

MINUTES
JAMES CITY COUNTY POLICY COMMITTEE
REGULAR MEETING
Building A Large Conference Room
101 Mounts Bay Road, Williamsburg, VA 23185
January 12, 2023
4:00 PM

A. CALL TO ORDER

Mr. Jack Haldeman called the meeting to order at approximately 4:00 p.m.

B. ROLL CALL

Present:

Jack Haldeman, Chair
Rich Krapf
Tim O'Connor
Frank Polster

Staff:

Josh Crump, Principal Planner
Ellen Cook, Principal Planner
John Risinger, Planner II
Jose Ribeiro, Senior Planner II/Landscape Planner
Thomas Wysong, Senior Planner II
Andrea Case, Community Development Assistant
Liz Parman, Deputy County Attorney

C. MINUTES

Mr. Rich Krapf requested a correction to page 3 of the November 10, 2022, minutes.

Mr. Krapf made a motion to Approve the November 10, 2022, meeting minutes, as corrected, and the December 8, 2022, Meeting minutes.

The motion passed 4-0.

1. Minutes of the November 10, 2022 Meeting
2. Minutes of the December 8, 2022 Meeting

D. OLD BUSINESS

1. ORD-22-0001. Amendments for Scenic Roadway Protection

Mr. Haldeman stated that the Policy Committee had already made several decisions on this item in past meetings. He stated his understanding of the items remaining for Policy Committee discussion. Mr. Haldeman asked for staff confirmation.

Mr. Wysong confirmed Mr. Haldeman's list and clarified that the 400-foot setback would apply along both Forge and Old Stage Roads.

Mr. Krapf asked for clarification on the provision to allow structures to expand.

Mr. Wysong confirmed that a structure within or partially within the setback would be able to expand, but not toward the roadway.

Mr. Wysong stated that as requested by the Policy Committee at its last meeting, staff had done analyses of Forge Road and Old Stage Road and included the nonconformities data and visual impact graphics in the packet. Mr. Wysong summarized the nonconformities data, noting how the potential exemption for parcels less than 500 feet in width would affect the numbers of nonconforming structures.

Mr. Haldeman asked that the Committee consider Forge Road first.

Mr. Krapf complimented the packet materials.

Mr. Polster discussed the setback under consideration and its relationship to other potential Ordinance amendments for the A-1 cluster standards. Mr. Polster stated that it was his understanding that the appropriate width of the setback in a cluster development could be considered separately as part of the Cluster Ordinance standards.

Staff confirmed.

Mr. Polster stated that he took that to be an issue to be settled at some other point then, but wanted it noted for this Ordinance item that the Cluster Ordinance amendments were yet to come. Mr. Polster added that he found the map showing the conservation easements to be very helpful in demonstrating that the setback would help and enhance what is already in place.

Mr. O'Connor stated that he thought 400 feet is excessive, noting the substantial area that would be potentially within the setback for parcels along these roads. Mr. O'Connor questioned the visual impact of a house on a 20-acre lot that has a long stretch of road frontage since the house will be surrounded by hundreds of feet that will be open to the sides and rear. Mr. O'Connor noted that the next potential Ordinance amendment regarding how density is calculated could also impact these parcels. Mr. O'Connor stated that the setback is a taking, in his opinion, and reduces the developable land available to property owners. Mr. O'Connor noted that there had been recent changes to the minimum lot size requirement that affected A-1 property owners as well.

Mr. Haldeman stated that he had sent staff a question to ask if most of the buildings that are more than 400 feet from the road are now zoned for the one unit per 20 acres ratio, and it is roughly half of the structures on Forge Road. Mr. Haldeman stated that this supported Mr. O'Connor's thought that a 400-foot setback is not really needed for the scenic view, as the units will be separated regardless.

Mr. O'Connor asked who the viewsheds are being protector for, and whether citizens understood what areas of the County are actually designated Rural Lands. He added that the County has also recently significantly reduced the development potential of these lots via minimum lot size changes.

Mr. Krapf acknowledged that because he lives on Forge Road he may be biased, but that the visual simulations provided with the packet got his attention. While the houses may not be on top of each other, the placement can still be impactful. Mr. Krapf discussed the concept of the setback being a "taking," noting the setback would not deny the owner the use of the land, and provided examples of agricultural or livestock uses on parcels that neighbor his property.

