

PASQUOTANK COUNTY, NORTH CAROLINA
FEBRUARY 6, 2023

The Pasquotank County Board of Commissioners met today in a Work Session on Monday, February 6, 2023 in Courtroom C in the Pasquotank County Courthouse.

MEMBERS PRESENT: Charles H. Jordan, Chairman
Barry Overman, Vice-Chairman
Lloyd E. Griffin, III
Cecil Perry
Jonathan Meads
Sean Lavin
Sam Davis, III

MEMBERS ABSENT: None

OTHERS PRESENT: Sparty Hammett, County Manager
John Shannon, Assistant County Manager
R. Michael Cox, County Attorney
Shelley Cox, Planning Director
Brian Parnell, Emergency Management Coordinator
Mike Barclift, Management Fellow
Lynn Scott, Clerk to the Board

The meeting was called to order by Chairman Jordan at 3:00 PM.

1. FUTURE LAND USE PLAN:

Planning Director Shelley Cox introduced the County's consultant, Jay McLeod, with Steward. She said Mr. McLeod has done all the hard work with the Land Use Plan update, including the writing and graphics. She noted that today's work session is an introduction to the document. The Board will have a month to review it, and the final plan will be brought back to the full Board at their March 6th, 2023 meeting for final approval, with any revisions the Board may have. Once the Board approves the document, it will be sent to the NC Coastal Resources Commission for their final blessing.

Mr. McLeod thanked the Board for having the opportunity to present, and gave an overview of his firm. He provided a PowerPoint presentation. He explained that the development of a Land Use Plan is pretty important to a community. It helps guide growth and development, and provides guidance for staff, the Planning Board and the Board of Commissioners. This particular plan has two thrust to it. Recent changes to state laws require that if you want to have zoning you have to have a reasonably up-to-date Land Use Plan. Additionally, since we are also a coastal community, we are required by the Coastal Area of Management Act to have a CAMA compliant Land Use Plan, which facilitates getting CAMA permits and doing work in coastal waters. Both have been combined into this document.

The project kicked off February 2022 with an administrative kickoff meeting with County Planning Department staff that led to data exchange to begin documenting existing conditions. Next, the Stewart team visited the County for a community tour and kick off meeting with County Staff. This led to valuable insight and local perspectives related to land use and development in the County. Following the community tour, an existing conditions analysis and assessment identified areas of environmental concern, existing land use, transportation, infrastructure, water quality, stormwater, and other environmental concerns.

Throughout the process, the project team met with County staff and the Planning Board to help guide the plan and addressed required topics by the Coastal Area Management Act. A combination of public meetings and surveys were conducted to gain community insight on future growth, development, preservation, and conservation concerns. An online public survey was run from April 11 – May 23. It was advertised in a number of places, including at the County's largest festival, the NC Potato Festival. The survey gathered information on community values and vision for the future. The survey was extensively advertised. Revisions were made, and now we are at the stage of presenting it to the Board of Commissioners. Once the Board approves the plan, it will be sent to the state for their review, which can sometimes take up to 75 days.

Mr. McLeod noted that the plan is not regulatory. It does not require the Board to take action in one direction or the other, but it is information that the Board can use in their decision making process. It allows the Board of Commissioners to adapt to the particular circumstances that are before them at any given time, and doesn't tie their hands.

Survey respondent top priorities included: 1) flooding, drainage, stormwater; 2) rural character, farmland, managing growth; 3) jobs, economic development, support businesses; 4) housing affordability, rehabilitation; 5) environmental water quality; 6) tourism; 7) support, opportunity for youth; and 8) recreational public water access. Over half of the respondents believed new development should take place close to the City. This information was used when developing the future land use map.

A big component of the plan is the Future Land Use Plan. It focuses growth in and around Elizabeth City; respects agricultural and flood hazard areas; allows space for the Coast Guard to continue to be a vibrant part of the community; and focuses investment to key areas away from more vulnerable areas. The plan includes the anticipated 2' sea level rise and the modeled future 1% annual floodplain.

Ms. Cox asked the Board if they have any comments or concerns to please let her know. The final plan will be brought back to the Board at their March 6th meeting. Ideally, the changes would be made prior to that meeting.

The Board thanked Ms. Cox and Mr. McLeod for their hard work on the document.

