

A G E N D A

JAMES CITY COUNTY BOARD OF SUPERVISORS

County Government Center Board Room

January 10, 2012

7:00 P.M.

- A. CALL TO ORDER**
- B. ROLL CALL**
- C. MOMENT OF SILENCE**
- D. PLEDGE OF ALLEGIANCE – Daisy Troop 1382**
- E. PUBLIC COMMENT**
- F. BOARD REQUESTS AND DIRECTIVES**
- G. CONSENT CALENDAR**
 - 1. Minutes –
 - a. December 13, 2011 – Work Session Meeting
 - b. December 13, 2011 – Regular Meeting
 - 2. Adoption of Amendments to the Peninsula Hazard Mitigation Plan 2011 Update
 - 3. Appropriation to the Commonwealth's Attorney Office - \$5,000
- H. PUBLIC HEARINGS**
 - 1. Pre-Budget Public Hearing – FY 2013 – 2014 Budget
 - 2. Case No. Z-0004-2011. Commercial Districts
 - 3. Case No. Z-0010-2011. Wireless Communications Ordinance
 - 4. Creation of a James City County Tourism Zone
 - 5. Ordinance to Amend Chapter 2, Administration to Adjust Election District Boundaries
- I. BOARD CONSIDERATION**
 - 1. Discussion of Jamestown District Supervisor Appointment
- J. PUBLIC COMMENT**
- K. REPORTS OF THE COUNTY ADMINISTRATOR**
- L. BOARD REQUESTS AND DIRECTIVES**
- M. ADJOURNMENT to 4 p.m. on January 24, 2012**

AT A WORK SESSION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 13TH DAY OF DECEMBER 2011, AT 4:00 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

A. CALL TO ORDER

B. ROLL CALL

Mary K. Jones, Chairman, Berkeley District
Bruce C. Goodson, Vice Chair, Roberts District
James G. Kennedy, Stonehouse District
James O. Icenhour, Jr., Powhatan District
John J. McGlennon, Jamestown District

Robert C. Middaugh, County Administrator
Leo P. Rogers, County Attorney

Mr. Goodson was recognized for his service on the Board since 2000.

C. BOARD DISCUSSIONS

1. Work Session with Utilities Companies

Ms. Melanie Beale, External Affairs Manager for Virginia Dominion Power, introduced Mr. Rodney Blevins, Vice-President Electric Distribution of Operations, and Mr. Mike Frederick, Director of Planning, Reliability, and Geographic Information System (GIS) Services (Virginia Dominion Power).

Mr. Blevins stated Hurricane Irene was the second largest restoration project in Dominion Virginia Power's history, with Hurricane Isabel being the largest. Investments made because of Hurricane Isabel improved the reliability of the system, by making the system more resilient and easier to make repairs to restore service to customers.

He provided a presentation on how they prepare for outages and explained the procedure used until restoration is complete. The following are some of the issues covered:

- Damage from Hurricane Irene ranged from significant to catastrophic. He noted that because there were pockets of catastrophic damage, it was not uniform so feedback was not always consistent.
- Preparing for Hurricane Irene: Notifying and working with Emergency Operations Centers and other utility companies.
- Keeping customers updated: Smart phones, Twitter and Facebook have improved communication with customers; however, recognize that information needs to be more accurate.
- Advance Planning with James City County: Continue to invite Emergency Operations Centers to attend their mid-year emergency drills and share resources. They will ensure daily feedback from James City County.

- Lessons Learned:
 - Review and update critical service facilities on GIS maps
 - Continued investment in reliability-improvement programs
 - Improve accuracy of estimated restoration times. A team has been assigned to assess restoration times on a regional level once the main lines have been restored to approximately 75 percent. This will mean that individual restoration times will not be available until the 75 percent restoration rate has been achieved.
 - Continue to strengthen partnerships with State and local emergency managers and jurisdiction leaders.

Mr. Middaugh said that he would like to address three issues that were important to the Board: communication, speed of response, and infrastructure. He asked Mr. Blevins if Dominion would provide a person to be at the Emergency Operations Center to assist with communication.

Mr. Blevins responded that it was noted that James City County did not participate in the multi-jurisdiction conference calls, and as a result, a company representative will ensure daily contact is made with James City County.

Mr. Blevins stated there are 16 jurisdictions in the Tidewater area and the level of emergency response expertise required for someone to be at the Emergency Operations Center would take away from their restoration workforce, which their company could not spare. Dominion feels that they are providing communication, resource availability, repair locations, access to decision makers on an ad hoc basis and are meeting the needs of jurisdictions.

Mr. Middaugh suggested Mr. Blevins contact his colleagues in Florida where they do provide senior personnel at Emergency Operations Center. These personnel are not directly associated with emergency operations, but have had previous operations experience.

Mr. Tal Luton, James City County Fire Chief, stated he has not received notification to participate in conference drills from the Eastern side, but has from the Colonial side, which extends to New Kent County, but does not include James City County.

Mr. Blevins said James City County is in the Tidewater group and he will ensure that all future notifications are sent to the County from the Tidewater group.

Mr. Kennedy commented that Dominion needed to improve communication within their assets, especially outsourced assets, so workers do not need to spend valuable time waiting for orders, but rather can be working on restoring electricity.

Mr. Blevins responded that a change has been made to speed up the switching process where local zones of control have been designated and this change will be implemented on the first day of the next event.

A discussion was held on the process used for clearing roadways with downed wires, subdivisions with one-way roads in and out, and high traffic roads. An established policy must be in place to ensure that public safety communication is a priority for all localities and utility companies.

Mr. Blevins stated the preferred process for Dominion is to assign a small contingent of line workers to work those priorities given by the localities. It is important that localities assign priorities as they have more knowledge of the area and they need to communicate those priorities to appropriate representatives. He said power could not be restored if you cannot access the roads. Typically, the main roads are cleared and then subdivisions are worked.

Mr. Kennedy told Mr. Middaugh that in future events, he would like to see the County send out teams to evaluate conditions to assist in establishing priorities. Assigned lead staff will communicate those priorities to Dominion.

Cox Representatives explained that Cox typically uses the Virginia Interoperability Picture for Emergency Response (VIPER) system to access information relating to downed trees and lines on roadways. VIPER provides geographic locations and is a dynamic tool that can be used by all localities. He suggested James City County add information to VIPER to assist Dominion in their restoration process.

Mr. Alan Bradshaw, Regional Operations Center, informed the group that they do expand 911 staffing in an emergency.

Mr. Blevins invited the Board to visit their operating center where Mr. Bradshaw and his staff run the restoration plan.

James City County will provide Dominion with priority information to include GIS data. The information will include blocked roads and downed poles and lines.

Mr. McGlennon stated his concerns relating to Dominion's reduction in staffing and equipment in James City County over the past few years, while the County has experienced significant growth. He also inquired if an assessment had been done that would identify ways to reduce the impact of an event, such as installing underground lines when possible. He expressed that strategic opportunities be considered where underground lines could be installed in areas that restoration could be an issue, which would save time, money, and resources.

Mr. Blevins informed the Board that he felt Dominion had a well funded reliability program. He explained that distribution assets are worked on by distribution linemen and supplemental help is brought in as needed. Dominion is in the process of hiring personnel and he will look at the distribution assets for James City County, and after the analysis has been completed, he will make adjustments if needed.

Mr. Blevins further explained the largest problem in installing underground lines is getting the right-of-ways. Another problem is that once the main lines are underground, it is very expensive to alter it once installed. Dominion would like to install more underground lines, and they do so when possible, but it is a challenging process.

In response to a question from Mr. Kennedy relating to their policy on ongoing work to trim trees around power lines, Mr. Blevins responded that they work in three-year cycles. However, customers should call their "866" number and report any issues so they can follow up on those reports. He will check Route 60 in Toano, as well as the Forge Road and Chickahominy Haven area. Once restoration has been completed, they work on clearing potential and reported problem areas as quickly as they can. At this time, they are still removing storm damage materials from lines caused by Hurricane Irene. One improvement being made to improve reliability is that Dominion is increasing capacity at the Stonehouse entrance.

Mr. McGlennon noted that this area hosts a great number of tourists and wondered if signal lights could be placed as a priority for restoration of service.

Mr. Blevins explained that many signal lights are not on metered services, but they are on flat charges where they do not have an account inside the system so it is difficult to tag them as priority. These are areas that localities can prioritize and report to Dominion so they can work according to the list.

Mr. Kennedy suggested that the utility companies and the County work together to create a process for reporting priorities.

Mr. Kennedy inquired why Cox had a significant delay in restoring phone service.

Mr. Val Calderon and Mr. Barrett Stork, Cox Communications, responded they were researching that issue. They also said they use natural gas, propane gas, and generators to power the supply boxes whenever possible.

Mr. Middaugh asked how should the County contact Verizon. He noted during Hurricane Irene, it was difficult to contact anyone that could provide information.

Ms. Laura Barnes and Mr. Chris Sutton, Verizon, explained the normal process to report problems is to call their 800-service, which is also the main contact number. At this time, Verizon's field techs are working with Dominion on improving the response times, on a statewide basis. Once Dominion clears an area, they notify Verizon so they can enter the area and begin their damage assessment. They explained their process and stated they use generators to provide service. Restoring underground service is less challenging than overhead service, especially for those individuals at the end of lines; James City County is about 75-80 percent underground lines. If requested, Verizon can provide emergency response vehicles to localities, which provides access to the internet and phone until service is restored.

Mary Jones summarized the key topic in this meeting is to establish better communication with the utility companies and to establish a better and positive relationship with a common goal of serving our citizens and moving forward on the recommendations talked about today to improve service.

Mr. McGlennon commented that he wants assurance that feedback given on drills is acted on, that the level of staffing and equipment is adequate coverage for the County for both normal operations and emergency situations, and asked that investigation be conducted on the reconstruction of the electrical distribution infrastructure within the community.

Mr. Goodson inquired if Dominion had installed self-communication equipment, which would alert if there were a problem. It would be particularly helpful to report traffic signal issues.

Mr. Blevins responded Dominion was highly dependent on customer notification of problems. At this time, they do not have smart meter communication paths that can do simple things to alert if they are experiencing a problem. However, he will investigate power line carriers, but he feels field crews are very efficient and are more cost effective than power line carriers. He added he was not aware of any technology or locality that was presently using it.

E. CLOSED SESSION

Mr. Kennedy made a motion to go into Closed Session pursuant to Section 2.2-3711(A)(1) of the Code of Virginia to discuss consideration of a personnel matter, the appointment of individuals to County boards and/or commissions - specifically, Thomas Nelson Community College Local Board.

On a roll call the vote, the vote was AYE: McGlennon, Goodson, Icenhour, Kennedy, Jones (5). NAY: (0).

At 5:38 p.m., Ms. Jones recessed the Board into Closed Session.

RESOLUTION

CERTIFICATION OF CLOSED MEETING

WHEREAS, the Board of Supervisors of James City County, Virginia, (Board) has convened a closed meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of the Virginia Freedom of Information Act; and

WHEREAS, Section 2.2-3711 of the Code of Virginia requires a certification by the Board that such closed meeting was conducted in conformity with Virginia law.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby certifies that, to the best of each member's knowledge: i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies; and ii) only such public business matters were heard, discussed, or considered by the Board as were identified in the motion, Section 2.2-3711(A)(1) of the Code of Virginia, consideration of a personnel matter, the appointment of individuals to County boards and/or commissions.

Robert C. Middaugh
Clerk to the Board

121311bosws_min

AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 13TH DAY OF DECEMBER 2011, AT 7:00 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

A. CALL TO ORDER

B. ROLL CALL

Mary K. Jones, Chairman, Berkeley District
Bruce C. Goodson, Vice Chair, Roberts District
James G. Kennedy, Stonehouse District
James O. Icenhour, Jr., Powhatan District
John J. McGlennon, Jamestown District

Robert C. Middaugh, County Administrator
Leo P. Rogers, County Attorney

C. MOMENT OF SILENCE

D. PLEDGE OF ALLEGIANCE – Joseph Hardin, a kindergarten student at D.J. Elementary School led the Board and citizens in the pledge.

E. RECOGNITION

Ms. Jones presented the annual Employee Chairman's Award to Ms. Kate Hale, Director of Emergency Management, and Ms. Margaret Tucker, Public Educator, for their contributions to the Citizen Emergency Response Team that has trained 342 citizens and certified nine organized neighborhood citizen response teams since its inception in 2003.

Ms. Jones presented the Volunteer Chairman's Award to Mr. Harry Walters, who provided the vision and leadership to a variety of programs recognizing veterans, including the erection of a tribute tower and a parade.

F. PRESENTATIONS

1. Comprehensive Annual Financial Report

Ms. Leslie Roberts, Partner of Dixon, Hughes, Goodman LLP provided a review of the FY 2011 Comprehensive Annual Financial Report. Ms. Roberts noted that the report included the James City Service Authority (JCSA). She also noted that the County received an unqualified opinion.

2. Resolution of Appreciation – Mr. Bruce C. Goodson

Ms. Jones presented a resolution of appreciation to Mr. Goodson for 12 years of dedicated service as the Board of Supervisors representative from the Roberts District. Mr. Goodson thanked the Board and the citizens of the Roberts District for allowing him the opportunity to serve.