Mr. O'Connor stated that some properties along Forge Road had received an incentive in exchange for the 400-foot setback via the Purchase of Development Rights (PDR) program. In the case of the setback under consideration, there is no incentive.

Mr. Krapf stated that a landowner still had many alternatives for using the land within the setback area.

Mr. Haldeman stated that the setback was not a taking from a legal point of view and asked for confirmation.

Ms. Parman confirmed.

Mr. Polster returned to Mr. Haldeman's question about the number of parcels that are 20 acres or more, and asked staff where these parcels were.

Mr. Wysong stated that staff did not have that information immediately available.

Mr. Polster stated he brought this up in relation to the evaluation of incentives or disincentives, with cluster development being a part of this consideration. He stated that as long as this analysis could be revisited, he was okay with the update to the setback section to specify 400 feet.

Mr. O'Connor stated that while other Ordinances, such as Cluster, may still be under consideration, they are not approved, so they remain an unknown.

Mr. Polster acknowledged this issue. Mr. Polster asked if a cluster development would be allowed to have smaller lots than 20 acres.

Mr. Wysong stated that cluster would allow this.

Mr. Polster stated that this was another way of looking at incentivizing a property owner, by potentially allowing for increased density above the one unit per 20 acres for preservation of open space in a cluster.

Mr. Haldeman asked if the Committee felt it was possible to move forward with the setback, separate from other possible Ordinance changes.

Mr. Polster stated that perhaps not everyone would feel comfortable since there is no way to assure future Ordinance changes.

Mr. Haldeman asked if there was a setback expansion that Mr. O'Connor would find acceptable.

Mr. O'Connor stated that he was open to anything. He stated that if someone on Forge Road had a 20-acre lot, that they would not put their home up near Forge Road.

Mr. Krapf asked what the problem would be with having the expanded setback then.

Mr. O'Connor objected to taking away the property owner's choice. He provided an existing example of an approximately 20-acre property with a house on it which he does not feel presents a visual blight. He stated that the County had recently impacted A-1 property owners through the minimum lot size change, and that if there were to be additional setback requirements, the County should give the property owners something back. He stated that the County should compensate property owners via mechanisms such as a special tax district or purchase of conservation easements, or via higher density or clustering options. He stated that any incentives should be part of the package with the setbacks because otherwise there are no guarantees.

Mr. Haldeman sought clarification from the Committee on the draft recommendation, whether it was correct to state it as assuming that the Committee recommends approval of the 400-foot setback, but that in exchange there be approval of a clustering Ordinance.

Mr. Krapf asked if the Ordinance amendment would be a topic of discussion at the Board of Supervisors (BOS) Business Meeting on January 24. He asked if it would be helpful to express the concerns of the Policy Committee to the BOS.

Mr. Wysong confirmed.

Mr. Haldeman asked if the Committee could make a motion with a recommendation to the Planning Commission regarding incentives.

Mr. Polster stated that the Committee should seek additional guidance from the BOS regarding standards to incentivize cluster developments in Rural Lands.

Mr. Krapf asked if the Committee's concerns were regarding the 400-foot setback and not the other questions raised by staff.

Mr. Wysong stated that the two other questions were whether parcels less than 500 feet deep should be exempt and whether structures in the setback should be allowed to expand as long as they do not expand towards the scenic road.

Mr. Krapf stated that he did not have concerns for those points but that there should be discussions regarding whether it is appropriate to compensate landowners for the 400-foot setback.

Mr. Polster stated maps showing the potential setbacks should be provided to the BOS so they could give additional guidance.

Mr. Haldeman asked if the Committee would table the discussion.

Mr. Polster stated that the discussion should be tabled until there was further guidance from the BOS.

Ms. Cook stated that it could be helpful if the Committee provided recommendations to the BOS.

Mr. Polster stated he was interested in reviewing standards for cluster developments and how they relate to the 400-foot setback.

Mr. Wysong asked if it was fair to say that the Committee was interested in exploring a variety of potential incentives to offset the setback.

Mr. Polster agreed.

Mr. Krapf agreed.

Mr. O'Connor stated that there should be an incentive for the landowners and the goal of the amendment should be clearly defined.

Mr. Haldeman asked if the recommendation would be that a majority of the committee supports the three topics discussed with some tradeoffs for the 400-foot setback.

The Committee agreed.

