

**MINUTES**  
**JAMES CITY COUNTY POLICY COMMITTEE**  
**REGULAR MEETING**  
**COUNTY GOVERNMENT CENTER BOARD ROOM**  
**101 MOUNTS BAY ROAD, WILLIAMSBURG, VA 23185**

**October 12, 2023**

**3:00 PM**

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**A. CALL TO ORDER**

Mr. Jack Haldeman called the meeting to order at approximately 3 p.m.

**B. ROLL CALL**

**Policy Committee Members Present:**

Rich Krapf

Tim O'Connor

Frank Polster

Jack Haldeman, Chair

**Staff Present:**

Susan Istenes, Planning Director

Josh Crump, Principal Planner

John Risinger, Planner II

Thomas Wysong, Senior Planner II

**C. MINUTES**

1. Minutes of the August 10, 2023, Regular Meeting

Mr. Krapf made a motion to Approve.

The motion passed 4-0.

**D. OLD BUSINESS**

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

Mr. Wysong stated staff prepared draft Ordinance language at the direction of the Board of Supervisors at its July 25, 2023, Regular Meeting. Mr. Wysong noted the Board wanted to ensure a tiering system was used within the setback approach. He discussed the details of lot depths and the building envelope. Mr. Wysong noted the Board favored draft language that permitted lot depths of 300 feet or less with a 75-foot setback requirement, adding those dimensions were current requirements. Mr. Wysong stated lot depths of 300 to 500 feet would require a 200-foot setback and lot depths greater than 500 feet would require a 400-foot setback. Mr. Wysong noted the revised draft language was available for the Policy Committee's review

and slated for presentation at the November 1, 2023, Planning Commission meeting.

Mr. Haldeman asked if one of the charts presented was for commercial property.

Mr. Wysong confirmed commercial.

Mr. Risinger addressed the Committee regarding landscaping requirements for commercial developments as referenced in the Zoning Districts and Landscaping Ordinances. He noted the breakdown of the buffer widths for Community Character Corridors (CCCs) as well as other road types. Mr. Risinger suggested an additional category for inclusion to address the Wooded CCCs outside of the Primary Service Area (PSA). He noted this category would provide an increased buffer requirement and detailed that point. Mr. Risinger highlighted various points of the charts for the Committee. Mr. Risinger discussed the width variances and the landscaping buffers. He addressed necessary adjustments based on varying widths.

Mr. Polster noted the chart indicated Barhamsville Road would remain mainly agricultural with a zoning distinction made at Barnes Road. He stated the road was comprised of wooded area. Mr. Polster added the remaining agricultural area at the interchange was slated for development. Mr. Polster noted two parcels near the McDonald's. He indicated sewer lines and questioned why those areas remained agricultural instead of the wooded designation.

Mr. Wysong noted the Board's direction had been to remove it.

Mr. Polster stated staff had not told the Board the zone would be cut in half at the Barnes Road intersection.

Mr. Wysong noted the Board's direction was for that area to not be in the category and outside the PSA.

Mr. Polster noted the operative word was not in the category with the recommendation to place the zone in the woods.

Mr. Wysong expressed a different opinion. He questioned which section.

Mr. Polster stated the section from Anderson's Corner up to Barnes Road.

Mr. Wysong questioned if Mr. Polster was referencing the area within the PSA.

Mr. Polster confirmed yes.

Mr. Wysong stated the amendment never dealt with that point.

Mr. Polster noted the setback varied, adding the setback was only 50 feet in the agricultural zone versus the 100-foot setback in the standard zone. He discussed several points cited in the charts.

Mr. Haldeman noted Barhamsville Road was not included on the Scenic Road list.

Mr. Risinger noted review of the area's designation for future Comprehensive Plans.

Mr. Polster noted the importance of addressing the protection of the rural character of the road from Anderson's Corner to Barhamsville Road to the Board.

Mr. O'Connor asked what parameters were used to define extensive agricultural uses.

Mr. Wysong referenced the Zoning Ordinance.

Mr. O'Connor asked if he owned horses on Forge Road would he be allowed to have a small pole barn near the road. He questioned another scenario and the implications regarding setbacks.

Mr. Wysong stated yes if the setback was met.

Mr. O'Connor noted that was his point. He addressed the rural economic development perspective particularly in relation to time and money invested.

Mr. Krapf stated he thought the demand for individual landowners to sell as separate entities would be less compared to using farmer markets. He noted that point still encouraged rural economic development.

Mr. O'Connor stated when this Ordinance is implemented, those particular uses are stricken. He noted the setback impact to roadside stands. Mr. O'Connor noted potential horse farms with a house outside the 400-foot setback with a paddock in front and there would not be room for the horses as it would need to be further back than 400 feet.