RESOLUTION OF APPRECIATION

MR. BRUCE C. GOODSON

WHEREAS, Mr. Bruce C. Goodson has served as the James City County Board of Supervisors member representing the Roberts District for 12 years from January 1, 2000 to December 31, 2011; and

WHEREAS, Mr. Goodson served as Chairman of the Board of Supervisors in 2004, 2006, and 2008 and has served as Chairman of the James City Service Authority in 2002, 2009, and 2010; and

WHEREAS, Mr. Goodson has been a tireless advocate of regional cooperation and has served as the County's representative on the Hampton Roads Planning District Commission and Transportation Planning Organization, including a tenure as Chairman of the Hampton Roads Planning District Commission; and

WHEREAS, Mr. Goodson has served as Chairman of the Regional Issues Committee and as a member of the Executive Committee of the Williamsburg Area Chamber of Commerce; and

WHEREAS, Mr. Goodson served as the County's representative on the Workforce Investment Board where his efforts led to a more effective delivery of services to those who were unemployed or seeking to improve their job skills; and

WHEREAS, Mr. Goodson represented the County on many other boards and commissions, including the Community Action Agency, Hampton Roads Economic Development Authority, Hampton Roads Military and Federal Facilities Alliance, the 2007 Host Committee for the Jamestown 400th Celebration, the Local Enterprise Zone Association, and School Liaison Committee; and

WHEREAS, Mr. Goodson has been an advocate for business, supporting several key initiatives to improve the business environment in the County, including the Small Business Task Force and the Economic Opportunity Zone; and

WHEREAS, Mr. Goodson has been active in the Virginia Association of Counties, the National Association of Counties, the Virginia Municipal League, and was a member of the Board of Directors of the Virginia Association of Planning District Commissions; and

WHEREAS, Mr. Goodson served as Vice Chairman of the Governor's Commission on Welfare Reform and was appointed to the Virginia Industrial Development Advisory Board; and

WHEREAS, Mr. Goodson made many contributions to the community through his civic involvement, including Rotary International, where he served as President of the Virginia Peninsula Rotary Club, as well as worked with An Achievable Dream and the American Cancer Society.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby thanks and honors Mr. Bruce C. Goodson.

BE IT FURTHER RESOLVED that the Board of Supervisors of James City County, Virginia, hereby expresses its best wishes to Mr. Goodson in his future endeavors.

G. PUBLIC COMMENT

1. Ms. Sasha Digges, 3612 Ironbound Road, expressed concern about the postponement of the public hearing on the Mausoleum.

2. Ms. Kensett Teller, 126 Lake Drive, representing the Pet Health, Safety, and Welfare Group, spoke in favor of establishing a mandatory spay/neuter ordinance.

3. Mr. Robert Richardson, 123 Main Street, Waverly, Virginia, spoke about disenfranchisement.

Ms. Jones determined Mr. Richardson to be out of order.

4. Mr. Keith Sadler, 9929 Mountain Berry Court, spoke in opposition to staggered terms. He also requested confirmation that the County has not renewed its membership to the International Council for Local Environmental Initiatives (ICLEI).

5. Mr. Ed Oyer, 139 Indian Circle, stated that the County could not have a surplus and carry debt at the same time. He mentioned standing water on parts of Route 60 and reminded the County of the issues with 101 Indian Circle. He stated that he did not have a problem with abolishing staggered terms.

6. Mr. Jay Everson, 103 Branscome Boulevard, spoke in favor of abolishing staggered terms.

7. Mr. Jeff Ryer, 7154 Merrimac Trail, thanked the Board for considering a resolution to eliminate staggered terms. He stated that electing all Board members simultaneously increased accountability and equality among voters. He also thanked Mr. Goodson for his leadership in eliminating the County vehicle decal.

8. Mr. Wayne Moyer, 268 Peach Street, spoke in favor of maintaining staggered terms.

9. Mr. Jack Fraley, 104 Thorps Parish, thanked Mr. Goodson for 12 years of excellent service. He also congratulated Mr. McGlennon on his election as the Roberts District supervisor. He also expressed support of the proposed bonus for County employees. He further mentioned four items that he felt are priorities: an urban renewal program, economic development, a comprehensive open space plan, and new policies to preserve rural lands.

10. Ms. Deborah Kratter, 113 Longpoint, stated that she believed the proposal to end staggered terms needed more time for consideration.

H. BOARD REQUESTS AND DIRECTIVES

Mr. McGlennon requested that the Board ask the County Administrator to appoint a committee to review the proposal for a mandatory spay/neuter ordinance. He corrected a misstatement in an earlier meeting

and stated that he supported the 2008, 2009, 2010, and 2011 budgets. He asked Ms. Jones to explain the decision to cut off a speaker during public comment.

Ms. Jones replied that the County has basic rules, including that the speaker give their address, speak to an issue that is germane, and be respectful, but that the speaker was not following them.

Mr. McGlennon stated that the speaker did give his address, spoke to an issue that other speakers have addressed, and spoke in a tone that others have used.

Mr. Kennedy mentioned a pothole at the entrance to the Government Center.

Mr. Icenhour requested a work session to review the process for considering land use applications. He stated the he felt the Board should grant deferral for specific purposes for a specific time period. He stated that he does not feel cases should be allowed to remain open for years.

Mr. Kennedy said that he was generally supportive of Mr. Icenhour's suggestion. He would like to review the practices of other localities.

Ms. Jones confirmed that the County did not renew the ICLEI membership. She also thanked Mr. Goodson for his years of service.

Mr. Middaugh asked the Board if it wished to review the deferral policy. The Board agreed by consensus that it did.

I. CONSENT CALENDAR

Mr. McGlennon made a motion to adopt the Consent Calendar.

1. Minutes –
 - a. November 22, 2011, Work Session
 - b. November 22, 2011, Regular Meeting
2. Contract Awards – Annual Engineering Services

RESOLUTION

CONTRACT AWARDS - ANNUAL ENGINEERING SERVICES

WHEREAS, a Request for Proposals (RFP) has been advertised and evaluated for annual engineering services; and

WHEREAS, the firms listed below were determined to be the best qualified to provide the required engineering services in their respective groups.

Sub-Group A – Structural Engineering – TAM Consultants

Sub-Group B – Mechanical, Electrical, Plumbing Engineering – TAM Consultants

Design Services for Infrastructure Projects – Timmons Group and Parsons Brinckerhoff

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby awards the contracts for annual engineering services to the firms listed in this resolution.

3. Grant Award – Port Security Grant Program (PSGP) – \$23,418

RESOLUTION

GRANT AWARD – PORT SECURITY GRANT PROGRAM (PSGP) – \$23,418

WHEREAS, the James City County Police Department has been awarded Federal funds via the FY 2011 Port Security Grant Program (PSGP) in the amount of \$23,418; and

WHEREAS, the grant period for expenditures by James City County is September 1, 2011 through May 31, 2014; and

WHEREAS, the funds will be used to train and equip two current members of the Police Department as Public Safety Divers; and

WHEREAS, appointments do not create new positions within the Department or the County; and

WHEREAS, there is no match required of this grant.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the following budget appropriation to the Special Projects/Grants fund:

Revenue:

PSGP – FY 11 funding \$23,418

Expenditure:

PSGP – FY 11 funding \$23,418

4. Grant Appropriation – Clerk of the Circuit Court – \$47,176

RESOLUTION

GRANT APPROPRIATION – CLERK OF THE CIRCUIT COURT – \$47,176

WHEREAS, the State Compensation Board has awarded a Technology Trust Fund grant to the Clerk of the Circuit Court totaling \$47,176; and

WHEREAS, the grant will be used for the replacement of computer equipment and records modernization; and

WHEREAS, no local match is required for this grant.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the following appropriation to the Special Projects/Grants Fund:

Revenue:

Revenue from the Commonwealth \$47,176

Expenditure:

Clerk of the Circuit Court \$47,176

5. Memorandum of Agreement (MOA) – Joint Public Safety/Public Service Radio Communication System (800MHz) between James City County, York County, and Gloucester County

RESOLUTION

MEMORANDUM OF AGREEMENT (MOA) – JOINT PUBLIC SAFETY/PUBLIC SERVICE

RADIO COMMUNICATION SYSTEM (800 MEGAHERTZ (MHz)) BETWEEN

JAMES CITY COUNTY, YORK COUNTY, AND GLOUCESTER COUNTY

WHEREAS, James City County has participated in a Joint Public Safety/Public Services Radio Communication System called the 800-megahertz (MHz) system, sharing 50 percent of the costs of the system with York County for over five years; and

WHEREAS, the County of Gloucester has joined the 800-MHz system; and

WHEREAS, the localities wish to split the operation costs of the 800-MHz system with the County to pay 40 percent, York County to pay 40 percent, and Gloucester County to pay 20 percent of the costs; and

WHEREAS, the operation of the 800-MHz system has not been memorialized into a formal written agreement between the localities.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the County Administrator to execute the Memorandum of Agreement (MOA) for the Joint Public Safety/Public Service Radio Communication System (800 MHz) between James City County, York County, and Gloucester County.

6. Approval of Williamsburg Landing Bond Refinancing through the Mathews County Industrial Development Authority

A RESOLUTION CONCURRING WITH THE ISSUANCE BY THE
INDUSTRIAL DEVELOPMENT AUTHORITY OF MATHEWS COUNTY,
VIRGINIA, OF ITS REVENUE BONDS IN AN AMOUNT NOT TO EXCEED
\$17,500,000 FOR WILLIAMSBURG LANDING, INC.

WHEREAS, there has been described to the Economic Development Authority of James City County, Virginia (the James City County Authority), the plans of Williamsburg Landing, Inc. (the Borrower), whose principal place of business is located in the County of James City, Virginia (the County), at 5700 Williamsburg Landing Drive, Williamsburg, Virginia 23185, for the issuance by the Industrial Development Authority of Mathews County, Virginia (the Mathews Authority), of its Revenue Bonds (the Bonds) in one or more series of bonds in an amount not to exceed \$17,500,000 to assist the Borrower in (a) financing renovations to the Borrower's facilities for the residence and care of the aged located in the County at 5700 Williamsburg Landing Drive, Williamsburg, Virginia, (b) paying the cost of issuing the Bonds, and (c) at the Borrower's election, in redeeming certain outstanding bonds which financed construction of the Borrower's facilities; and

WHEREAS, the above facilities are owned by the Borrower; and

WHEREAS, a public hearing with respect to the Bonds as required by Section 15.2-4906 of the Code of Virginia of 1950, as amended (the Virginia Code), and the Internal Revenue Code of 1986, as amended (the Code), was held by the Mathews Authority on behalf of Mathews County and the County of James City on November 22, 2011; and

WHEREAS, the Mathews Authority after such public hearing with respect to the Bonds adopted an approving resolution (the Mathews Authority Resolution) with respect to the Bonds on November 22, 2011; and

WHEREAS, Section 15.2-4905 of the Virginia Code provides that the Board must concur with the adoption of the Mathews Authority Resolution prior to the issuance of the Bonds; and

WHEREAS, the Code provides that the highest elected governmental officials of the governmental unit having jurisdiction over the area in which any facility financed with the proceeds of a private activity bond is located shall approve the issuance of such bonds; and

WHEREAS, the Bonds will finance or refinance property located in the County and the members of the Board constitute the highest elected governmental officials of the County; and

WHEREAS, a copy of the Mathews Authority Resolution, a summary of the comments made at the public hearing held by the Mathews Authority and a statement in the form prescribed by Section 15.2-4907 of the Virginia Code have been filed with the Board.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia, that:

1. The Board concurs with the adoption of the Mathews Authority Resolution, and approves the issuance of the Bonds by the Mathews Authority to the extent required by the Code and Sections 15.2-4905 and 15.2-4906 of the Virginia Code.
 2. The concurrence with the Mathews Authority Resolution, and the approval of the issuance of the Bonds, as required by the Code and Sections 15.2-4905 and 15.2-4906 of the Virginia Code, do not constitute an endorsement to a prospective purchasers of the Bonds of the creditworthiness of the Borrower or the projects being financed and refinanced and the Bonds shall provide that no political subdivision of the Commonwealth of Virginia, including the County, shall be obligated to pay the Bonds or the interest thereon or other costs incident thereto and neither the faith or credit nor the taxing power of the Commonwealth of Virginia or any political subdivision thereof, including the County, shall be pledged thereto.
 3. The County, including its elected representatives, officers, employees and agents, shall not be liable and hereby disclaims all liability for any damage to the Borrower, direct or consequential, resulting from the Mathews Authority's failure to issue the Bonds for any reason.
 4. This resolution shall take effect immediately upon its adoption.
7. Resolution Providing for the Implementation of the Comprehensive Community Corrections Act, the Pretrial Services Act, and the Establishment of the Colonial Community Criminal Justice Board

RESOLUTION PROVIDING FOR THE IMPLEMENTATION OF THE COMPREHENSIVE
COMMUNITY CORRECTIONS ACT, THE PRETRIAL SERVICES ACT, AND THE
ESTABLISHMENT OF THE COLONIAL COMMUNITY CRIMINAL JUSTICE BOARD

WHEREAS, the Virginia General Assembly has adopted legislation entitled the Comprehensive Community Corrections Act for Local Responsible Offenders, Article 9 (§ 9.1-173 et. seq.) of the *Code of Virginia*, 1950, as amended (the "CCC Act"), and the Pretrial Services Act, Article 5 (§ 19.2-152.2 et seq.) of the *Code of Virginia*, 1950, as amended (the "Pretrial Services Act" and, together with the CCC Act, the "Acts"); and

WHEREAS, §§ 9.1-174 and 19.2-152.2 of the *Code of Virginia*, 1950 as amended (the "Virginia Code"), require counties and cities approved for a jail project pursuant to § 53.1-82.1 to develop and establish services in accordance with the Acts; and

WHEREAS, §§ 9.1-178 and 19.2-152.5 of the Virginia Code require that each county and city establishing and operating local community-based probation and pretrial services establish a Community Criminal Justice Board (the "Board"), and in the case of multi-jurisdictional efforts, that each jurisdiction have an equal number of representatives or, in the alternative, mutually agree upon the number of appointments to the Board.

