comprehensive Plan Coordination effort is an examination of those areas where the three localities border one another. He stated that this effort is not intended to reexamine the work completed with the 2009 Comprehensive Plan. Staff has already accounted for UDAs within the PSA through the 2009 Comprehensive Plan.

Mr. Peck stated that those are all valid arguments. He stated that the Planning Commission is charged with making policy recommendations to the Board of Supervisors on the Comprehensive Plan. He stated that within the Comprehensive Plan Implementation Schedule it states that after the 2009 study staff would return to working with the Planning Commission and the Board on UDAs. He stated that further measures need to be taken to ensure that certain areas are used for high density development to limit further sprawl.

Mr. Murphy stated that the state did not follow through with the promised money for road improvements.

Ms. Rosario stated that this legislation has been in flux for some time. She stated that the study group took much longer than they had expected, further delaying staff's analysis of the statute's requirements.

Mr. Murphy stated that if the County is interested in examining areas in the PSA this could be done during the 2014 Comprehensive Plan update.

Mr. Peck stated that he was under the impression that James City County, the City of Williamsburg and York County were going to synch up and complete individual Comprehensive Plan updates concurrently.

Ms. Rosario stated that this idea is good in theory, though it may not be practical. She stated that it may take a different length of time for each locality to complete their update. She stated that staff will put in a good faith effort for the regional synchronization and attempt to address regional issues.

Mr. Murphy stated that it will not be a regional comprehensive plan.

Mr. Woods asked if the regional coordination is something new.

Mr. Murphy stated that it was.

Mr. Woods asked if the County Attorney has been consulted on whether or not the County is in compliance with the state's requirements.

Mr. Murphy stated that the County is compliant.

Mr. Peck stated that he supports UDA concepts and it would be a good vehicle to drive transfer development rights. He stated that there are many localities that are taking this initiative very seriously.

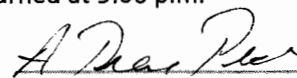
Mr. Fraley stated that he can see the greatest benefit coming from the joint efforts in working with the City of Williamsburg and York County on region-wide planning.

Ms. Rosario stated that staff's efforts to focus on the Lightfoot area during the regional effort is timely since York County's UDA is just on the other side.

Mr. Woods stated that his perception of where the community wants to go is not higher density development. He stated that he is comfortable with the measures staff has taken up to this point. He stated that if the County can certify and continue to protect the citizens' vision, then the greatest benefit would be achieved.

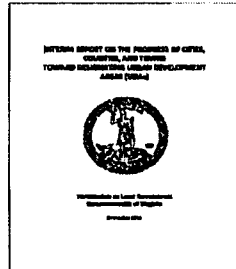
5) Adjournment

Mr. Fraley moved to adjourn. The meeting was adjourned at 9:06 p.m.



Reese Peck, Chair of the Policy Committee

Urban Development Areas



Local Government Commission (LGC) August 2010

- On August 18, 2010, the LGC sent a questionnaire regarding JCC's UDA designation status to County Administrator Middaugh
- County had multiple options to select from
- I will review the two most germane to our situation.

Local Government Commission (Continued)

- **Option 1-** Our locality determined that its comprehensive plan accommodates growth in a manner consistent with the requirement to incorporate one or more UDAs but has not yet adopted a resolution certifying compliance with the UDA requirement
- **Option 2-** Our locality will wait until the report of the 2010 Census to determine whether it will amend its comprehensive plan to incorporate one or more UDAs

Why Is This Important?

- Staff analysis indicates our UDA designated areas support 6,648 DUs
- Using the 2010 VEC population projection and U.S. Census average household size data indicated we need 7,157 DUs to be compliant

**Using VEC Data as of August 2010
JCC Failed
The Certification Test**

- 2010 - 65,890
- 2020 - 82,781
- 16,891 or 25.64%
- Household size - 2.36

- $16,891 / 2.36 = 7,157$ DUs needed
- UDA designated areas support 6,648 DUs
 - **Fails**
 - $6,648 < 7,157$

**August 2010 Certification
Additional Deficiencies**

- County does not have any local incentives for development in UDAs
- No structure exists to target local, state and federal development grant to UDA's
- No public input was sought on areas to be certified
- No formal coordination had taken place with surrounding jurisdictions or PCD
- No consultation with JCC Planning Commission

**2011
Engage or Certify**

**2010 Census
Options**

There are four variables in the VEC projections - the 2010 base, 2020 projection, the rate of increase over 10 years and the absolute increase over 10 years. When the 2010 census data for population is used as the base only one of the other three variables can be held constant creating three different options for us to consider.