Mr. Haldeman noted Mr. O'Connor's point was valid in relation to farms.

Mr. O'Connor noted one discussion point focused on protection of rural lands and identifying uses. He stated only half could be done.

Mr. Polster commented on Mr. O'Connor's point and addressed Forge Road. He focused on the first half of Forge Road, particularly on the left side, noting numerous horse farms with outbuildings. Mr. Polster asked if those outbuildings were permitted within 400 feet.

Mr. Wysong stated he would confer with the Zoning Division to determine if those outbuildings were considered structures.

Mr. O'Connor questioned septic systems failures and relocation impacts regarding the setbacks. He addressed the criteria established for landowners and developers and potential consequences.

Mr. Krapf questioned if there was a Special Use Permit (SUP) option. He referenced a failed septic system in the back of the property with relocation creating an encroachment to the setback. Mr. Krapf asked if a case-by-case review could be incorporated into the Ordinance for such instances.

Mr. Wysong noted that option was available through the Board of Zoning Appeals. He stated remediation could be granted, but there were no guarantees.

Mr. Polster asked Mr. Wysong if he knew the number of nonconforming facilities on Forge Road or was that information available through the Zoning Division.

Mr. Wysong asked if Mr. Polster was referencing food stands and such.

Mr. Polster confirmed yes.

Mr. Wysong noted he did not have that breakdown, but he would get it for the Committee.

Mr. Risinger stated the nonconforming analysis had identified aerial images. He noted the structures referenced earlier would be visible, adding not all were possibly seen.

Mr. Polster noted the point of nonconforming versus conforming structures.

Mr. O'Connor addressed the possible repercussions from some of these changes. He noted the balance of finding potential uses for development and setback requirements.

Mr. Polster noted staff would check on the nonconforming component as it related to horse stands.

Mr. Wysong noted he would check with the Zoning Administrator regarding if the horse stands were considered structures. He added the State Code could be referenced regarding those structures also.

Mr. O'Connor noted the draft language would need revision to move the wording from intensive agricultural uses.

Mr. Wysong noted discussion with the Zoning Administrator to that point, adding numerous agricultural uses existed. He further noted the enforcement aspect of agricultural structures.

Mr. Krapf asked if the discussion point focused on intensive agricultural versus agricultural.

Mr. Wysong noted intensive agricultural encompassed large enclosures and not smaller agricultural structures.

Mr. Krapf stated if the agricultural structures were included then a square footage component needed to be added to the language.

Mr. Wysong noted that was a good point, but the County Attorney's Office had indicated that type of specificity could not be incorporated as it then created an Overlay District.

Mr. O'Connor asked if the buffer requirements were part of the vote.

Mr. Risinger noted the requirements were considered as part of the buffers as discussed at the Committee's April meeting with a vote on the language. He asked if the Committee had additional questions or comments. Mr. Risinger noted the key point was the buffer width requirement for major subdivisions. He referenced the A-1 section and the 200-foot buffer for major subdivisions.

Mr. O'Connor questioned the reference to road right-of-way or just to Forge Road.

Mr. Wysong explained a major subdivision required a state-maintained road. He noted his understanding was a buffer would be required on that right-of-way.

Mr. O'Connor referenced some area developments and landscaping to replace wooded areas. He noted particular examples and questioned if buffering outside the main road was necessary.

Mr. Risinger stated the buffer requirement would not be applicable within the major subdivision. He noted he would confirm that point.

Mr. O'Connor asked if a major development was inside a Wooded CCC then would it remain in a natural state or would the corridor be planted.

Staff noted conferring with a Landscape Planner if the existing vegetation was substantial enough to meet that requirement. Staff added that would need to be approved during the planning stage with a tree inventory. Staff noted based on the Committee's discussion regarding buffering and trees, he would follow up with Mr. Jose Ribeiro, Senior Planner II/Landscape Planner.

Mr. Haldeman noted the buffering requirements had been approved by the Committee, but the setbacks were still pending. He stated the setbacks could be readdressed with exceptions or other points. Mr. Haldeman noted 400-foot setbacks were excessive in his opinion, but the Board had favored that option. He stated his support with two exceptions.

Mr. Krapf was supportive of the draft language, adding he favored the 400-foot setback. He noted the need to clarify nonconforming versus conforming structures. Mr. Krapf referenced the point of preservation of the viewshed and trees, particularly with removal of existing vegetation to then replant with different vegetation and landscaping. He noted the cost and time involved in such a process.