NOW, THEREFORE, BE IT RESOLVED that the Counties of Charles City, James City, New Kent, and York, and the Cities of Poquoson and Williamsburg (individually, a "Participating Locality" and together, the "Participating Localities") agree to implement the services and programs required by the CCC Act and the Pretrial Services Act with the County of James City acting as the administrator and fiscal agent on behalf of the Participating Localities pursuant to § 9.1-183 of the Virginia Code.

BE IT FURTHER RESOLVED that the Colonial Community Criminal Justice Board (the "CCCJB") is hereby established and the Participating Localities mutually agree to the following appointments to the CCCJB:

1. One representative from each Participating Locality;
2. Three Ninth Judicial Circuit judges, one of whom shall be drawn from a Juvenile and Domestic Relations Court, one of whom shall be drawn from a General District Court, and one of whom shall be drawn from a Circuit Court;
3. The Chief Magistrate of the Ninth Judicial Circuit;
4. One Commonwealth's Attorney from one of the Participating Localities;
5. A public defender or an attorney experienced in the defense of criminal matters who is a licensed, active member of the Virginia State Bar and who regularly practices in the courts of the Participating Localities;
6. One sheriff from one of the Participating Localities. If no Sheriff is available, then the regional jail administrator responsible for the jail which serves the Participating Localities shall fill this appointment;
7. The chief law enforcement officer from one Participating Locality;
8. A Community Services Board Administrator from one Participating Locality; and
9. A representative of a local adult education program serving at least one Participating Locality.

BE IT FURTHER RESOLVED that this resolution supersedes and replaces all prior resolutions approved by the Participating Localities relating to the establishment of required services and the formation of the Colonial Community Criminal Justice Board.

BE IT FURTHER RESOLVED that this resolution is enacted in anticipation of the execution of a Governance Agreement between the Participating Localities setting forth in greater detail the administration of the Colonial Community Corrections program and the fiscal responsibilities of the Participating Localities, which Agreement the County Administrator is authorized to negotiate and execute.

On a roll call vote, the vote was: AYE: Kennedy, Goodson, McGlennon, Icenhour, Jones (5). NAY: (0).

Ms. Jones asked Mr. Goodson to chair the remainder of the meeting.

J. PUBLIC HEARINGS

1. Case No. AFD-10-86-1-2011. Christenson's Corner AFD – Newman Road Addition

Mr. Jose Ribeiro, Senior Planner, stated that Mr. Mat Abbitt has applied on behalf of Abbitt Management, LLC to enroll two properties located at 7664 and 7680 Newman Road into the Christenson's

Corner Agricultural and Forestal District (AFD). The acreage of each of the parcels is 410.7 and 156.8 acres respectively. The properties are mostly wooded, undeveloped, and located adjacent to properties already included in the Christenson's Corner AFD. At its October 12, 2011, meeting, the AFD Advisory Committee voted 6-0 to recommend approval of the application. At its November 2, 2011, meeting, the Planning Commission voted 6-0 to recommend approval of the application. Staff also recommends approval with conditions included in the ordinance.

Ms. Goodson opened the Public Hearing.

As no one wished to speak to the application, Mr. Goodson closed the Public Hearing,

Mr. Kennedy made a motion to approve the ordinance.

On a roll call vote, the vote was: AYE: Kennedy, Goodson, McGlennon, Icenhour, Jones (5). NAY: (0).

2. Case No. Z-0001-2011. Forest Heights, Neighbors Drive, and Richmond Road Improvements

Ms. Ellen Cook, Senior Planner, stated that the County's Office of Housing and Community Development has applied to rezone 47.1 acres in the Forest Heights, Neighbors Drive, and Richmond Road Improvement Area from R-2, General Residential to MU, Mixed Use. Under the proposal, approximately 27.4 acres will be reconfigured through a combination of boundary line adjustments and subdivision to accommodate single-family detached residences. The Salvation Army is also located within the existing rezoning area and is proposed to contain new offices, community meeting space and gym, and other accessory uses associated with the Salvation Army's mission.

Ms. Cook stated that the project results in many significant benefits, including bringing nonconforming parcels into compliance with the Zoning Ordinance, many improvements to stormwater, road and utility infrastructure, and housing rehabilitation and construction.

Ms. Cook stated that there are three residences that don't meet the required 50 foot buffer from the public rights-of-way, and a 50 foot perimeter buffer in a mixed use district. The Planning Commission approved reductions of the buffers in these three cases as part of its recommendation in this case.

Ms. Cook stated that staff finds the proposal to be compatible with the 2009 Comprehensive Plan and recommends approval and acceptance of the voluntary proffers.

At its September 7, 2011, meeting, the Planning Commission recommended approval by a vote of 6-0.

Mr. Vaughn Poller, Director of the Office of Housing Community Development, provided historical background on the project and discussed that this project is the first phase in a two-phase project. He also stated that the County was able to get an agreement from all owners affected by the project in the project area. Mr. Poller further stated the benefits of the project: replaces unpaved roads, replaces substandard infrastructure, provides affordable housing, improves connectivity, improves traffic patterns, makes significant environmental improvements, is within the Primary Service Area (PSA), and is compatible with the Comprehensive Plan.

Mr. Goodson opened the Public Hearing.

1. Mr. Gary Moore, 158 Forest Heights Road, representing the Forest Heights neighborhood, stated that the whole neighborhood is in support of the rezoning application. He emphasized that the road improvements will make the neighborhood safer and easier for emergency response vehicles to access.

2. Ms. Shirley Baker, 116 Forest Heights Road, stated that she is giving up her property to make this project happen. She thanked the County for its help in improving the neighborhood.

3. Ms. Clarine Bouma, 143 Forest Heights Road, stated that she agreed with the previous speakers in support of the project.

Mr. Goodson recognized Mr. Jack Fraley representing the Planning Commission.

Mr. Goodson closed the Public Hearing.

Mr. Icenhour made a motion to approve the resolution. He thanked the citizens of the project area for their involvement in the project and staff for its effort in obtaining agreement of all affected property owners.

On a roll call vote, the vote was: AYE: Kennedy, Goodson, McGlennon, Icenhour, Jones (5). NAY: (0).

RESOLUTION

CASE NO. Z-0001-2011. FOREST HEIGHTS, NEIGHBORS DRIVE,

AND RICHMOND ROAD IMPROVEMENTS

WHEREAS, in accordance with 15.2-2204 of the Code of Virginia, 1950, as amended, and Section 24-15 of the James City County Zoning Ordinance, a public hearing was advertised, adjoining property owners notified and a public hearing scheduled on Zoning Case Z-0001-2011, with Master Plan, for rezoning approximately 47.1 acres from R-2, General Residential, to MU, Mixed Use, with proffers applicable to the properties owned by the County and the Salvation Army; and

WHEREAS, the properties are located at the following James City County Real Estate Tax Map Nos. and addresses:

Tax Map ID	Address	Property Owner
3220100083	101 FOREST HEIGHTS RD	JAMES CITY COUNTY
3220100084	100 FOREST HEIGHTS RD	JAMES CITY COUNTY
3220100085A	174 FOREST HEIGHTS RD	JAMES CITY SERVICE
3220400001	112 FOREST HEIGHTS RD	STATEWIDE, INC
3220400002	113 FOREST HEIGHTS RD	MEEKINS, ELAINE
3220400003	115 FOREST HEIGHTS RD	JOHNSON, INDIA
3220400004	116 FOREST HEIGHTS RD	BAKER-GEORGE, SHIRLEY L
3220400005	120 FOREST HEIGHTS RD	GILLEY, GIL G
3220400006	119 FOREST HEIGHTS RD	JAMES CITY COUNTY

3220400007	125 FOREST HEIGHTS RD	ASHLOCK, LEROY
3220400008	124 FOREST HEIGHTS RD	TAYLOR, HAZEL & MORRIS E
3220400009	128 FOREST HEIGHTS RD	BROWN, PERNELL NELSON &
3220400010	127 FOREST HEIGHTS RD	JAMES CITY COUNTY
3220400011	129 FOREST HEIGHTS RD	STILL, AMY
3220400012	132 FOREST HEIGHTS RD	JOHNSON, EDITH MAE
3220400013	136 FOREST HEIGHTS RD	STONE, JOHN SAMUEL
3220400014	133 FOREST HEIGHTS RD	STILL, AMY
3220400015	137 FOREST HEIGHTS RD	ANDERSON, DORRIS
3220400016	138 FOREST HEIGHTS RD	HOUSING PARTNERSHIPS FUNDING GROUP
3220400017	142 FOREST HEIGHTS RD	MATCHETT, MICHAEL S & AMBER R
3220400018	141 FOREST HEIGHTS RD	BARTLETT, BETTY J
3220400019	145 FOREST HEIGHTS RD	BARTLETT, BETTY J
3220400020	146 FOREST HEIGHTS RD	VANDERBILT MORTGAGE
3220400022	149 FOREST HEIGHTS RD	BILLUPS, ALLEN J &
3220400023	153 FOREST HEIGHTS RD	BILLUPS, ALLEN &
3220400024	154 FOREST HEIGHTS RD	BILLUPS, ALLEN &
3220400025	158 FOREST HEIGHTS RD	MOORE, GARY C & GERALINE M
3220400026	161 FOREST HEIGHTS RD	JAMES CITY COUNTY
3220400027	165 FOREST HEIGHTS RD	ROBINS, JOHN T & ROBINS, JASON S
3220400028	162 FOREST HEIGHTS RD	MOORE, GARY C & GERALINE M
3220400029	166 FOREST HEIGHTS RD	ROBINS, JOHN T & ROBINS, JASON S
3220400030	169 FOREST HEIGHTS RD	ROBINS, JOHN T & ROBINS, JASON S
3220400031	173 FOREST HEIGHTS RD	GUTIERREZ, RUBEN ARROYO TRUSTEE
3220400032	170 FOREST HEIGHTS RD	VILLAGES AT WESTMINSTER HOMEOWNERS AS
3220100086	138 NEIGHBORS DRIVE	G GILLEY INVESTMENTS LLC
3220100087	139 NEIGHBORS DRIVE	MARTIN, EDWARD E
3220100088	104 NEIGHBORS DRIVE	BRABHAM, DENNIS J III & CHRISTINA
3220100090	101 NEIGHBORS DRIVE	WALLACE, LETTIE BELL EST
3220100116	140 NEIGHBORS DRIVE	WALLACE, LEVI JR & WALLACE LEVI Z II
3220500001	134 NEIGHBORS DRIVE	JAMES CITY COUNTY
3220500002	130 NEIGHBORS DRIVE	JAMES CITY COUNTY
3220500003	126 NEIGHBORS DRIVE	PRIOR, JANIE M
3220500004	122 NEIGHBORS DRIVE	DE LEON, VICTOR A & JACQUELINE B
3220500005	118 NEIGHBORS DRIVE	KNOX-GIVENS, YULONDA D & ROBINSON, R
3220500006	116 NEIGHBORS DRIVE	SMITH, JEFFREY D & LYNDA A
3220500007	135 NEIGHBORS DRIVE	G GILLEY INVESTMENTS LLC
3220500008	131 NEIGHBORS DRIVE	JAMES CITY COUNTY
3220500009	127 NEIGHBORS DRIVE	JAMES CITY COUNTY
3220500010	123 NEIGHBORS DRIVE	PEOPLES, KRISTOPHER T & KATHARINE L

3220500011	119 NEIGHBORS DRIVE	O'SHEA, KEVIN F II & LISA A
3220500012	115 NEIGHBORS DRIVE	WALLACE, LETTIE BELL EST
3220100076	6059 RICHMOND ROAD	MAGERAS, ANGELO TRUSTEE & MAGERAS, N
3220100077	6051 RICHMOND ROAD	BAKER, RUSSELL & MARY LIFE ESTATE
3220100078	6047 RICHMOND ROAD	TAYLOR, STANFORD &
3220100079	6043 RICHMOND ROAD	ROBINSON, EUNICE
3220100080	6039 RICHMOND ROAD	GRAY, MEL & SHANISE KOTINA
3220100081	6015 RICHMOND ROAD	SALVATION ARMY (THE)
3220100085	6001 RICHMOND ROAD	JAMES CITY COUNTY
3220100089	5981 RICHMOND ROAD	HERTZLER, DAVID L
3220100089	5981 RICHMOND ROAD	HERTZLER, DAVID L
3220100091	5941 RICHMOND ROAD	JAMES CITY COUNTY
3220100092	5943 RICHMOND ROAD	SMITH, ELSIE M
3220100093	5941 RICHMOND ROAD	SMITH, MARTHA LEE MAURICE
3220100094	5947 RICHMOND ROAD	SMITH, MARTHA LEE M
3220100095	5939 RICHMOND ROAD	TAYLOR, ELSIE LIFE RIGHT

WHEREAS, the Planning Commission of James City County, following its public hearing on September 7, 2011, recommended approval by a vote of 6-0; and

WHEREAS, the Board of Supervisors of James City County, Virginia, finds this use to be consistent with the 2009 Comprehensive Plan Land Use Map designation for this site.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, after a public hearing, does hereby approve Case No. Z-0001-2011 and accept the voluntary proffers.

