

POLICY COMMITTEE MEETING

September 6, 2011

4:30 p.m.

County Complex, Building A

1) Roll Call

Present

Mr. Jack Fraley

Mr. Al Woods

Mr. Tim O'Connor

Absent

Mr. Rich Krapf

Staff Present

Mr. Allen Murphy

Ms. Tammy Rosario

Ms. Jennifer VanDyke

Ms. Kate Sipes

Ms. Melissa Brown

Mr. Jack Fraley called the meeting to order at 4:30 p.m.

2) Minutes

a) June 16, 2011

Mr. Tim O'Connor made a motion to approve the minutes. The minutes were approved in a unanimous voice vote.

b) July 13, 2011

Mr. O'Connor made a motion to approve the minutes. The minutes were approved in a unanimous voice vote.

c) July 18, 2011

Mr. O'Connor made a motion to approve the minutes. The minutes were approved in a unanimous voice vote.

3) Old Business

Mr. Fraley clarified the date and time for the next meeting to be September 15 at 1:30 p.m.

4) New Business

a) Nonconformities

Ms. Melissa Brown presented the staff report.

Mr. Fraley stated that he would like to see a definition for structures.

Ms. Brown stated that this will be included in the definitions section of the ordinance.

b) R-3, Residential Redevelopment Districts

Mr. Fraley asked staff if there will be a commercial redevelopment district.

Ms. Kate Sipes stated that discussions surrounding this subject surfaced concerns regarding practicality. Staff decided that there were appropriate tools already available for commercial redevelopment.

Ms. Tammy Rosario stated that staff had made the determination that the existing ordinance provisions, along with recent changes, provide the flexibility necessary for commercial redevelopment projects. She stated that there are mechanisms outside of the ordinance that could be further explored.

Mr. Fraley stated that he would like to see more incentives provided for commercial redevelopment.

Ms. Sipes stated that the discussion with residential redevelopment began with the acknowledgement that the Zoning Ordinance did not provide a great deal of flexibility for residential redevelopment projects. She stated that other than the Mixed Use district (which excludes those projects that are exclusively residential) and the Cluster Overlay district, there are no tools available for residential redevelopment projects involving existing parcels with boundary lines and structures. She stated that commercial districts already have many tools and provisions offering flexibility.

Mr. Murphy stated that there is nothing that would prevent interested parties from redeveloping commercial property. He stated that the proposed residential redevelopment district is tailored for Office of Housing and Community Development and the type of projects they lead. He stated that the Forest Heights rezoning case is an example of an attempt to best use the existing tools for a complex residential redevelopment project. He stated that if the proposed district was already made available they could have used it for the Forest Heights project. He stated that for commercial redevelopment projects there are a variety of options to choose from.

Mr. Fraley stated that he still would like to see incentives available for those shopping centers that have several vacant storefronts.

Mr. Murphy stated that the proposed residential district does not provide incentives; it provides flexibility for redevelopment projects.

Mr. Fraley stated that he sees incentives with the proposed residential district.

Mr. Murphy stated that there are incentives to go above a certain density. He stated that there is considerably more flexibility available for residential redevelopment projects with this district. He stated that with this district there is an expectation that the majority of the housing made available will be affordable or workforce housing. He stated that the flexibility granted will be dependent upon the percentage of affordable housing.

Mr. Woods asked Mr. Fraley what sort of incentives he was considering.

Mr. Fraley stated that the permitted uses could be broadened. He stated that greater leniency with setbacks could be considered.

Mr. Murphy stated that there is a zoning category available that offers this flexibility, the Mixed Use district.

Mr. Woods asked if there is a risk involved in providing this flexibility with strategic locations within the community when the leading cause for these commercial vacancies is a downturn in the economic cycle (seen well-beyond James City County [JCC]). He stated that this scenario, if it short-circuited the normal lifecycle process, could change the character of the community significantly.

Mr. Fraley stated that the community will still need to abide by the Comprehensive Plan Land Use Map designation which would prevent a significant change in character. He stated that he does not believe that we are in a short downturn. He stated that measures need to be taken to reinvigorate business within JCC; otherwise the tax burden on residential home owners will become too great.