Mr. Wysong stated he would review the wording of roads and buffers in relation to the Committee's interpretation.

Mr. O'Connor questioned Best Management Practice (BMP) and the front buffer.

Mr. Polster questioned wooded corridor or any corridor.

Mr. O'Connor referenced the language and who made the decision.

Ms. Istenes noted she would probably make that decision. She addressed several points about BMPs and buffers with design standards.

Mr. Haldeman questioned if the Committee voted on this draft language, then clarification on Section 24-223a with regard to planned right-of-way and identification of the agricultural structures would be needed.

Mr. O'Connor noted landscaping along wooded buffers was a separate issue.

Mr. Haldeman made a motion to recommend approval of the draft Ordinance language for the draft buffer and timbering language revisions as shown in the memorandum to the Planning Commission.

The motion passed 3-1.

Mr. Polster questioned Barnes Wood as a Wooded CCC and not as Agricultural.

Mr. Wysong asked if Mr. Polster was referencing the area outside the PSA.

Mr. Polster confirmed.

Mr. Wysong noted it was advised to remove the reference and the section of Old Stage Road outside of the PSA no longer be classified as a CCC. He stated that was based on direction from

the Board of Supervisors.

Mr. Polster noted that point needed incorporation into the next Comprehensive Plan. He stated the area from Anderson's Corner to Barnes Road on Route 30 be changed from Open Agricultural to Wooded CCC. Mr. Polster added that was inside the PSA.

#### **E. NEW BUSINESS**

##### **1. Comprehensive Plan Amendment: Community Character Corridor and Short-Term Rental Development Standards Revision**

Mr. Wysong highlighted the Board's direction for Planning staff to revise the CCC corridor table list to address the portion of Old Stage Road outside of the PSA to no longer be classified as a CCC. He noted the second point addressed removal of the criteria that short-term rentals have the property owner(s) live on the property and detailed those changes.

The Committee discussed points identified by national legislation and neighboring localities regarding short-term rentals. Discussion points also addressed on-site owners versus property managers within a specified proximity to the rental property and the issue of affordable housing. The Committee continued discussion on the use of the Comprehensive Plan language rather than an Ordinance to establish criteria. The ability to enforce conditions and performance standards on short-term rentals were also questioned. The Committee discussed Code requirements for businesses such as hotels, but not for Airbnb rentals, and the use of long-term rentals.

The Committee continued discussion on short-term rentals within residential areas and the impact of homeowner associations. The Committee favored the on-site owner or property manager aspect as a condition within the Comprehensive Plan and not as an Ordinance. Discussion continued on sunset clauses with an SUP and other points. The Committee asked if the question before the Board was to strike the fourth condition from the Comprehensive Plan.

Mr. Wysong confirmed yes.

Mr. Haldeman sought a motion to approve Recommendation No. 1 regarding CCCs.

Mr. Krapf made the motion for Approval.

Mr. Polster clarified the request to the Board to move the Agricultural component to the Wooded area at the next Comprehensive Plan.

The motion passed 3-1.

Mr. Haldeman noted Recommendation No. 2 addressed the short-term rentals. He sought a motion for approval of that recommendation.

Mr. Krapf questioned if the removal of Condition No. 4 was for the vote.

Mr. Haldeman noted striking the requirement that the owner live on-site per the development standard.

Mr. Krapf made the motion for removal of the condition requiring the owner to live on-site.

The motion failed 4-0.

Mr. Polster made the motion to retain Condition No. 4.

The motion passed 4-0.

Mr. Haldeman noted an item the Board discussed at its January 24, 2023, Business Meeting was the request that Diascund Road be included as a Scenic Road. He stated that was not an option, but possibly a revision at the next Comprehensive Plan update. Mr. Haldeman highlighted additional Board comments regarding setbacks, feasibility of an Overlay District, and other discussion points from the Policy Committee's February 9, 2023, meeting.

The Committee discussed several other points such as landowner compensation.

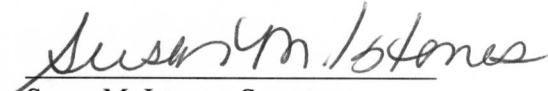
Staff thanked the Committee for its time and work on the items.

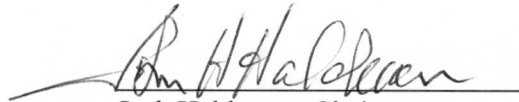
**F. ADJOURNMENT**

Mr. Polster made a motion to Adjourn.

The motion passed 4-0.

Mr. Haldeman adjourned the meeting at approximately 4:45 p.m.

  
Susan M. Istenes, Secretary

  
Jack Haldeman, Chair