3. Disposition of Property in the Forest Heights Improvement Project Area

Ms. Marion Paine, Planner for the Office of Housing and Community Development, stated that the County had purchased certain property for the Forest Heights Neighborhood Improvement Project. Board approval is required to sell this property, which will either become residential lots or used for infrastructure. Four lots will be sold to Habitat for Humanity. Proceeds from the sales will further the County's affordable housing efforts.

Mr. Goodson opened the Public Hearing.

As no one wished to speak to the application, Mr. Goodson closed the Public Hearing.

Mr. Icenhour made a motion to approve the resolution.

On a roll call vote, the vote was: AYE: Kennedy, Goodson, McGlennon, Icenhour, Jones (5). NAY: (0).

RESOLUTION

DISPOSITION OF PROPERTY IN THE FOREST HEIGHTS NEIGHBORHOOD

IMPROVEMENT PROJECT AREA

WHEREAS, on December 14, 2010, the Board of Supervisors of James City County, Virginia, authorized the Community Development Block Grant for the Forest Heights Neighborhood Improvement Project (“Project”) and the acquisition of real property necessary to complete the Forest Heights Road and Neighbors Drive Concept Plan (“Concept Plan”); and

WHEREAS, pursuant to the above-described resolution, the County has purchased the properties known as James City County Tax Map Parcel Nos. 3220100083, 3220100084, 3220400006, 3220400010, 3220400026, 3220500001, 3220500002, 3220500008, 3220500009, 3220100085, and 3220100093 (the “Property”); and

WHEREAS, the Concept Plan includes development of residential lots to be used for single-family dwellings on the property; and

WHEREAS, the Board of Supervisors has considered and approved the Forest Heights Neighborhood Improvement Project Lot Sales Plan (the “Sales Plan”); and

WHEREAS, the Board of Supervisors held a public hearing on December 13, 2011, to receive public comment on the sale of all or portions of the property.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the County Administrator to sign on behalf of the County, any sale contract, development agreement, deed, and all other documents consistent with the Sales Plan to enable the County to develop and convey, in whole or in part, ownership of the property in the Forest Heights Neighborhood Improvement Project area.

4. Case No. SUP 0010-2011. Wohlfarth Jolly Pond Road Family Subdivision

Mr. Jason Purse, Senior Planner, stated that Mr. Ed Carr has applied for a Special Use Permit (SUP) to allow a family subdivision resulting in a lot of less than three acres in size for family residential use. The lot is currently owned by Mr. Robert and Mrs. Murray Wohlfarth and is planned to be transferred to their daughter, Ms. Heidi Wohlfarth. The existing lot is seven acres; the proposed family subdivision would result in a new 1.8 acre lot and a remainder parent parcel of 5.2 acres.

Staff recommended approval of the SUP with conditions.

Mr. Goodson asked how long the family had owned the property.

Mr. Purse replied six years.

Mr. Goodson opened the Public Hearing.

As no one wished to speak to the application, Mr. Goodson closed the Public Hearing.

Mr. McGlennon made a motion to approve the resolution.

On a roll call vote, the vote was: AYE: Kennedy, Goodson, McGlennon, Icenhour, Jones (5). NAY: (0).

5. Case No. SUP 0008-2011. 2720 Chickahominy Road Manufactured Home

Mr. Jason Purse, Senior Planner, stated that Ms. Sandra Kimrey has applied for an SUP to allow for the placement of a manufactured home at 2720 Chickahominy Road. Manufactured homes not within the PSA in the R-8, Rural Residential District, require an SUP. An existing manufactured home (located in 1982) is located near the middle of the property and will be removed and replaced as part of this application. The proposed double-wide manufactured home would be roughly 28 feet by 44 feet.

Staff recommended approval with conditions.

At its November 2, 2011, meeting, the Planning Commission recommended approval by a vote of 6-0.

Mr. Goodson opened the Public Hearing.

As no one wished to speak to the application, Mr. Goodson closed the Public Hearing.

Mr. Kennedy made a motion to approve the resolution.

On a roll call vote, the vote was: AYE: Kennedy, Goodson, McGlennon, Icenhour, Jones (5). NAY: (0).

RESOLUTION

CASE NO. SUP-0008-2011. 2720 CHICKAHOMINY ROAD MANUFACTURED HOME

WHEREAS, the Board of Supervisors of James City County has adopted by Ordinance specific land uses that shall be subjected to a Special Use Permit (SUP) process; and

WHEREAS, Ms. Sandra Kimrey has applied for an SUP to allow a manufactured home outside the Primary Service Area (PSA); and

WHEREAS, the proposed home shall be similar to the Oakwood brand VN28 series model manufactured home; and

WHEREAS, the property is located at 2720 Chickahominy Road on land zoned R-8, Rural Residential, and can be further identified as James City County Real Estate Tax Map/Parcel No. 2140100022; and

WHEREAS, the Planning Commission of James City County, following its public hearing on November 2, 2011, recommended approval of this application by a vote of 6-0; and

WHEREAS, the Board of Supervisors of James City County, Virginia, finds this use to be consistent with the 2009 Comprehensive Plan Land Use Map designation for this site.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, after a public hearing, does hereby approve the issuance of SUP No. 0008-2011 as described herein with the following conditions:

1. This permit shall be valid for a double-wide manufactured home Oakwood brand, series VN28 model (the "Manufactured Home"), as depicted on "Exterior Elevation Option 1," prepared by CMH Manufacturing and dated August 2, 2011, or a similar unit as determined by the Director of Planning.
2. The existing manufactured home shall be removed and a Certificate of Occupancy for the new Manufactured Home must be obtained within 24 months from the date of approval of this SUP or the permit shall become void.
3. The Manufactured Home shall meet the requirements of the Department of Housing and Urban Development Manufactured Home Construction and Safety Standards.
4. The Manufactured Home shall be placed so as to comply with all current setback and yard requirements in the R-8, Rural Residential Zoning District.
5. A single connection is permitted to the adjacent water main on Chickahominy Road with no larger than a ¾-inch water meter. Any lots created by a subdivision of the parent parcel will not be permitted to connect unless the PSA is extended to incorporate the parent parcel.
6. This SUP is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

6. Case Nos. Z-0003-2011/MP-0002-2011. New Town Settler's Market (Section 9) Master Plan Amendment

Ms. Leanne Reidenbach, Senior Planner, stated that Mr. James Peters of AES Consulting Engineers has applied on behalf FCP Settler's Market, LLC to amend the master plan, proffers, and design guidelines for Case Nos. Z-0016-2005/MP-0015-2005, New Town Section 9 to reduce the maximum permitted residential density, separate the residential and commercial uses, and change the layout of the residential area of Section 9. The property is located at 4509 and 4520 Casey Boulevard, is zoned MU, Mixed Use, and designated Mixed Use on the Comprehensive Plan. The proposed master plan would allow up to 120 residential units and 350,000 square feet of commercial space. Ms. Reidenbach noted that some of the residential units would be affordable housing in accordance with previous proffers.

At its meeting on September 15, 2011, the New Town Design Review Board approved the master plan and design guidelines.

Staff recommended approval of the application.

At its meeting on October 5, 2011, the Planning Commission recommended approval by a vote of 7-0 and approved setback modifications for certain buildings Casey Boulevard, Settler's Market Boulevard, and Yield Street to be closer than 50 feet from the right-of-way. Since the Planning Commission meeting, the applicant has added Proffer No. 2 to clarify that the residential units will be incorporated into the existing New Town Residential Association rather than requiring them to join the New Town Commercial Association.

Mr. Goodson opened the Public Hearing.

Mr. Vernon M. Geddy, III, of Geddy, Harris, Franck, and Hickman, representing the applicant, reviewed the history of the project and highlighted the background and experience of the new owners.

Mr. Geddy emphasized that the residential units are reduced from a range of 215 to 278 to 120. He stated that the proposal is of high quality and is economically viable. It reduces impacts on the community compared to what is currently approved.

Mr. Goodson closed the Public Hearing.

Mr. Icenhour asked what changes would trigger a return to the Board.

Ms. Reidenbach stated that only a development that was not consistent with the master plan would require Board approval.

Mr. McGlennon asked if proffers were greater even with the reduction in the residential units.

Ms. Reidenbach replied that was correct.

Ms. Jones commented that she felt this proposal was an improvement and made a motion to approve the resolution. She thanked the applicant for their confidence in James City County.

Mr. Goodson concurred and stated that he was pleased this development was better than many other shopping centers in the region.

Mr. Kennedy stated that he was a little concerned about the reduction in residential units as the original concept relied on residential development to spur commercial development.

Mr. McGlennon stated that his disappointment with the proposal was the elimination of the mixed use buildings, but that he would still support the application.

Mr. Icenhour stated that he would support the application and thought citizens would like to see the transformation of the area from a parking lot. He expressed concern about road corridor in the area and the rising cost of road improvements.

Ms. Jones made a motion to approve the resolution.

On a roll call vote, the vote was: AYE: Kennedy, Goodson, McGlennon, Icenhour, Jones (5). NAY: (0).

RESOLUTION

CASE NOS. Z-0003-2011/MP-0002-2011. NEW TOWN SETTLER'S MARKET (SECTION 9)

MASTER PLAN AMENDMENT

WHEREAS, in accordance with §15.2-2204 of the Code of Virginia and Section 24-13 of the James City County Zoning Ordinance, a public hearing was advertised, adjacent property owners notified, and a hearing scheduled for Case Nos. MP-0002-2011/Z-0003-2011 for amending the master plan and proffers for approximately 9.3 acres from MU, Mixed Use, with proffers, to MU, Mixed Use with amended proffers; and

WHEREAS, the site can be further identified as Parcels (33-1C) and (33-2B) on James City County Real Estate Tax Map No. (38-4); and

WHEREAS, the New Town Design Review Board, following its meeting on September 15, 2011, approved the binding master plan and design guidelines; and

WHEREAS, the Planning Commission of James City County, following its public hearing on October 5, 2011, recommended approval of Case Nos. MP-0002-2011/Z-0003-2011, by a vote of 7 to 0.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, after a public hearing, does hereby approve Case Nos. MP-0002-2011/Z-0003-2011 as described herein and accept the amended proffers.

7. Case Nos. Z-0003-2008/MP-0003-2008. The Candle Factory

Mr. Jose Ribeiro, Senior Planner, stated that Mr. Timothy Trant of Kaufman and Canoles, P.C. on behalf of Candle Development, LLC has applied to rezone approximately 64.45 acres from A-1, General Agricultural; M-1, Limited Business/Industrial; and MU, Mixed Use; to MU, Mixed Use with proffers. The properties subject to this rezoning are located at 551, 7567, and 7559 Richmond Road. The proposed development will allow the construction of 175 residential units, approximately 30,000 square feet of commercial space, and a 90,000 square foot assisted living facility with the capacity for 96 units.

Mr. Ribeiro noted two changes to the proffers. One was a change to allow proffers to be paid in a lump sum. The second change addressed the phasing of development so that the County would not be obligated to issue building permits for more than 87 dwelling units until a temporary or permanent certificate of occupancy has been issued for the assisted living facility.

On April 1, 2009, the Planning Commission recommended approval of this application by a vote of 4-3.

Staff recommended approval of the application with proffers.

Mr. Goodson opened the Public Hearing.

Mr. Trant provided background on the project and noted the level of coordination among neighbors on this proposal. He stated the timing of the assisted living facility has been a key question, and the applicant is now prepared to make a commitment on the timing of the assisted living facility. He further highlighted benefits of the project including that 1/3 of the residential units are affordable or workforce housing, positive fiscal impact, open space, and connectivity.

Mr. Charlie Martino, 4240 Birdella Drive, expressed support for the application, stating that it is a quality project that addresses community needs of affordable housing and elder care.

Ms. Deborah Kratter, 113 Longpoint, representing James City County Citizens Coalition (J4C), recommended that the Board deny the application. She stated that the project has a negative fiscal impact if the assisted living facility is not built and questioned whether affordable housing and the assisted living facility are economically viable given the current economy and real estate market.