Mr. Woods asked Mr. Murphy what other communities are doing in response to the depressed economy.

Mr. Murphy stated that everyone is facing the same dilemma. He stated that banks are not offering up money for redevelopment projects. He stated that incentives can be offered. He stated that this body could consult the Office of Economic Development to hear suggestions from a County policy standpoint. He stated that it may or may not translate to suitable changes to zoning districts. He stated that our immediate need is for the residential redevelopment district.

Mr. Woods asked Ms. Sipes to walk through the proposed changes to previous drafts.

Ms. Sipes stated that staff realized the need for a new residential zoning district that was intended for those projects requiring significant reconfiguration. She stated that staff was looking to accommodate those areas where investments have been or were planned to be made in existing neighborhoods. She stated that those investments would include significant improvements to roads, upgrades to water and sewer services, stormwater improvements and bringing parcels into greater conformance. She stated that staff did not want to write the new district as a tool that would exclusively serve the County's Office of Housing and Community Development, but projects of this nature are often undertaken by that office. She stated that the new district could prove to be useful to private developers as well, depending on the market. She stated that in exchange for the increased flexibility, the County would benefit from measurable public benefits. She stated that most of the older existing neighborhoods have houses that are built closer together than newer neighborhoods. She stated that due to this trend, it seems appropriate to have a slightly higher density than other residential districts.

Ms. Sipes stated that the base density starts at one unit per acre in R-1 and R-2. She stated that this district's base density would be 2.5 units per acre. She stated that there is a point system that allows for greater density, up to 4 units per acre. She stated that the permitted uses are very comparable to other residential zones. She stated that areas to be considered for this district would need to be in the Primary Service Area (PSA). Ms. Sipes stated that the open space requirements for the new district are the same as R-1, ten percent. She stated that there is a slight nuance with the ownership of open space; this has been problematic in the past. She stated that existing property owners cannot be forced into a Home Owners Association (HOA), yet open space is being added into the

neighborhood. She stated that the solution could include a volunteer HOA, or the property owners would need to demonstrate how maintenance would be continued on the common property.

Mr. Woods asked if issues have come up in the past with this arrangement.

Ms. Sipes stated that in the past there have been difficulties regarding maintenance agreements. She stated that staff is considering different creative solutions. She stated that the County Attorney's office has also been working on finding new solutions.

Mr. Woods asked if staff had considered levying a tax to cover the cost of maintenance.

Mr. Fraley stated that this had been tried in the past. He stated that the recipients resisted.

Mr. O'Connor stated that he has difficulty accepting the proposal due to this unresolved issue. He stated that the intent is to provide more affordable housing, yet you defeat this purpose when property owners are charged HOA dues. He stated that it seems unfair to ask the existing property owner to pay dues when they originally purchased the property unencumbered.

Ms. Sipes stated that the existing property owner can voluntarily participate but, it cannot be required. She stated that for a project of this nature to move forward the existing property owners would have to agree upon their property being rezoned and any changes to the property lines and/or structures. Agreeing to participate in a new HOA would ideally be brought up at the front end of the process, when interest in the proposal from property owners is being evaluated.

Mr. Woods asked if there is an enforcement mechanism.

Mr. Fraley stated that when Ironbound Square was going through a similar process there was some animosity that surfaced with the existing property owners, but in the end it did work out. He asked if this experience can be used as a model.

Ms. Sipes stated yes, but one should not anticipate a repeat of that occurrence. She stated that staff wanted to build upon that experience without the anticipation that the same problem would crop up or that the solution with one could be universally applied. She stated that from this experience staff learned that there needs to be flexibility. She stated that a formal HOA will be used for new neighborhoods, but not necessarily for neighborhoods with existing homes. She stated that a mechanism needs to be put in place to maintain any new public improvements.

Mr. Woods asked if the County can assume responsibility for the maintenance.

Ms. Tammy Rosario stated that it could.

Mr. Murphy stated that staff wants to achieve some flexibility written into the ordinance that allows new property owners to participate in an association that maintains new public improvements along with voluntary arrangements for existing property owners.