Mr. Krapf asked if staff had enough direction to go to the January 24, 2023, BOS Business Meeting.

Ms. Cook stated that the direction would be included in the memorandum and that the Planning Commission Chair and Policy Committee Chair would be at the meeting to convey the Committee's discussion.

Mr. Polster stated that the role of density bonuses would be a consideration for the next item on the Committee's Agenda.

Mr. O'Connor stated that he viewed the impacts of the proposed amendments integrally.

Mr. Haldeman stated that the heart of the discussion was around the County's policy to discourage residential development in the Rural Lands. He asked if the Committee was ready to discuss the next item on the Agenda.

Mr. Polster asked if there would be discussion about Old Stage Road.

Mr. Haldeman stated that he had been considering Old Stage Road as part of the recommendation along with Forge Road.

Mr. Polster stated that his request for maps for Forge Road should carry forward to Old Stage Road. He asked about the exhibit in the packet, questioning why the 400-foot setback was not shown for a parcel that was north of a narrow parcel along Old Stage Road.

Mr. Wysong stated that the parcel did not abut Old Stage Road.

Mr. Polster stated that he had concerns that the setback would not apply to the parcel. He stated that he was ready to discuss the next item on the Agenda.

E. NEW BUSINESS

1. ORD-22-0003. Amendments for Calculation of Residential Development Density

Mr. Risinger stated that a request was made at the March 8, 2022, BOS meeting to bring forward an Initiating Resolution to consider amending the methods for calculating residential density with a direction to use a net acreage calculation. He stated the Initiating Resolution was adopted on April 12, 2022. He stated that residential density is calculated by dividing the number of residential units by the acreage of the property. He stated that the acreage being considered could be determined by the gross acreage, net acreage, or an alternative method. He stated that the A-1, R-6, and R-8 Districts currently only specify minimum lot sizes and not density requirements. He stated that the R-1, R-2, R-3, R-4, R-5, PUD, MU, and Residential Cluster Development Overlay Districts currently utilize a stepped approach where a percentage of the gross acreage can be added to the developable acreage.

Mr. Risinger stated that the Low Density Residential (LDR) and Moderate Density Residential (MDR) Land Use Designations in the 2045 Comprehensive Plan have recommended densities based on gross acreage while the Mixed Use and Economic Opportunity - Mooretown Road/Hill Pleasant Farm Area designations have recommended densities based on net acreage. He stated that a gross acreage calculation would be most consistent with the LDR and MDR designations.

Mr. Risinger stated that the Land Use Chapter of the 2045 Comprehensive Plan also indicates

that residential growth is intended to occur inside the Primary Service Area (PSA) and that infill development and redevelopment is encouraged to occur inside the PSA. He stated that the Land Use Chapter acknowledges that directing growth inside the PSA results in more efficiency for public services. He stated that moving to a net acreage calculation could reduce the residential capacity of the PSA and could increase growth pressure outside the PSA.

Mr. Risinger stated that the goals of the Workforce Housing Task Force and the 2045 Comprehensive Plan Housing Chapter support creating opportunities for workforce housing. He stated that reducing permitted densities could impact housing affordability. He stated that compatibility between adjacent developments is another factor considered in the 2045 Comprehensive Plan. He stated that a net acreage calculation could result in adjacent developments having a consistent intensity of development if they are in the same zoning district.

Mr. Risinger stated that staff found that a gross acreage calculation may be most consistent with the Land Use Designations while a net acreage calculation may be most consistent with ensuring the compatibility of adjacent developments. He stated that the stepped approach utilized in a majority of the districts serves as a compromise between these two considerations.

Mr. Risinger stated that staff received questions from the Committee regarding the Resource Protection Area (RPA) prior to the meeting. He stated that while areas in the RPA could potentially be counted for the calculation of density, structures could not be built in the RPA without approval in accordance with the Chesapeake Bay Preservation Ordinance. He stated that the Stormwater and Resource Protection (SRP) Division reviewed new developments to ensure compliance with regulations for the RPA.

Mr. Haldeman asked if the amendments would apply to the A-1 and R-8 Districts.

Mr. Crump stated that staff had considered the initiating resolution to apply to residential districts.

Mr. Haldeman asked if the amendments would not apply to the A-1 District but would apply to the R-8 District.

Mr. Crump confirmed.

