

A G E N D A
JAMES CITY COUNTY POLICY COMMITTEE
REGULAR MEETING
Building A Large Conference Room
101 Mounts Bay Road, Williamsburg, VA 23185
August 9, 2018
4:00 PM

A. CALL TO ORDER

B. ROLL CALL

C. MINUTES

1. July 12, 2018 Meeting Minutes

D. OLD BUSINESS

1. Master Plan Consistency Determinations

E. NEW BUSINESS

F. ADJOURNMENT

ITEM SUMMARY

DATE: 8/9/2018

TO: The Policy Committee

FROM: Paul D. Holt, III, Secretary

SUBJECT: July 12, 2018 Meeting Minutes

ATTACHMENTS:

	Description	Type
	July 12, 2018 Meeting Minutes	Minutes

REVIEWERS:

Department	Reviewer	Action	Date
Policy	Secretary, Policy	Approved	8/1/2018 - 11:14 AM

MINUTES
JAMES CITY COUNTY POLICY COMMITTEE
REGULAR MEETING
Building A Large Conference Room
101 Mounts Bay Road, Williamsburg, VA 23185
July 12, 2018
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

Tim O'Connor

Julia Leverenz

Rich Krapf

Heath Richardson

Staff:

Paul Holt, Planning Director

Tom Leininger, Planner

John Risinger, Community Development Assistant

C. MINUTES

1. June 14, 2018 Meeting Minutes

Ms. Julia Leverenz made a motion to Approve the June 14, 2018 meeting minutes.

The motion passed 5-0 by voice vote.

D. OLD BUSINESS

There was no old business.

E. NEW BUSINESS

1. Master Plan Consistency Determinations

Mr. Haldeman opened the discussion.

Mr. Paul Holt presented the Master Plan Consistency Determination (MPCD) process. He stated that no conclusions needed to be made during the meeting. He stated that the Board of Supervisors (BOS) raised interest in reviewing the current process. He stated that the current process uses qualitative measures and starts with a conceptual plan. He stated that after the conceptual plan stage, a Master Plan application can be submitted and requires legislative approval. He stated that future subdivision and site plan submittals may require changes from what was outlined in the Master Plan.

Ms. Leverenz asked if the subdivision and site plans occur after the Master Plans are approved.

Mr. Holt confirmed.

Mr. Holt stated that many factors may result in the development plans changing from what the Master Plan outlined.

Ms. Leverenz asked if engineering plans are also referred to as development plans.

Mr. Holt confirmed.

Mr. Holt stated that the Director of Planning may make a Determination of Consistency for changes from the Master Plan. He stated that the Director of Planning's decision may be appealed to the Development Review Committee (DRC).

Ms. Leverenz asked if it was the developer's option to appeal the Director of Planning's decision.

Mr. Holt confirmed.

Ms. Leverenz asked if the Director of Planning would ever advise a developer to return to the legislative process.

Mr. Holt stated that if they were denied by the DRC, then they would have to return to the legislative process.

Ms. Leverenz stated that the DRC and the Planning Commission (PC) appeals process was not set up to address the residents' concerns of the Stonehouse MPCD.

Mr. Holt stated that the DRC could have found the case not consistent if they had a reason. He stated that the DRC had made a decision based on the criteria available to them in the existing County Code.

Ms. Leverenz stated that members of the BOS had expressed the desire for MPCDs to have the option to be heard in front of the BOS.

Mr. Holt stated that the current Code delegates the authority for MPCDs to the PC and DRC.

Mr. Tim O'Connor stated that the Master Plan of a community is tied to the contract between the homeowners and the homeowner's association (HOA). He stated that he believes that the PC is the wrong venue to address concerns about homeowner and HOA relationships.

Ms. Leverenz stated that members of the BOS desired for citizens to have another opportunity to be heard.

Mr. O'Connor asked if the County has the authority to intervene in a contractual relationship between the homeowners and the HOA.

Mr. Haldeman stated that the County does have the authority if it affects the zoning of the area.

Mr. Holt stated that the Zoning Ordinance allows for the PC to make a land use decision. He stated that the BOS questioned if the DRC should have limits when dealing with MPCDs.

Mr. Rich Krapf stated that there should not be a requirement for a BOS hearing if the development is in compliance with the Zoning Ordinance and meets the MPCD.