2. 10-ACRE LOTS:

Ms. Cox said since the Board was discussing the Land Use plan today; she also wanted to discuss 10-acre lots. She explained that the Board has the power through the rezoning process to approve developments, except in a few circumstances. State statutes of North Carolina allow for any lot that is created which is 10 acres or greater to be exempt from subdivision rules. If somebody brings in a plat that shows 15, 10 acre lots being created, she has to sign off, as the review officer, that our rules do not apply to the lots. There are no provisions for access, drainage, drinking water or fire hydrants.

Ms. Cox provided aerial photography of a subdivision off of Crooked Run Road that has 15, 10 acre lots. The subdivision was created in 2003. Last summer, River Crest Homes came to the Planning Office with a plat for 6, 10 acre lots adjacent to the current subdivision. Her biggest concern with these types of developments is the access roads leading to them are not being maintained. Staff has concerns from a public safety standpoint, such as how a Sheriff's Deputy, ambulance, or fire truck can get to them. After the rain last week, the access road was very unsafe and had multiple holes that were 8-12" deep and full of rain water. Brian Parnell added that there is nowhere along the path to turn emergency response vehicles around.

Ms. Cox said based on what she is seeing, a lot of the people buying these lots have no idea what they are buying into. They don't realize that there is no homeowner's association or no maintenance of the roadways. After they buy it, they call her staff asking why the County is not maintaining the roads.

Attorney Cox explained that in 2005 or 2006 the Commissioners and staff rented a van and toured some of these same roads. At the time, the law said you could not stop the division of lots that were 10 acres or more in size. The County at the time said if you want to acquire a building permit, you must have access to a state maintained road or equivalent, and public water supply. The County was sued. The County won at the Superior Court and the Court of Appeals. The Supreme Court refused to hear it. The Home Builders Association came in and took the exact language from our ordinance and said you can't regulate like Pasquotank is regulating. He said he testified in the Senate and a law was passed saying you can't regulate 10 acre lots. He was told there was going to be a study at the state level, but he is not aware of that ever being done.

Chairman Jordan stated that he and County Manager Hammett attended a meeting with legislators and this issue was discussed. He said they are looking into it, but is not sure if anything will be done or not. Mr. Hammett said he presented it as the County's number one issue, because every one of these 10 acre subdivisions that are created is a problem that the County is not going to resolve. He said the long term solution is to eliminate the exemption. He said Senator Hanig was very familiar with this problem. Senator Hanig followed up with him the next day. He wants to schedule a fieldtrip to see the problem areas.

Commissioner Lavin asked who many of these developments exist in the County. Staff stated several. Commissioner Davis asked how they are able to get fire insurance. If it's a danger, it seems to him the County has a right to demand something is done about it.

Commissioner Lavin asked if the County can dump crush and run, and charge the residents. Mr. Hammett stated that it would be very expensive and not feasible. Brian Parnell stated that the road on the aerial photos is routinely dragged, but they are not coming back and backfilling it. It's at least 2" below the sides currently. They even started cutting side ditches to try to get the water to drain off.

Commissioner Meads said the Pines Development in Nixonton is not quite as bad yet, but it would be hard for a firetruck to get to certain spots. Ms. Cox said the developer did put an asphalt road within the easement. Commissioner Meads stated that the road is currently falling out. Commissioner Davis stated that the easement is deeded to the homeowners, so they should be responsible. Ms. Cox said she doesn't think the homeowners realize that. She said by state law the County cannot regulate the roads even when there are safety issues.

Commissioner Overman noted that there are many homes in the County that firetrucks cannot get to that are not on 10 acre lots. John Spence agreed and said flag lots also pose problems.

Ms. Cox provided photos for a 10 acre subdivision on Millpond Road. It has a very long access. She said this one actually is not too bad. Right now, there are only two or three occupied houses on it. If anybody builds in the back, it's definitely going to get worse. Potentially there could be 18 houses in the subdivision.

Mr. Hammett said many of these 10 acre subdivisions are being built in areas of repetitive flooding concerns. They do not have to do anything related to drainage and who knows what the impact will be to neighboring subdivisions.

There being no further business; the meeting was adjourned at 3:55 PM.

CHAIRMAN

CLERK TO THE BOARD