Mr. Polster asked if that would be the case for the A-1 District inside and outside the PSA.

Mr. Risinger stated that it would be the case for the A-1 District across the board.

Mr. Haldeman stated that if a property was zoned A-1 but designated for residential development in the Comprehensive Plan, the amendment would apply if the property was rezoned to a residential district.

Mr. Polster stated that there were A-1 properties inside the PSA which will potentially have development applications.

Ms. Cook stated that if the applications included a rezoning, they would be reviewed in accordance with the proposed zoning district.

Mr. O'Connor asked what the intent of the Initiating Resolution was. He stated the 2019 Citizen Survey showed support for directing growth inside the PSA which is carried forward in the 2045 Comprehensive Plan. He stated that reducing density could impact the availability of affordable housing.

Mr. Polster asked why the permitted density should have a bonus for areas in the RPA. He stated that there should be a bonus for increased buffers from the RPA.

Ms. Cook stated that density bonuses are options developers could provide in order to build additional units over the base density. She stated that the amendment being considered was regarding how to calculate the permitted base density.

Mr. Polster stated that while the current density calculation may not be a density bonus, developers are receiving credit for non-developable areas when calculating the base density.

Mr. Risinger stated that a number of zoning districts include density bonuses for having an increased buffer from the RPA.

Mr. Polster stated that was an example of an offset that a developer could achieve if a net acreage calculation was used for residential density.

Mr. Krapf asked what the reasoning was to amend the density calculation method from the current approach.

Mr. Haldeman stated that the 2045 Comprehensive Plan indicated there were approximately 10,000 undeveloped lots inside the PSA. He stated that while the 2045 Comprehensive Plan recommended having residential growth inside the PSA, the 2019 Citizen Survey indicated there was already enough or too much housing in the County.

Mr. Polster stated that properties that may be rezoned would offset any decrease to the residential capacity inside the PSA. He stated that he would support using a net acreage calculation.

Mr. Haldeman stated that he would support using a net acreage calculation but would like to explore providing density bonuses for affordable housing.

Mr. O'Connor asked what the realistic impact of changing to a net acreage calculation would be for a 100-acre property.

Mr. Risinger stated that it would depend on the amount of non-developable area on the property.

Mr. Krapf stated that some of the discussions during the Engage 2045 Comprehensive Plan update process were about having residential growth inside the PSA to take development pressure off the Rural Lands.

Mr. Polster stated that the majority of land inside the PSA is designated LDR and that applications to change the land use designation to MDR were not approved for a number of properties during the Engage 2045 Comprehensive Plan update process.

Mr. O'Connor stated that the density of residential developments directly relates to housing affordability.

Mr. Haldeman stated that there would be development pressure in the Rural Lands regardless of whether a net acreage calculation was used for residential density.

Mr. Krapf stated that the changes to increase the minimum lot size requirements in the A-1 and R-8 Districts reduced residential development outside the PSA.

Mr. O'Connor stated that he had considered that the opportunity for development inside the

PSA to be a tradeoff for increasing the minimum lot sizes in the A-1 and R-8 districts.

Mr. Krapf agreed. He stated that he would be in support of keeping the current stepped approach for calculating residential density.

Mr. Polster stated that the 2045 Comprehensive Plan did support reducing growth outside the PSA and increasing growth inside the PSA. He stated that there were conscious decisions made about land use designations to not increase density inside the PSA.

Mr. O'Connor stated that reducing permitted densities throughout the PSA was different than maintaining the current land use designations. He stated that proposed rezonings would be evaluated for consistency with the 2045 Comprehensive Plan and that the Planning Commission and the Board could determine whether the proposal had merits for the proposed density.

Mr. Polster stated that there should be additional guidance for what would be considered a public benefit from a proposed rezoning.

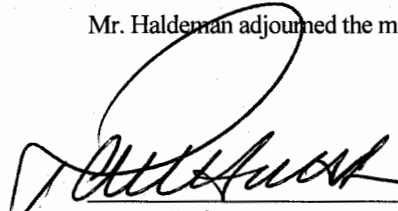
Mr. Haldeman asked if there were any further questions.

There were none.

F. ADJOURNMENT

Mr. Polster made a motion to Adjourn.

Mr. Haldeman adjourned the meeting at approximately 5:35 p.m.


Paul D. Holt, III, Secretary


Jack Haldeman, Chair