Mr. Gary Massie, 8644 Merry Oaks Lane, urged the Board to approve the rezoning request. He stated that he is one of the owners of Norge Crossing across from the proposed development. He stated residential development is necessary for a vibrant commercial community. He stated that the Henderson family is local and has a history of quality and integrity.

Mr. David Todd, Rebkee Company, spoke in support of the application and stated that the project is a perfect combination of smart growth, sustainable development, and economic growth.

Mr. Jack Fraley, representing the Planning Commission, stated that the applicant incorporated certain elements into the proposal that are worth mentioning. He highlighted infiltration systems, state-of-the-art stormwater ponds with two forebays, open space design, and the inclusion of a variety of housing opportunities. He stated that he would have liked to have seen an area plan developed.

Mr. Michael Hipple, 112 Jolly Pond Road, representing Crosswalk Community Church, expressed the Church's support for the project. He stated that the applicant had worked extensively with the Church to address concerns.

Mr. Chris Henderson, 101 Keystone, spoke in favor of the project. He stated that the project was approved by the Planning Commission when he was a member of the Commission. He stated that there are many community improvements and that connectivity was one that had not been emphasized during earlier discussions. He also stated that affordable housing meets a community need.

Mr. Michael Hipple, 112 Jolly Pond Road, speaking on his own behalf, stated that the community needs more homegrown developers and builders.

Mr. Goodson closed the Public Hearing.

Mr. Icenhour asked for clarification about the Comprehensive Plan designation for the property.

Mr. Ribeiro replied that the designation changed with the 2009 Comprehensive Plan, and that the designation is now low density residential and mixed use.

Mr. McGlennon asked about the fiscal impact and questioned why the staff came to different conclusions than the applicant.

John McDonald, Manager of Financial and Management Services, stated that planned communities and adult care facilities generally have a positive financial impact.

Mr. McDonald said that the County generally assesses fiscal impact at build out. The County staff concluded fiscal impact is negative in this instance because of the prevalence of affordable housing, even with the assisted living facility.

Mr. McGlennon stated that the affordable housing in the proposal does not address affordable housing for lower incomes.

Mr. McDonald stated, in response to a question from Mr. Goodson, that the fiscal impact of the assisted living facility depends somewhat on the income levels of those who occupy the facility.

Dr. Don Messmer, Wessex Group and author of the fiscal impact study stated that he believes the fiscal impact will reach essentially a break-even point at buildout, and that there would then be small positive impacts thereafter. He stated that they did not consider the current housing market in their analysis.

Mr. Trant stated that the County's analysis of the fiscal impact study is at a specific point in time, at buildout, and does not necessarily consider the life of the project.

Mr. Goodson stated that the fiscal impact is dynamic, and that projects can affect other projects. This consideration is not part of fiscal impact studies.

Ms. Jones stated that the Board unanimously approved the Forest Heights rezoning earlier in the evening and that the project has a negative fiscal impact. She stated, however, that it is an investment in the community and has other positive impacts on the County. She said that the Candle Factory proposal is consistent with the Comprehensive Plan and Zoning Ordinance, and has the benefits of affordable housing. She stated that she would support the project and made a motion to approve the resolution.

Mr. McGlennon stated that he had respect for the applicant, but warned that should not be a motivating force for approving an application.

Mr. Icenhour stated that the bulk of the property is designated low density residential. He stated that the County does not have a good definition of mixed use. He also expressed concern that there is only one entrance to the development.

Mr. Kennedy said that he agreed with Mr. Fraley that this project should have been master planned. He stated that the Food Lion and CVS stores are doing very well and welcome additions to the community. He said the Candle Factory project improves connectivity and increases affordable housing. He said that he can be supportive of the project because of the changes to the application, specifically the phasing so that the assisted living facility is built earlier.

Mr. Goodson stated that this development is in the PSA where the County wants to direct development. This project is a balance development. Neighboring property owners are supportive and the fiscal impact is positive.

On a roll call vote, the vote was: AYE: Kennedy, Goodson, Jones (3). NAY: McGlennon, Icenhour (2).

RESOLUTION

CASE NOS. Z-0003-2008/MP-0003-2008. THE CANDLE FACTORY

WHEREAS, in accordance with § 15.2-2204 of the Code of Virginia, 1950, as amended, and Section 24-15 of the James City County Zoning Ordinance, a public hearing was advertised, adjoining property owners notified, and a hearing scheduled on Zoning Case Nos. Z-0003-2008/MP-0003-2008; and

WHEREAS, Mr. Timothy Trent has applied to rezone properties located at 7551, 7567 and a portion of property located at 7559 Richmond Road and further identified as James City County Tax Map Nos. 2321100001D, 2321100001E, and 2321100001A, respectively (collectively, the "Properties") from A-1, General Agricultural District; M-1, Limited Business/Industrial District; and MU, Mixed Use District; to MU, Mixed Use, with proffers to allow the construction of a maximum of 175 residential units, approximately 30,000 square feet of commercial and office space, and a 90,000-square-foot assisted living facility; and

WHEREAS, the Properties are designated Low Density Residential and Mixed Use on the 2009 Comprehensive Plan Land Use Map; and

WHEREAS, on April 01, 2009, the Planning Commission recommended approval of the application by a vote of 4-3.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve Case No. Z-003-2008/MP-0003-2008 described herein, and accepts the voluntary proffers.

BE IT FURTHER RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve the request to allow private streets as shown in the Master Plan for Case No. Z-0003-2008/MP-0003-2008.

8. Amendment to the Charter of James City County Chapter 2, Powers of County Request

Mr. Leo Rogers, County Attorney, stated that this resolution authorizes an amendment to the James City County Charter to allow the County to assess civil penalties, in amounts higher than currently permitted by State Code. This resolution is consistent with the Board's direction and the advice received by members of the County's legislative delegation. Staff recommended approval of the resolution.

Mr. Goodson opened the Public Hearing.

As no one wished to speak to the matter, Mr. Goodson closed the Public Hearing.

Mr. Kennedy made a motion to approve the resolution.

On a roll call vote, the vote was: AYE: Kennedy, Goodson, McGlennon, Icenhour, Jones (5). NAY: (0).

RESOLUTION

**AMENDMENT TO THE JAMES CITY COUNTY CHARTER TO ALLOW THE ASSESSMENT
OF CIVIL PENALTIES FOR VIOLATIONS OF COUNTY CODE SECTION 10-4**

WHEREAS, the Board of Supervisors adopted the County's 2012 Legislative Program which, included in Item Nos. 1-4 seeking to amend Virginia Code to allow for increased civil penalties for owners of property upon which excessive trash and/or uncut grass is present; and

WHEREAS, County Code Section 10-4 provides that it is the duty of each owner, occupant and person in charge of any real property in the county to maintain such property at all times free from any accumulation of garbage, trash, litter, refuse or other waste matter, whether liquid or solid, which might endanger the health or safety of residents of the county or otherwise constitute a nuisance and to provide for the cutting on vacant developed or undeveloped property of grass, weeds and other foreign growth as often as may be necessary to prevent breeding and harboring places for insects, reptiles and rodents and to prevent other hazards to the health or safety of residents of the county or other nuisances; and

WHEREAS, civil penalties for a violation of Section 10-4 may not exceed \$50 for the first violation, or violations arising from the same set of operative facts, and may not exceed \$200 for subsequent violations not arising from the same set of operative facts within 12 months of the first violation; and

WHEREAS, the current amount of civil penalties assessed has not successfully deterred the continued violation of County Code Section 10-4 and an increase to such civil penalties would provide a benefit to the County by assisting to protect the health and safety of its residents; and

WHEREAS, the assessment of civil penalties for removal or disposal of trash and cutting of grass and weeds upon real property in an amount higher than \$50 for the first violation, or violations arising from the same set of operative facts, and \$200 for subsequent violations not arising from the same set of operative facts within 12 months of the first violation, would require an amendment to James City County's Charter by adding Section 2.5.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, having hereby conducted a public hearing on the issue, approves proceeding with a request to the General Assembly to grant an amendment to the James City County Charter to add a new Section 2.5 providing that in addition to the powers already held by the County to compel the removal or disposal of trash and the cutting of grass and weeds upon real property, the County may also assess civil penalties in the amount of \$200 for the first violation and up to \$500 for each subsequent violation.

9. Ordinance to Amend Chapter 2, Administration, by Adding Section 2-15.3, Bonuses for County Employees

Mr. Rogers stated that this ordinance amendment establishes the authority of the County Administrator to provide bonuses to County employees subject to the approval of the Board of Supervisors and appropriation of funds.

1. Mr. John Bookless, 3 Clarendon Court, said that he did not begrudge County employees a bonus. He specifically credited JCSA employees as helpful. He recommended, however, that the Board not forget where the revenue came from to fund the bonus. He said that the Board should take care of employees and citizens.

Mr. Goodson closed the Public Hearing.

Mr. McGlennon made a motion to approve the ordinance.

On a roll call vote, the vote was: AYE: Kennedy, Goodson, McGlennon, Icenhour, Jones (5). NAY: (0).

K. BOARD CONSIDERATIONS

1. Resolution Providing for the Authorization of a Bonus for Certain County Employees

Mr. Robert Middaugh, County Administrator, stated that this item was discussed at the last work session. He stated that the Board had committed to consideration of a bonus if funds were available at the end of FY 2011. Mr. Middaugh stated that surplus funds in the range of \$7 million to \$9 million are available.

Mr. Middaugh recommended a bonus rather than a permanent salary increase, and stated that lower wage earners will benefit most from the proposed bonus. Mr. Middaugh credited County employees for their excellent work and stated that he felt the investment was appropriate.

Mr. Kennedy stated that he believes it is premature to provide a bonus. He recounted a conversation with a business owner who has laid off 46 percent of his work force and the rest have taken pay decreases. He said he had paid \$38,000 in Business, Professional, and Occupational License (BPOL) taxes and had 38 employees. The business owner said that he would like to give his employees a \$1,000 bonus each if the County would refund his BPOL tax this year. Mr. Kennedy stated that he has been supportive of County employees and cited his advocacy for competitive public safety retirement benefits, the housing allowance, and the living wage. He stated, however, that he still believes it is premature to provide a bonus until at the least the Governor's budget is released.

Ms. Jones stated her tremendous appreciation for the job that County staff do. She said that she agreed, however, with Mr. Kennedy that it is too soon to expend these funds given budget uncertainties. She said that she would prefer to consider this proposal during the budget process.

Mr. Goodson said private businesses use bonuses to reward good work or a good year. He stated that the staff's job in bringing last year's budget under budget warranted a bonus. A bonus does not add to ongoing expenses.

Mr. McGlennon stated that the County has been slower than most other localities to address employee compensation. He stated that most citizens will see a lower tax bill because of declining assessments. Many employees are County citizens and the bonus will have a ripple effect throughout the County's economy.

Mr. Icenhour stated that he would support the resolution due to the work the staff did in bringing the budget in under budget.

Mr. McGlennon made a motion to approve Resolution A.

On a roll call vote, the vote was: AYE: Goodson, McGlennon, Icenhour (3). NAY: Kennedy, Jones (2).

RESOLUTION (A)

RESOLUTION PROVIDING FOR THE AUTHORIZATION OF A BONUS FOR CERTAIN COUNTY EMPLOYEES

WHEREAS, the Board of Supervisors recognizes that employees of the County are a critical resource in the provision of services to the community; and

WHEREAS, no adjustments in employee compensation have been made since October 2008 and the County is one of only three, out of 21, localities and public sector entities surveyed in the area that have not adjusted employee compensation in either 2011 or 2012; and

WHEREAS, financial savings in FY 2011 of \$1.5 million would provide sufficient funding for a one-time bonus in a flat dollar amount; and

WHEREAS, a one-time bonus in this calendar year will demonstrate the Board's appreciation for the work, dedication, and contributions of its employees to the community.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors authorizes the County Administrator to distribute a one-time bonus this calendar year, which will have no impact on base pay, to certain County employees who would normally have been eligible for performance increases, which means they (i) are employed by the County on December 1, 2011; (ii) have completed their initial introductory period by December 1, 2011; (iii) have attained a minimum rating of "Meets Expectations" on their FY 2012 performance evaluation; and (iv) are employed in full-time/part-time *Regular* or *Limited Term* County positions or full-time/part-time *Other* positions with the Commonwealth Attorney, Sheriff, or Colonial Community Corrections.

BE IT FURTHER RESOLVED that the one-time bonus will be in the amount of \$1,000 for full-time employees and \$500 for part-time employees.

BE IT FURTHER RESOLVED that the Board authorizes the following appropriation:

General Fund:

Fund Balance:	\$567,964
Personnel Contingency:	\$567,964

Social Services Fund:

Fund Balance	\$52,669
Administration	\$52,669

Community Development Fund:

Fund Balance	\$11,305
Personnel	\$11,305

Colonial Community Corrections Fund:

Fund Balance	\$14,535
Administration	\$14,535

2. Disclosure Policy

Mr. Kennedy asked that this item be tabled until the Board has a work session on the issue. The Board agreed by consensus.

L. PUBLIC COMMENT

1. Mr. Ed Oyer, 139 Indian Circle, said that if the County was going to address the spay/neuter issue, the County would have to deal with the feral side as well.