Mr. Woods asked if staff is comfortable with a voluntary agreement knowing that it may be reversed at a later date.

Mr. Murphy stated that if the voluntary arrangement is not fulfilled the County will likely assume the responsibility.

Ms. Rosario stated that the alternative would have to be approved ahead of time.

Mr. Murphy stated that thus far the County has taken responsibility for regional facilities but not for isolated private facilities.

Mr. Woods asked if in the case that the property owners volunteer to cover the costs and then back out, could the County perform the maintenance and charge the property owner once completed. He stated that the County would be billing the property owner subject to an agreement that was made.

Mr. Murphy stated that that is possible.

Mr. O'Connor stated that he struggles with the idea of the whole benefitting and a percentage paying for it.

Mr. Woods asked if this problem will consistently crop up with this type of residential redevelopment.

Mr. Murphy stated perhaps. He stated that you do get into rules for redevelopment according to the Chesapeake Bay Preservation Ordinance.

Ms. Rosario stated that it also depends upon the nature of the redevelopment project and if the new infrastructure would purely benefit the new property owners or the neighborhood as a whole. She stated that the first scenario would likely happen less frequently than the second.

Mr. Murphy stated that the proposed text provides a framework, yet each case would be treated individually.

Mr. Woods asked what arrangement was made for Ironbound Square.

Ms. Sipes stated that the maintenance of the regional stormwater facility was assumed by the County, but this facility benefitted more than Ironbound Square residents.

Mr. Fraley stated that if the County is going to reap the benefit than the County should assume the responsibility and costs. He stated that this may mean that additional fees/taxes need to be required to cover the cost.

Mr. Murphy stated that this scenario may be the end result but one would want to weigh out other options first.

Ms. Rosario stated that the current language does not restrict the option.

Mr. O'Connor stated that affordable and workforce housing is a benefit to the community. He stated to this point, exceptions need to be made to achieve the goal. He asked if the developer can proffer money for future maintenance costs.

Mr. Murphy stated that they could.

Mr. Woods stated that by proffering money the incentives are lost.

Mr. Fraley pointed out that the developer is typically putting in money to cover the start-up costs for the HOA.

Mr. Woods stated that the described method for handling maintenance costs has the potential of becoming a system where people are treated inequitably.

Mr. Murphy stated that we are going to make every effort to have all property owners participate. He stated that everyone will experience benefit from these improvements, providing further inducement.

Ms. Sipes stated that community conversations before commencing such projects will include weighing the benefits of common space versus the cost/efforts of maintaining the space.

Ms. Sipes continued reviewing the proposed changes.

Mr. Fraley offered alternatives to the language, "Projects seeking rezoning to the R-3, Residential Redevelopment District, should meet or exceed the following expectations."

Mr. Fraley stated that this designation is intended for low density residential on the 2009 Comprehensive Plan Land Use Map. He asked if staff had considered using it in other areas.

Ms. Sipes stated that staff had at one time considered it for moderate density residential. She stated staff eventually decided that R-5 would be a more suitable alternative.

Mr. Murphy stated that a recent example of this is the apartment complex known as Longhill Grove. He stated that the owner tore down the apartment complex to rebuild them. He stated that the R-5 zoning suited the County's and the owner's needs.

Mr. Fraley asked staff to look back over the language on Sec. 24-G and consider including a reference to steep slopes.

Mr. O'Connor asked to replace the word "structure" in Sec. 24-H.

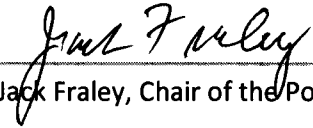
A discussion ensued regarding the first two sentences of Sec. 24-H.

Mr. Woods asked his fellow commissioners if they would like a statement in the cover memo to accompany the materials going to the Board of Supervisors (BOS) regarding those issues that were left unresolved.

Mr. Fraley stated that he would. He stated that a memo describing the debate would be useful. The memo should address applying different standards to common property maintenance.

5) Adjournment

Mr. Woods moved to adjourn. The meeting was adjourned at 5:32 p.m.



Jack Fraley, Chair of the Policy Committee