Ms. Leverenz stated that every case is different.

Mr. Heath Richardson stated that the amount of time that transpires between the Master Plan and the site plan makes it not the County's role to intervene. He stated that the process for changes already exists and that additional limits are unnecessary.

Ms. Leverenz stated the BOS desires for the residents to have the opportunity to be heard if the change materially affects the expectations of the residents.

Mr. O'Connor stated that landowners' rights must also be considered. He stated that the homeowners must be aware of the contract that they signed.

Mr. Krapf stated that homeowners have the ability to address their concerns to their HOA and the developer.

Mr. Haldeman stated that the developer controls the HOA in some cases. He stated that the homeowner may not be properly represented by the HOA.

Mr. Krapf stated that safety measures already exist for MPCDs. He stated that he is concerned that adding legislative measures may usurp the existing development level measures.

Ms. Leverenz asked what reason the DRC may have to deny a MPCD.

Mr. Holt stated that it would depend on the size of the change or if there were limitations set on the development by the BOS.

Mr. Krapf asked if a MPCD that goes to the PC should also go to the BOS.

Mr. Richardson questioned if the Director of Planning first looks at the Master Plan to check for consistency.

Mr. Holt confirmed.

Mr. Richardson asked if the Director of Planning would deny a plan if he decided the change was substantial.

Mr. Holt confirmed.

Mr. Richardson asked if the revision of the MPCD appeal process would provide the solution desired by the BOS.

Mr. Holt asked if there should be a qualitative measure for the DRC to decide to send the decision to the BOS.

Ms. Leverenz stated that the Director of Planning should have more control of the MPCD process.

Mr. Holt stated that the process could be altered so that the Director of Planning could decide that a substantial change would require a Master Plan amendment.

Mr. Richardson stated that this process would be hard to codify.

Ms. Leverenz stated that the current process has a lot of subjectivity as well.

Mr. Richardson questioned how other municipalities dealt with Master Plan amendments.

Mr. Holt stated that other municipalities' processes could be explored before the next Policy Committee meeting.

Mr. Richardson stated that the Director of Planning should not have additional duties in the process.

Ms. Leverenz stated that it would be better to add duties to the Director of Planning instead of the DRC.

Mr. O'Connor stated that changes to the process may be negative for landowners and developers. He stated that disagreements between residents and the HOA should not be settled through the legislative process.

Mr. Krapf stated that he does not think the staff should be able to immediately require a plan to return to the legislative process. He asked if staff had an option to make a recommendation for the MPCD to the PC.

Ms. Leverenz stated that more control could be given to the Director of Planning to send a case back to the Master Plan amendment process.

Mr. Richardson stated that the PC would have to be comfortable with answering why the MPCD was not heard by the DRC.

Ms. Leverenz asked how many Master Plan amendments occur each year.

Mr. Holt said that there are a couple of Master Plan amendments per year.

Ms. Leverenz stated that the Stonehouse MPCD situation may not have been solved by increasing the Director of Planning's control.

Mr. Richardson stated that the PC, as appointed officials, should be objective in decisions and consider the broad spectrum including developers, landowners and residents.

Ms. Leverenz agreed.

Mr. Holt asked if the proposed changes would result in the MPCD process ending if the PC found the plan consistent with the Master Plan.

Ms. Leverenz stated that a minor change would go to the DRC and PC for approval while any major change would require a Master Plan amendment.

Mr. Krapf stated that this process would provide residents with an opportunity to attend a public hearing for the case.

Mr. O'Connor asked if the current process already gave residents an opportunity to attend the DRC.

Mr. Krapf stated that the DRC is not an advertised public hearing and tends to have low public attendance.

Mr. O'Connor asked what authority the County has to require a public hearing when the proposed development does not require rezoning or changing the maximum number of units.

Mr. Krapf stated that altering the process may be beneficial to other situations.

Ms. Leverenz stated that developers always have the option to amend their plans to make the change less significant.

Mr. Richardson stated that the BOS had specifically requested the Policy Committee to look at the transfer of units. He asked if the change of units in plans are most of the MPCD cases.

Mr. Holt stated that MPCD cases more recently have been architectural façade changes.

Mr. O'Connor stated that the fundamental issue is to determine what constitutes a major change.