2. Mr. Jeff Ryer, 7154 Merrimac Trail, said that a previous speaker has said there had not been enough time for discussion on the issue of eliminating staggered terms. Mr. Ryer stated that there had been

discussion for six months. He also stated that a referendum was not held when staggered terms were originally implemented. He advocated “all at large” or “all at once.”

3. Mr. Jack Fraley, 104 Thorp’s Parish, said that he was not certain, while he was a Planning Commissioner, why he received two sets of fiscal impact studies. He stated that the process for fiscal impact studies should be defined.

4. Mr. Chris Henderson, 101 Keystone, thanked Mr. Goodson for his contributions to the County. He also recognized Mr. Fraley for his contributions to the County. He also mentioned Courthouse Commons is 97.5 percent leased and they are ready to begin Phase 2 of the project which is pre-leased.

M. REPORTS OF THE COUNTY ADMINISTRATOR

Mr. Middaugh thanked the Board on behalf of employees for approval of the bonus.

He also distributed an update on the boat tax issue and said an official report should be available shortly after the first of the year.

He stated County offices are closed on December 23 and 26 and that the Board will hold a special meeting on December 20 to consider staggered terms.

N. BOARD REQUESTS AND DIRECTIVES

Mr. Kennedy asked for an update on the list of homes that have been given demolition orders and the homes that have been cited for trash and grass. He also thanked Mr. Goodson for his service.

Mr. McGlennon said that he hoped the committee looking at the boat tax will look at the issue broadly, and not just review the issue with the larger boats going out of dock on January 1, 2012. He said that the tax should be reviewed for all boats, and the County should not do anything that is less than revenue neutral.

Mr. Goodson thanked Ms. Jones for allowing him to chair his last meeting on the Board. He said that he enjoyed meeting and working with all of the people he has met.

Ms. Jones made a motion to approve the resolution recognizing Mr. Goodson for his years of service.

On a roll call vote, the vote was: AYE: Kennedy, McGlennon, Icenhour, Jones (4). NAY: (0). Abstain: Goodson (1).

Mr. Kennedy made a motion to appoint Mr. Goodson to the Thomas Nelson Community College Local Board.

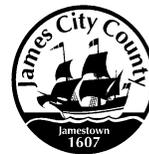
On a roll call vote, the vote was: AYE: Kennedy, Goodson, McGlennon, Icenhour, Jones (5). NAY: (0).

O. ADJOURNMENT to 7 p.m. on December 20, 2011.

At 10:42 p.m., Mr. Goodson adjourned the Board until 7 p.m. on December 20, 2011.

Robert C. Middaugh
Clerk to the Board

121311bos_min



MEMORANDUM COVER

Subject: Adoption of Amendments to the Peninsula Hazard Mitigation Plan 2011 Update

Action Requested: Shall the Board approve the resolution to adopt the amendment to the Peninsula Hazard Mitigation Plan 2011 Update?

Summary: The James City County Board of Supervisors adopted the Peninsula Hazard Mitigation Plan 2011 Update required to maintain eligibility for Federal Emergency Management pre- and post-disaster grant programs and flood mitigation assistance on October 25, 2011. The Plan had been reviewed by the Virginia Department of Emergency Management and was forwarded to FEMA Region III for its final approval.

In its final review, FEMA required that the two following changes be made and adopted by James City County as well as all participating jurisdictions: 1) A statement was added to the Executive Summary confirming that the localities participating in the Plan 2011 Update were the same localities which had participated in the 2006 Peninsula Multi-Jurisdictional Natural Hazards Mitigation Plan, and 2) 2011 Mitigation Action JC8 (2011) was amended to include the term relocation and delete the term non-residential. (This change maximizes the potential eligibility of future hazard mitigation projects.)

Staff recommends approval of the attached resolution.

Fiscal Impact: Adoption of the plan maintains James City County's eligibility for pre- and post-disaster hazard mitigation grant programs and flood mitigation assistance.

FMS Approval, if Applicable: Yes No

Assistant County Administrator

Doug Powell _____

County Administrator

Robert C. Middaugh _____

Attachments:

1. Memorandum
2. Resolution

Agenda Item No.: G-2

Date: January 10, 2012

M E M O R A N D U M

DATE: January 10, 2012

TO: The Board of Supervisors

FROM: William T. Luton, Fire Chief

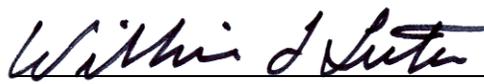
SUBJECT: Adoption of Amendments to the Peninsula Hazard Mitigation Plan 2011 Update

James City County adopted the Peninsula Hazard Mitigation Plan 2011 Update on October 25, 2011. This update to the 2006 Peninsula Multi-Jurisdictional Hazard Mitigation Plan was required as a condition of future funding for projects under Federal Emergency Management Agency (FEMA) pre- and post-disaster mitigation grant programs as well as flood mitigation assistance. The Plan must be updated every five years to maintain eligibility. Adoption of the Peninsula Hazard Mitigation Plan 2011 Update by the Board of Supervisors is required to maintain compliance with FEMA requirements.

The Plan had been reviewed by the Virginia Department of Emergency Management and was forwarded to Region III of FEMA. Approval by FEMA is contingent upon local adoption which was accomplished on October 25, 2011. In its final post-adoption review, FEMA required two changes: 1) A statement in the Executive Summary that verified the localities participating in the 2011 update were the same as those who were part of the original 2006 plan, and 2) Changes to the wording of Mitigation Action JC8 (2011) in order to broaden eligibility of potential hazard mitigation projects. Those changes have been made.

A resolution that complies with the Commonwealth of Virginia requirements is attached.

Staff recommends approval of the attached resolution.


William T. Luton

CONCUR:

Robert C. Middaugh

WTL/gb
AmeHazMit2011_mem

Attachment

RESOLUTION

ADOPTION OF AMENDMENTS TO THE PENINSULA HAZARD MITIGATION PLAN

2011 UPDATE

WHEREAS, James City County, seeking Federal Emergency Management Agency (FEMA) approval of its Hazard Mitigation Plan 2011 Update, recognizes the threat that natural hazards pose to people and property within our community; and

WHEREAS, an adopted Peninsula Hazard Mitigation Plan 2011 Update is required as a condition for future funding for mitigation projects under multiple FEMA pre- and post-disaster mitigation grants and flood mitigation assistance; and

WHEREAS, the Virginia Department of Emergency Management and FEMA Region III have reviewed the Peninsula Hazard Mitigation Plan 2011 Update, and approval was contingent upon this official adoption of the participating governments and entities; and

WHEREAS, James City County adopted the Plan 2011 Update on October 25, 2011, and in its final post-adoption review, FEMA has required two changes to the Plan Update 2011; and

WHEREAS, the required changes have been made to the Plan 2011 Update.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby adopts the Peninsula Hazard Mitigation Plan 2011 Update as amended as an official plan.

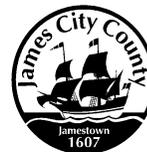
BE IT FURTHER RESOLVED, that James City County will submit this adopted resolution to the Virginia Department of Emergency Management and FEMA Region III to enable the Plan 2011 Update final approval.

Mary K. Jones
Chairman, Board of Supervisors

ATTEST:

Robert C. Middaugh
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 10th day of January, 2012.



MEMORANDUM COVER

Subject: Appropriation to the Commonwealth's Attorney Office - \$5,000

Action Requested: Shall the Board appropriate \$5,000 to the Commonwealth Attorney's office to assist with the recruitment of a vacant position?

Summary: Mr. Nate Green, Commonwealth Attorney, has requested an appropriation of \$5,000 to assist with the recruitment of a vacant position. Ms. Holly Smith, an experienced prosecutor in the office with over 10 years of experience has resigned subsequent to being elected as Commonwealth Attorney for Gloucester County.

Ms. Smith had been designated as a "career prosecutor" which allowed her to receive an increase in salary from the State. Mr. Green requests that the County offset some of the loss of State funds, which would allow Mr. Green to offer a starting salary of \$68,000 for the vacant position.

Staff recommends approval of the attached resolution.

Fiscal Impact: N/A

FMS Approval, if Applicable: Yes No

Assistant County Administrator

Doug Powell _____

County Administrator

Robert C. Middaugh _____

Attachments:

1. Memorandum
2. Resolution
3. Letter from Mr. Green, Commonwealth's Attorney

Agenda Item No.: G-3

Date: January 10, 2012

MEMORANDUM

DATE: January 10, 2012

TO: The Board of Supervisors

FROM: Robert C. Middaugh, County Administrator

SUBJECT: Appropriation to the Commonwealth Attorney's Office - \$5,000

Mr. Nate Green, Commonwealth Attorney, has requested an appropriation of \$5,000 to assist with the recruitment a vacant attorney position. Ms. Holly Smith, an experienced prosecutor in the office with over 10 years of experience, has resigned subsequent to being elected as Commonwealth Attorney in Gloucester County.

Ms. Smith had been designated as a "career prosecutor" which allowed her to receive an increase in salary from the State. Her resignation results in a loss of \$12,719 in State funds to the Commonwealth Attorney's office. Mr. Green requests that the Board appropriate \$5,000 to the Commonwealth Attorney's office to partially offset the loss and to allow him to offer a beginning salary of approximately \$68,000 for the vacant position. The \$5,000 amount is required for the remaining half of FY 12. An annualized amount of \$10,000 will be required in the FY 13 budget. Please find attached a letter from Mr. Green explaining the request. In his letter, Mr. Green requests \$10,000, but staff has confirmed with him that only \$5,000 is required for the remainder of the FY 12.

Staff recommends the approval of the resolution appropriating \$5,000 to the Commonwealth Attorney's office from Operating Contingency.

Robert C. Middaugh

RCM/gb
AppCommAt_mem

Attachments

RESOLUTION

APPROPRIATION TO THE COMMONWEALTH ATTORNEY'S OFFICE - \$5,000

WHEREAS, the Commonwealth Attorney's office is losing State funds due to the resignation of a "career prosecutor"; and

WHEREAS, the Commonwealth's Attorney has requested \$5,000 to offset the loss and allow the ability to hire an experienced prosecutor.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby appropriates \$5,000 to the Commonwealth Attorney's office as follows:

Revenue:

From Commonwealth - Commonwealth Attorney	<u>\$5,000</u>
---	----------------

Expenditure:

Operating Contingency	<u>\$5,000</u>
-----------------------	----------------

Mary K. Jones
Chairman, Board of Supervisors

ATTEST:

Robert C. Middaugh
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 10th day of January, 2012.

AppCommAt_res

Commonwealth of Virginia

NATHAN R. GREEN
COMMONWEALTH'S ATTORNEY
ngreen@wjcc-ca.hrcoxmail.com

CRESSONDRA B. CONYERS
DEPUTY COMMONWEALTH'S ATTORNEY
cconyers@wjcc-ca.hrcoxmail.com

CRYSTAL M. SKEETER-DAVIS
DIRECTOR
VICTIM-WITNESS ASSISTANCE
cdavis@wjcc-ca.hrcoxmail.com



COURTHOUSE
5201 MONTICELLO AVENUE
SUITE 4
WILLIAMSBURG, VIRGINIA 23188-8218
(757) 564-2277
FAX: (757) 564-2288

CATHERINE A. CLEMENS BLACK
ASSISTANT COMMONWEALTH'S ATTORNEY
cblack@wjcc-ca.hrcoxmail.com

HOLLY B. SMITH
ASSISTANT COMMONWEALTH'S ATTORNEY
hsmith@wjcc-ca.hrcoxmail.com

MAUREEN F. KUFRO
ASSISTANT COMMONWEALTH'S ATTORNEY
mkufro@wjcc-ca.hrcoxmail.com

NANCY K. BOLASH
ASSISTANT COMMONWEALTH'S ATTORNEY
nbolash@wjcc-ca.hrcoxmail.com

TO: James O. Icenhour, Jr.
Board of Supervisors, Powhatan District

Mary K. Jones
Board of Supervisors, Berkeley District

James G. Kennedy
Board of Supervisors, Stonehouse District

John J. McGlennon
Board of Supervisors, Roberts District

FROM: Nate Green
Commonwealth's Attorney
City of Williamsburg/James City County

DATE: December 20, 2011

RE: Request for \$10,000 in County funds to offset the loss of \$12,719 in State funds.

This past November, Holly Smith, a valued Assistant Commonwealth's Attorney with over ten years of experience as a prosecutor, was elected Commonwealth's Attorney in Gloucester. This leaves a vacancy in my office that I would like to fill with an experienced prosecutor. There are no Compensation Board barriers to filling the vacated position immediately. However, Mrs. Smith had previously been designated as a "Career Prosecutor" which allowed her to receive an increase in the salary provided by the State. While I have another attorney on staff that is eligible for the "Career Prosecutor" program, the program lost funding for any new enrollees in 2010. Therefore the result of Mrs. Smith vacating her position here is a \$12,719.00 loss of State funding to my budget for prosecutor salaries.

I am asking the Board to off set the loss of the \$12,719.00 in State funding by increasing the County funded salary supplement to the Commonwealth's Attorney's budget by \$10,000.00. By replacing \$10,000.00 of the lost State funds, I will be able to recruit a talented, experienced prosecutor by offering a more competitive salary. I would like to offer approximately \$68,000.00, which is more on par with surrounding jurisdictions.