Selection Criteria

- Meet consistent with the fact that growth is occurring at a higher rate than projected
- Meet consistent with Planning Department's official projections



2000 Comprehensive Plan Projections

	2000	2010	2020	% Increase
Virginia Employment Commission	65,890	82,780	106,290	25.84%
Official James City County Planning Division Projection	65,717	84,772	109,053	29.52%

Source: 2000 James City County Comprehensive Plan

Note: The Planning Division's projection translates to an average growth rate of approximately 3% per year from 1970 to 2030. VEC projection anticipates a slower growth rate over the same period.

Option 1 – Hold VEC 2020 Population Increase Constant

- Assumptions
 - 2020 Population – 87,000
 - 2020 Population Projection – 83,900
 - Household Size – 2.49
 - 2000-2020 increase of 16,870
 - 2010-2020 percent increase of 25.22%
 - That must generate a threshold less than 6,648 DUs
 - Official JCC 2020 Projection 84,772 (29%)

Option 1 – Use VEC Population Increase Projection and Census Household Size
 $16,891/2.49=6,784$ DUs needed
 UDA designated areas support 6,648 DUs
Fails
 $6,648 < 6,784$

Option 2 – Hold VEC Percentage Increase Constant

- Assumptions
 - 2020 Population – 87,000
 - 2020 Population Projection – 84,190
 - Household Size – 2.49
 - 2000-2020 increase of 22,280
 - 2000-2020 percent increase of 33.8%
 - That must generate a threshold less than 6,648 DUs
 - Official JCC 2020 Projection 84,772 (29%)

Option 2 – Use VEC Population Percentage Increases Projection and Census Household Size
 $22,181/2.49=6,900$ DUs needed
 UDA designated areas support 6,648 DUs
Fails
 $6,648 < 6,900$

Option 3 – Hold 2020 VEC Projection Constant

- Assumptions
 - 2020 Population – 87,000
 - 2020 Population Projection – 84,770
 - Household Size – 2.49
 - 2010-2020 increase of 25,770
 - 2010-2020 percent increase of 33.54%
 - That must generate a threshold less than 6,648 DUs
 - Official JCC 2020 Projection 84,772 (29%)

Option 3 – Use VEC 2020 Population Projection and Census Household Size
 $25,777/2.49=6,784$ DUs needed
 UDA designated areas support 6,648 DUs
Passes
 $6,648 > 6,334$

2009 Comprehensive Plan Projections

Year	2009	2010	2011	2012
Official Employment Commission	85,690	117,78	167,61	235,841
Official James City County Planning Division Projection	85,117	114,772	160,055	228,526

Source: 2009 James City County Comprehensive Plan

Note: The Planning Division's projection translates to an average growth rate of approximately 3% per year from 1970 to 2030. VEC projections anticipate a slower growth rate over the same period.

Option 1 – Hold VEC Absolute Increase Constant

- Assumptions
 - 2010 Population – 87,009
 - 2020 Population Projection – 83,908
 - Household Size – 2.49
 - 2010-2020 increase of 16,891
 - 2010-2020 percent increase of 19.23%
 - Tests must generate a threshold less than 6,648 DUs
 - Official JCC 2020 Projection 84,773 (19%)

Option 1 – Use VEC Population Increase Projection and Census Household Size
 $16,891 / 2.49 = 6,784$ DUs needed
 UDA designated areas support 6,648 DUs
Fails
 $6,648 < 6,784$

Option 2 – Hold VEC Percentage Increase Constant

- Assumptions
 - 2010 Population – 87,009
 - 2020 Population Projection – 84,190
 - Household Size – 2.49
 - 2010-2020 increase of 27,181
 - 2010-2020 percent increase of 31.64%
 - Tests must generate a threshold less than 6,648 DUs
 - Official JCC 2020 Projection 84,773 (19%)

Option 2 – Use VEC Population Percentage Increases Projection and Census Household Size
 $27,181 / 2.49 = 6,900$ DUs needed
 UDA designated areas support 6,648 DUs
Fails
 $6,648 < 6,900$

Option 3 – Hold 2020 VEC Projection Constant

- Assumptions
 - 2010 Population – 87,009
 - 2020 Population Projection – 84,784
 - Household Size – 2.49
 - 2010-2020 increase of 15,773
 - 2010-2020 percent increase of 23.54%
 - Tests must generate a threshold less than 6,648 DUs
 - Official JCC 2020 Projection 84,773 (19%)

Option 3 – Use VEC 2020 Population Projection and Census Household Size
 $15,773 / 2.49 = 6,784$ DUs needed
 UDA designated areas support 6,648 DUs
Passes
 $6,648 > 6,334$

Summary

Original problem created by under estimating growth. Option 2 is the most consistent with the proposed selection criteria.

- However staff chose option 3 with:
 - Smallest growth rate
 - Smallest absolute population growth
 - Deviates the most from the Planning Department's own official 2020 project

Next Step

?