Mr. Holt stated that a change could be made within the Code.

Ms. Leverenz stated that a decision could be made by analyzing the plan based on the MPCD criteria.

Mr. Holt stated that a criteria in the decision could be added based on whether or not the developer had the support of the HOA.

Mr. O'Connor stated that HOAs operate based on their Master Plan, but residents may not be aware of the Master Plan. He stated that denying MPCDs because of moving or changing units can have implications on resident's HOA fees and amenities. He asked if any discussion has been started between the County Attorney's Office and the Planning Division.

Mr. Holt stated that no discussion has begun.

Mr. Richardson stated that any potential change would have to be checked by the County Attorney's Office.

Ms. Leverenz asked if any Master Plans can be submitted without an HOA.

Mr. Holt stated that the Code requires an HOA for Master Plans.

Mr. Richardson stated that developer may have control of the HOA until a turnover point is reached.

Ms. Leverenz stated that the residents were made aware of that when purchasing their property.

Mr. O'Connor stated that residents should be aware of the contracts they enter when purchasing property.

Ms. Leverenz stated that having HOA approval for the MPCD may be reasonable because the residents signed their contract with the HOA.

Mr. Krapf stated that the MPCD process should be flexible until a threshold for the size of the change is made.

Ms. Leverenz asked if there could ever be a case where a developer does not have HOA approval.

Mr. Richardson stated that a vocal minority of residents may offset a majority of residents who are apathetic.

Mr. Holt agreed.

Ms. Leverenz stated that if the change does not significantly affect a number of the criteria and has HOA support, the decision could be made by the DRC and the PC. She stated that if the change significantly affects a number of the criteria and does not have HOA support, the developer will have to go through the Master Plan amendment process.

Mr. O'Connor stated that the HOA serves the association as a whole and not individual lot owners.

Ms. Leverenz stated that changes to the MPCD process may not have changed the outcome with the Stonehouse MPCD.

Mr. Holt stated that the only way to catch the Stonehouse MPCD would be setting a limit for the size of the change that can be approved by the DRC.

Ms. Leverenz stated that they did not need to change the policy to catch situations like the Stonehouse MPCD.

Mr. Krapf stated that if the change did not significantly impact the criteria and had HOA support, it would be hard to justify requiring a public hearing for that change.

Mr. Holt stated he would construct a model or flowchart of the changes to the process they have proposed.

Ms. Leverenz stated that she would attempt to clean up the Code section associated with MPCDs.

Mr. Haldeman asked for clarification that the discussion of the meeting suggested that three or four criteria be designated as limits for the Director of Planning to make an initial judgment.

Ms. Leverenz stated that if most of the criteria were met and they had HOA approval, the case would go to the DRC and the PC. She stated that if the criteria were not met and did not have HOA approval, the case would require a formal amendment.

Mr. Krapf stated that he would like to see their ideas written down to tweak further.

Mr. Richardson asked how soon the change could be implemented.

Mr. Holt stated that the Policy Committee could get feedback from the BOS when they have a more refined model.

Ms. Leverenz stated that the discussion had been good. She stated that they could look into Mr. Haldeman's suggestion about making the process less onerous in the next meeting.

Mr. Holt stated that Mr. Haldeman's suggestion had a larger scope but may be looked at with other applications.

Mr. Haldeman stated that adjusting the application could advance a goal set in the Comprehensive Plan.

Mr. Krapf asked if it should be added to the agenda for the next meeting.

Ms. Leverenz asked if Mr. Haldeman was thinking of adding language to support clustering.

Mr. Haldeman stated that it could support density reductions as well.

Ms. Leverenz stated that density reductions could have negative impacts as well.

Mr. Haldeman confirmed. He stated that if a submittal has a reduction in density, they might not need a new traffic impact analysis.

Mr. Holt stated that an Ordinance was recently amended to give traffic impact analyses a five-year shelf life.

Ms. Leverenz asked if a traffic impact analysis could be used for five years until a new traffic impact analysis is needed.

Mr. Holt confirmed.

Mr. Haldeman asked why a new traffic impact analysis is necessary if the density does not change.

Mr. O'Connor stated that traffic patterns could change without a change in density.

Mr. Haldeman stated that a reduced fee could be applied for amendments that have a reduction in density.