It is important to me, and I believe important to the community, to maintain the exceptional level of professionalism and expertise that this office has historically enjoyed. If the County is willing to replace a portion of the lost state funds, I am confident that the loss of Mrs. Smith's tremendous talents and experienced, will be much more adequately replaced by an experienced prosecutor. Maintaining an acceptable level of experience in our office has a direct correlation to maintaining a safe and just community.



Nate Green

Commonwealth's Attorney

James City County and the City of Williamsburg



MEMORANDUM COVER

Subject: Pre-Budget Public Hearing - FY 2013-2014 Budget

Action Requested: No Action Required

Summary: The purpose of this public hearing is to invite comments and suggestions from citizens for the upcoming two-year County Budget. The comments and suggestions made at this pre-budget Public Hearing will help guide staff in preparing a budget proposal for the Board's review in April.

Fiscal Impact:

FMS Approval, if Applicable: Yes No

Assistant County Administrator

Doug Powell _____

County Administrator

Robert C. Middaugh _____

Attachment:
1. Memorandum

Agenda Item No.: H-1

Date: January 10, 2012

MEMORANDUM

DATE: January 10, 2012

TO: The Board of Supervisors

FROM: Suzanne R. Mellen, Assistant Manager of Financial and Management Services

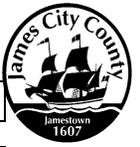
SUBJECT: Pre-Budget Public Hearing - FY 2013-2014 Budget

The purpose of this public hearing is to invite comments and suggestions from citizens for the upcoming two-year County Budget. The comments and suggestions made at this pre-budget Public Hearing will help guide staff in preparing a budget proposal for the Board's review in April. No Board action is requested at this time.

Suzanne R. Mellen

SRM/nb
Pubhear13-14Bud_mem

MEMORANDUM COVER



Subject: Case No. ZO-0004-2011. Commercial Districts

Action Requested: Shall the Board approve revised ordinances for the LB, B-1, M-1, and M-2 Zoning Districts and ordinances for revisions to the Commercial Special Use Permit (SUP) triggers and Development Review Committee (DRC) review thresholds?

Summary: Following adoption of the six commercial ordinances (LB, Limited Business; B-1, General Business; M-1, Limited Business/Industrial; M-2, General Industrial; Section 24-11, Commercial Special Use Permits (SUPs), and Section 24-147, Development Review Committee (DRC) Review Criteria) at the October 11, 2011, Board of Supervisors meeting, staff became aware of inconsistencies between the draft versions of the M-1 and M-2 ordinances which were posted online prior to the September 7, 2011, Planning Commission meeting and the paper copies of those same ordinances which were distributed to the Commission and the Board. Given the discrepancies between the different ordinance versions that were in circulation prior to adoption, on November 8, 2011, the Board voted unanimously to rescind the prior approval of the six commercial ordinances and requested that staff reexamine the use list in each of the four commercial zoning districts and correct any inconsistencies that were identified.

The draft version of the M-1 and M-2 ordinances reviewed by the Planning Commission in October 2011 included fast food restaurants as a permitted use in both districts. Fast food restaurants had previously been permitted by right in the B-1 district but were not permitted in either M-1 or M-2. After additional review, staff has amended the use list to make fast food a specially permitted use in the M-1 district and has removed the use entirely from the M-2 district. Staff reviewed all ordinances and found no other inconsistencies besides those found in the M-1 and M-2 ordinances. Staff has not made any additional changes to any of the commercial districts since consideration of the previous drafts.

On December 7, 2011, the Planning Commission voted 6-0 (absent: Maddocks) to recommend approval of the four commercial district ordinances, the DRC review criteria ordinance and the commercial SUP trigger ordinance.

Staff recommends that the Board of Supervisors approve the six attached ordinances.

Fiscal Impact: N/A

FMS Approval, if Applicable: Yes No

Assistant County Administrator
Doug Powell _____

County Administrator
Robert C. Middaugh _____

- Attachments:**
- 1. Memorandum
 - 2. Ordinance, Section 24-11
 - 3. Ordinance, Section 24-147
 - 4. Ordinance, LB
 - 5. Ordinance, B-1
 - 6. Ordinance, M-1
 - 7. Ordinance, M-2
 - 8. Minutes from the September 7, 2011, Planning Commission Meeting
 - 9. Unapproved Minutes from the December 7, 2011, Planning Commission Meeting
 - 10. Excerpt, Minutes from the October 11, 2011, Board of Supervisors Meeting
 - 11. Excerpt, Minutes from the November 8, 2011 Board of Supervisors Meeting
 - 12. Special Use Permit Trigger List, 2001 - 2011

Agenda Item No.: H-2
Date: January 10, 2012

MEMORANDUM

DATE: January 10, 2012

TO: The Board of Supervisors

FROM: Christopher Johnson, Principal Planner

SUBJECT: Case No. ZO-0004-2011. Commercial Districts

Following adoption of the six commercial ordinances (LB, Limited Business; B-1, General Business; M-1, Limited Business/Industrial; M-2, General Industrial; Section 24-11, Commercial Special Use Permits (SUPs), and Section 24-147, Development Review Committee (DRC) Review Criteria) at the October 11, 2011 Board of Supervisors meeting, staff became aware of inconsistencies between the draft versions of the M-1 and M-2 ordinances which were posted online prior to the September 7, 2011, Planning Commission meeting and the paper copies of those same ordinances which were distributed to the Commission and the Board. Given the discrepancies between the different ordinance versions that were in circulation prior to adoption, on November 8, 2011, the Board voted unanimously to rescind the prior approval of the six commercial ordinances and requested that staff reexamine the use list in each of the four commercial zoning districts and correct any inconsistencies that were identified.

The draft version of the M-1 and M-2 ordinances reviewed by the Planning Commission in October 2011 included fast food restaurants as a permitted use in both districts. Fast food restaurants had previously been permitted by right in the B-1 district but were not permitted in either M-1 or M-2. After additional review, staff has amended the use list to make fast food a specially permitted use in the M-1 district and has removed the use entirely from the M-2 district. Staff reviewed all ordinances and found no other inconsistencies besides those found in the M-1 and M-2 ordinances. Staff has not made any additional changes to any of the commercial districts.

As stated previously, staff incorporated elements discussed in the Business Climate Task Force (BCTF) report into the ordinances aimed at providing greater predictability and flexibility in both the legislative and administrative development plan review process, improving communication between staff and applicants, and fostering a more business friendly environment. The revisions made to the ordinances are summarized below:

- The list of permitted and specially permitted uses have in each of the four commercial districts has been combined into a single table and categorized to make uses easier to locate.
- Approval authority for design standard deviations, master plan consistency determinations, modifications, waivers, and setback reductions has been granted to the Planning Director with appellate authority granted to the DRC and Planning Commission.
- In Section 24-11, SUPs for certain commercial uses, the building size thresholds for new construction have been raised from 10,000 to 20,000 square feet and building additions or expansions raised from 5,000 to 10,000 square feet. The peak-hour vehicle trip threshold for building additions or expansions has been raised from 75 to 100 peak-hour vehicle trips.
- In Section 24-147, the DRC review criteria has been revised to add an exception for buildings greater than 30,000 square feet that are predominantly used for warehouse, distribution center, office, or for other industrial or manufacturing purpose. Fast food was eliminated and the trigger for review of a multi-family development was lowered from 50 to 10 or more units.
- In the Limited Business Zoning District, building size thresholds for selected uses such as restaurants, drug stores, grocery stores, and office supply stores have been added to allow smaller-scale commercial uses

which are compatible with the low-density residential surroundings to forego the legislative review process.

- In the General Business Zoning District, uses containing size thresholds in the Limited Business are permitted by-right. Previously specially permitted uses such as vehicle rental facilities, vehicle and trailer sales and service, and kennels have been shifted to be permitted by-right. Additional uses have been added to the list of permitted uses and other uses have been reorganized or reworded to provide additional clarity.
- In the Limited Business/Industrial District, many new permitted uses have been added. Some of those uses are limited to a fully enclosed building while others are permitted by-right with the provision of landscaping and fencing to screen outdoor activities and limit the impacts commonly associated with those uses. In addition, some uses have been reorganized or reworded to provide additional clarity.
- In the General Industrial Zoning District, the majority of changes made to the use list were editorial in nature. New uses were added to provide consistency with the Limited Business/Industrial District and to stay current with terminology found in other ordinances that were researched by staff during the review process.

Given that the use table is an addition to each of these ordinances, they are all listed in both italicized print and shaded grey. For clarity purposes, staff has listed language that has been modified, deleted, or added within the use tables in bold font.

At the December 7, 2011, Planning Commission meeting, the Commission voted 6-0 (Absent: Maddocks) to recommend approval of the six attached ordinances.

Staff recommends that the Board of Supervisors approve the six attached ordinances.

Christopher Johnson

CONCUR:

Allen J. Murphy, Jr.

CJ/nb

ZO-04-2011_mem

Attachments:

1. Ordinance - Article I, Section 24-11, Commercial Special Use Permits
2. Ordinance - Article III, Section 24-147, Development Review Committee Criteria
3. Ordinance - Article V, Division 9, Limited Business, LB
4. Ordinance - Article V, Division 10, General Business, B-1
5. Ordinance - Article V, Division 11, Limited Business/Industrial, M-1
6. Ordinance - Article V, Division 12, General Industry, M-2
7. Approved Minutes from the September 7, 2011, Planning Commission Meeting
8. Unapproved Minutes from the December 7, 2011, Planning Commission Meeting
9. Excerpt, Minutes from the October 11, 2011, Board of Supervisors Meeting
10. Excerpt, Minutes from the November 8, 2011, Board of Supervisors Meeting
11. Special Use Permit Trigger List, 2001-2011

ORDINANCE NO. _____

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 24, ZONING, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE I, IN GENERAL, SECTION 24-11, SPECIAL USE PERMIT REQUIREMENTS FOR CERTAIN COMMERCIAL USES; EXEMPTIONS.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 24, Zoning, is hereby amended and reordained by amending Article I, In General, Section 24-11, Special use permit requirements for certain commercial uses; exemptions.

Chapter 24

ARTICLE I. IN GENERAL

Sec. 24-11. Special use permit requirements for certain commercial uses; exemptions.

(a) *General requirements.* A special use permit issued by the board of supervisors shall be required for:

- (1) Any convenience store;
- (2) Any commercial building or group of buildings which exceeds ~~10,000~~ 20,000 square feet of floor area; or
- (3) Any commercial building or group of buildings, not including office uses, which generates, or would be expected to generate, a total of 100 or more additional trips to and from the site during the peak hour of the operation, based on the application of the Institute of Transportation Engineers (ITE) traffic generation rates contained in the latest edition of its book entitled *Trip Generation*. The applicable trip generation rate shall be determined by the planning director. The planning director may permit other traffic generation rates to be used if an individual or firm qualified to conduct traffic engineering studies documents that the use would not reasonably be expected to generate the amount

of peak hour traffic projected by application of ITE traffic generation rates, provided the documentation is acceptable to the planning director; or

(4) ~~Automobile and gasoline~~ *Vehicle* service stations *which sell or dispense fuel.*

(b) *New buildings, additions or expansions.* A special use permit shall be required for a new building, addition or expansion when:

(1) In combination with the existing structure, it exceeds the thresholds set forth in paragraph (a);

(2) It adds ~~5,000~~ *10,000* square feet or more of commercial floor area or, in combination with other new buildings, additions or expansions, generates ~~75~~ *100* or more peak-hour trips than generated by the existing or approved use on May 21, 1990, or than approved in a special use permit, whichever is greater; and

(3) It is located on the same property as the existing structure or other parcel which is a logical component of such property. Factors to determine whether a parcel is a logical component include:

a. Common ownership or control of the parcels under consideration by the same person(s) or entity(ies), or similar or related entities;

b. Regardless of factor a. above, shared access to public roads, shared parking arrangements, shared traffic circulation or shared service areas; and

c. Proximity. For the purpose of this paragraph, "proximity" means adjacent parcels, parcels separated by property under common ownership or control by the same person(s) or entity(ies) or similar or related entities, or parcels separated by a public or private right-of-way.

(c) *Design and submittal requirements.* Any building or use and addition or expansion thereto requiring a special use permit under this section shall comply with the requirements of section 24-23.

(d) *Exemptions.* The following shall be exempt from the requirements of this section:

(1) Any use or building and expansion or addition thereto with preliminary site plan approval prior to May 21, 1990;

- (2) Any use or building and expansion or addition thereto for which the start of construction began prior to May 21, 1990, in accordance with a site plan approved prior to that date;
- (3) Any use or building and expansion or addition thereto shown on a proffered binding master plan that binds the general location of all of the features on the plan as required under this section;
- (4) Any building located in a mixed use district, residential planned community district or planned unit development district; or
- (5) Any building predominantly used as a warehouse, distribution center, office, or for other industrial or manufacturing purposes. For purposes of this exemption only, the term “predominantly” shall mean 85 percent of the total square feet of the building or more.