Ms. Leverenz asked if the wording could be amended to include traffic usage along with road layout. She stated that she will include it when drafting revisions to the Ordinance.

Mr. Holt asked if there were any further comments.

There were none.

F. ADJOURNMENT

Mr. Krapf made a motion to Adjourn. The motion passed 5-0.

Mr. Haldeman adjourned the meeting at approximately 5:15 p.m.

Mr Jack Haldeman, Chair

Mr. Paul Holt, Secretary

ITEM SUMMARY

DATE: 8/9/2018

TO: The Policy Committee

FROM: Paul D. Holt, III, Director of Community Development and Planning

SUBJECT: Master Plan Consistency Determinations

ATTACHMENTS:

	Description	Type
☐	Memorandum	Cover Memo
☐	Draft revisions to Section 24-23 of the County Code	Backup Material
☐	Flowchart of the development review process	Backup Material

REVIEWERS:

Department	Reviewer	Action	Date
Policy Secretary	Secretary, Policy	Approved	8/3/2018 - 7:01 AM
Publication Management	Burcham, Nan	Approved	8/3/2018 - 7:34 AM
Policy Secretary	Secretary, Policy	Approved	8/3/2018 - 8:32 AM

MEMORANDUM

DATE: August 9, 2018

TO: The Policy Committee

FROM: Paul D. Holt, III, Director of Community Development and Planning

SUBJECT: Master Plan Consistency Determinations

At the July 10 Policy Committee meeting, staff reviewed the roles of the Planning Director, the Development Review Committee (DRC), the Planning Commission (PC) and the Board of Supervisors (BOS) in the master plan consistency determination process.

The Committee discussed various alternatives and scenarios. The Committee also discussed the nature of the contract between a subdivision Homeowners Association (HOA) and the residents, and the need for any Ordinance amendment to respect that contract.

The Committee asked staff to provide example text whereby the Planning Director could approve an amendment if the proposal was consistent with the criteria set forth in the Code. The Committee also discussed a scenario of how a proposed amendment would proceed if the proposed amendment was not consistent with the master plan. The Committee discussed how that scenario would be based on how many Ordinance criteria were met and that it would be based on whether or not the HOA was in support of the proposal. Depending on the outcome of that scenario, the amendment would be approved by either the DRC, PC or the BOS. Per the Committee's request, draft language is attached to that effect.

Also attached is a high-level overview flowchart of the development review process.

Staff looks forward to a continued discussion with the Policy Committee on this item.

PDH/nb
MstrPCnstncyDtr-mem

Attachments:

1. Draft revisions to Section 24-23 of the County Code
2. Flowchart of the development review process

Sec. 24-23. - Submittal requirements.

A total of 12 copies of the master plan should be submitted along with an application for rezoning or a special use permit; if necessary, additional copies of the master plan may be required for submittal. The master plan shall be reviewed and approved and thereafter become binding upon approval of a rezoning or a special use permit by the board of supervisors. Thereafter, all amendments to the master plan shall be in accordance with [section 24-13](#) of this chapter. Final development plans may be approved after approval of a master plan by the board of supervisors.

All final development plans shall be consistent with the master plan, but may deviate from the master plan if the planning director concludes that the development plan does not:

1. Significantly affect the general location or classification of housing units or buildings as shown on the master plan;
2. Significantly alter the distribution of recreation or open space areas on the master plan;
3. Significantly affect the road layout **or traffic patterns** as shown on the master plan;
4. Significantly alter the character of land uses or other features or conflict with any building conditions placed on the corresponding legislatively-approved case associated with the master plan.

If the planning director does not find the development plan consistent with the adopted master plan based on any one or two of the above criteria, the applicant may appeal the decision of the planning director to the development review committee which shall forward a recommendation to the planning commission.

If the planning director does not find the development plan consistent with the adopted master plan based on any three or more of the above criteria and the applicant has written support of the deviation by the HOA, the applicant may appeal the decision of the planning director to the development review committee which shall forward a recommendation to the planning commission.

If the planning director does not find the development plan consistent with the adopted master plan based on any three or more of the above criteria and the applicant does not have the written support of the deviation by the HOA, then the proposed deviation shall be considered as a proposed amendment to the master plan in accordance with section 24-13.

James City County Development Process