Mary K. Jones
Chairman, Board of Supervisors

ATTEST:

Robert C. Middaugh
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 10th day of January, 2012.

ZO-042011_ord5

ORDINANCE NO. _____

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 24, ZONING, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE III, SITE PLAN, SECTION 24-147, CRITERIA FOR REVIEW.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 24, Zoning, is hereby amended and reordained by amending Article III, Site Plan, Section 24-147, Criteria for review.

Chapter 24. Zoning

ARTICLE III. SITE PLAN

Sec. 24-147. Criteria for review.

- (a) Upon application and review, the development review committee (DRC) and the commission, or the commission's designee(s), shall consider site plans if any of the following conditions are present:
- (1) The site plan proposes:
- ~~a~~ a single building or group of buildings which contain a total floor area that exceeds 30,000 square feet or a multifamily unit development of 50 or more units, which is not subject to a binding master plan that has been legislatively approved; or
 - ~~b~~ *a fast food restaurant* *a multifamily development of 10 or more units which is not subject to a binding legislatively approved master plan;* or
 - ~~e~~ *b.* a shopping center; or
 - ~~c.~~ *a single building or group of buildings which contain a total floor area that exceeds 30,000 square feet which are not predominantly to be used as a warehouse, distribution*

center, office, or for other industrial or manufacturing purpose. The term predominantly shall be defined as 85% of the total square feet of the building or more.

- (2) There are unresolved ~~problems~~ *conflicts* between the applicant, adjacent property owners *and/or* any departmental reviewing agency. *Unresolved conflicts shall be defined as disagreements in the interpretation or application of ordinance requirements which have a material impact on the proposed developments off-site impacts and/or density, as determined by the planning director.*
- (b) Site plans which meet any of the conditions listed above shall generally be reviewed by the DRC and the commission in accordance with section 24-148. However, the commission's designee may consider and review, pursuant to section 24-149, any site plan which the ~~development manager~~ *economic development director* determines *to* creates or significantly expands a use which contributes to the achievement of the economic development goals of the Comprehensive Plan.
- (c) If site plans do not qualify for review by the commission or its designees under this section, they may be considered and reviewed administratively by the zoning administrator *under the terms of section 24-150.*

Mary K. Jones
Chairman, Board of Supervisors

ATTEST:

Robert C. Middaugh
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 10th day of January, 2012.

ORDINANCE NO. _____

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 24, ZONING, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE V, DISTRICTS, DIVISION 9, LIMITED BUSINESS DISTRICT, LB, BY AMENDING SECTION 24-367, STATEMENT OF INTENT; BY AMENDING AND RENAMING SECTION 24-368, PERMITTED USES WITH NEW NAME USE LIST; BY DELETING SECTION 24-369, USES PERMITTED BY SPECIAL USE PERMIT ONLY; BY AMENDING AND RENUMBERING SECTION 24-370, SPECIAL PROVISIONS FOR AREAS WITHIN THE LIMITED BUSINESS DISTRICT, LB, DESIGNATED NEIGHBORHOOD COMMERCIAL OR LOW-DENSITY RESIDENTIAL ON THE COMPREHENSIVE PLAN WITH NEW NUMBER 24-369; BY RENUMBERING SECTION 24-371, AREA REQUIREMENTS WITH NEW NUMBER 24-370; BY AMENDING AND RENUMBERING SECTION 24-372, SETBACK REQUIREMENTS WITH NEW NUMBER 24-371; BY RENUMBERING AND RENAMING SECTION 24-373, YARD REGULATIONS WITH NEW NUMBER AND NAME, 24-372, YARD REQUIREMENTS; BY AMENDING, RENUMBERING AND RENAMING SECTION 24-374, SPECIAL PROVISIONS FOR THE ADJUSTMENT OF YARD REQUIREMENTS WITH NEW NUMBER AND NAME 24-373, SPECIAL PROVISIONS FOR THE WAIVER OF YARD REQUIREMENTS; BY AMENDING, RENUMBERING AND RENAMING SECTION 24-375, HEIGHT LIMITS AND HEIGHT LIMITATION WAIVERS WITH NEW NUMBER AND NAME 24-374, HEIGHT OF STRUCTURES; BY AMENDING AND RENUMBERING SECTION 24-376, BUILDING COVERAGE LIMITS WITH NEW NUMBER 24-375; BY RENUMBERING SECTION 24-377, SIGN REGULATIONS WITH NEW NUMBER 24-376; BY RENUMBERING SECTION 24-378, OUTDOOR STORAGE PROHIBITED WITH NEW NUMBER 24-377; BY AMENDING AND RENUMBERING SECTION 24-379, SITE PLAN REVIEW WITH NEW NUMBER 24-378; BY RENUMBERING AND RENAMING SECTION 24-380, SIDEWALKS

WITH NEW NUMBER AND NAME 24-379, PEDESTRIAN ACCOMMODATIONS; BY AMENDING AND RENUMBERING SECTION 24-381, LANDSCAPING WITH NEW NUMBER 24-380; AND BY RESERVING SECTION 24-381.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 24, Zoning, is hereby amended and reordained by amending Article V, Districts, Division 9, Limited Business District, LB, by amending Section 24-367, Statement of intent; Section 24-368, Use list; Section 24-369, Special provisions for areas within the Limited Business District, LB, designated Neighborhood Commercial or Low-Density Residential on the Comprehensive Plan; Section 24-370, Area requirements; Section 24-371, Setback requirements; Section 24-372, Yard requirements; Section 24-373, Special provisions for the waiver of yard requirements; Section 24-374, Height of structures; Section 24-375, Building coverage limits; Section 24-376, Sign regulations; Section 24-377, Outdoor storage prohibited; Section 24-378, Site plan review; Section 24-379, Pedestrian accommodations; Section 24-380, Landscaping; and Section 24-381, Reserved.

Chapter 24. Zoning

ARTICLE V. DISTRICTS

DIVISION 9, LIMITED BUSINESS DISTRICT, LB

Sec. 24-367. Statement of intent.

The Limited Business District, LB, is intended to provide opportunities for a limited range of office, retail and service establishments of small to moderate size, with ~~small~~, well-landscaped parking areas *and an appropriate amount of perimeter and right-of-way landscape buffering when located adjacent to*

residentially zoned or Comprehensive Plan Land Use Map designated residential or agricultural property. The district is characterized by the absence of nuisance factors such as constant heavy trucking and excessive noise, dust, light and odor. This classification is appropriate where proximity to residential areas, existing land uses, traffic patterns and other factors make it desirable to maintain a commercial character which is less intense than permitted in the General Business District, B-1. To enhance the character of the district and to improve its compatibility with low-density surroundings, limitations on building height and ~~bulk~~ *size* are imposed, and special requirements are imposed on areas designated Neighborhood Commercial or Low-Density Residential on the Comprehensive Plan.

Sec. 24-368. ~~Permitted uses~~ Use list.

Reference Section 24-11 for special use permit requirements for certain commercial uses and exemptions. In the Limited Business District, LB, *all* buildings or structures to be erected or land to be used shall be for one or more of the following *uses*:

<i>Use Category</i>	<i>Use List</i>	<i>Permitted Uses</i>	<i>Specially Permitted Uses</i>
<i>Residential</i>	<i>An apartment or living quarters for a guard, caretaker, proprietor or the person employed on the premises, which is clearly secondary to the commercial use of the property</i>	<i>P</i>	
<i>Commercial</i>	<i>Accessory uses and structures, as defined in section 24-2</i>	<i>P</i>	
	<i>Adult day care centers</i>	<i>P</i>	
	<i>Antique shops</i>	<i>P</i>	
	<i>Arts and crafts, hobby and handicraft shops</i>	<i>P</i>	
	<i>Auction houses</i>	<i>P</i>	
	<i>Bakeries and fish markets</i>	<i>P</i>	
	<i>Banks and other financial institutions</i>	<i>P</i>	
	<i>Barber and beauty shops salons</i>	<i>P</i>	
	<i>Business, governmental and professional offices</i>	<i>P</i>	

<i>Catering and meal preparation 5,000 sq. ft. or less</i>	<i>P</i>	
<i>Catering and meal preparation larger than 5,000 sq. ft.</i>		<i>SUP</i>
<i>Child day care centers</i>	<i>P</i>	
<i>Contractor offices (with materials and equipment storage limited to a fully enclosed building)</i>	<i>P</i>	
<i>Convenience stores without the sale of fuel, in areas not designated Low-Density Residential or Neighborhood Commercial on the Comprehensive Plan Land Use Map</i>		<i>SUP</i>
<i>Drug stores 10,000 sq. ft. or less</i>	<i>P</i>	
<i>Drug stores larger than 10,000 sq. ft.</i>		<i>SUP</i>
<i>Dry cleaners and laundries</i>	<i>P</i>	
<i>Firearms sales and service</i>		<i>SUP</i>
<i>Firing and shooting ranges, limited to a fully enclosed building</i>		<i>SUP</i>
<i>Feed, seed and farm supply stores</i>	<i>P</i>	
<i>Flea markets, not in areas designated Low-Density Residential or Neighborhood Commercial on the Comprehensive Plan Land Use Map</i>		<i>SUP</i>
<i>Funeral homes</i>	<i>P</i>	
<i>Gift and souvenir stores</i>	<i>P</i>	
<i>Grocery stores 10,000 sq. ft. or less</i>	<i>P</i>	
<i>Grocery stores larger than 10,000 sq. ft.</i>		<i>SUP</i>
<i>Health clubs and exercise clubs, fitness centers</i>	<i>P</i>	
<i>Houses of worship</i>	<i>P</i>	
<i>Janitorial service establishments</i>	<i>P</i>	
<i>Lodges, civic clubs, fraternal organizations and service clubs</i>	<i>P</i>	
<i>Printing, M mailing, and facsimile transmission services lithographing, engraving, photocopying, blueprinting and publishing establishments</i>	<i>P</i>	
<i>Medical clinics or offices</i>	<i>P</i>	
<i>Marinas, docks, piers, yacht clubs, boat basins, boat storage and servicing, repair and sale facilities for the same; if fuel is sold, then in accordance with section 24-38</i>		<i>SUP</i>
<i>New and/or rebuilt automotive parts sales (with storage limited to a fully enclosed building)</i>	<i>P</i>	

	<i>Off-street parking as required by section 24-53</i>	<i>P</i>	
	<i>Office supply stores, secretarial and duplicating services 10,000 sq. ft. or less</i>	<i>P</i>	
	<i>Office supply stores greater than 10,000 sq. ft.</i>		<i>SUP</i>
	<i>Pet stores and pet supply sales</i>	<i>P</i>	
	<i>Photography studios and sales, artist and sculptor stores and studios, arts and crafts and handcraft shops, antique shops, reproduction and gift shops</i>	<i>P</i>	
	<i>Places of public assembly, including houses of worship and public meeting halls</i>	<i>P</i>	
	<i>Plumbing and electrical supply (with storage limited to a fully enclosed building)</i>	<i>P</i>	
	<i>Public meeting halls</i>	<i>P</i>	
	<i>Restaurants (excluding fast food restaurants), coffee shops, and tea rooms and taverns with 100 seats or less</i>	<i>P</i>	
	<i>Restaurants (excluding fast food restaurants), coffee shops, tea rooms and taverns with greater than 100 seats</i>		<i>SUP</i>
	<i>Retail and service stores, including the following stores: books, cabinets, cameras, candy, carpet, coin, department, dressmaking, electronics, florist, furniture, furrier, garden supply, gourmet foods, greeting card, gunsmith (excluding shooting ranges), hardware, health and beauty aids, home appliance sales and service, ice cream, jewelry sales and service, locksmith, music and records, optical goods, paint, pet, picture framing, plant supply, shoes, sporting goods, stamps, tailor, tobacco and pipes, toys, travel bureau agencies, upholstery, variety, wearing apparel, and yard goods</i>	<i>P</i>	
	<i>Retail food stores 5,000 sq. ft. or less</i>	<i>P</i>	
	<i>Retail food store greater than 5,000 sq. ft.</i>		<i>SUP</i>
	<i>Security service offices</i>	<i>P</i>	
	<i>Tourist home</i>	<i>P</i>	
	<i>Vehicle parts sales, new and/or rebuilt, with storage limited to a fully enclosed building</i>	<i>P</i>	
	<i>Vehicle rentals</i>	<i>P</i>	
	<i>Automobile Vehicle service stations, in areas not designated Low-Density Residential or Neighborhood Commercial on the Comprehensive Plan Land Use Map; if fuel is sold, then in accordance with section 24-38</i>		<i>SUP</i>

	<i>Veterinary hospitals (with all activities limited to a fully enclosed building) with the exception of supervised animal exercise while on a leash</i>	<i>P</i>	
<i>Civic</i>	<i>Nonemergency medical transport</i>		<i>SUP</i>
	<i>Fire stations</i>	<i>P</i>	
	<i>Governmental offices</i>	<i>P</i>	
	<i>Libraries</i>	<i>P</i>	
	<i>Post offices</i>	<i>P</i>	
	<i>Schools, public or private</i>		<i>SUP</i>

<i>Utility</i>	<i>Electrical substations generation facilities (public or private), steam generation facilities, and electrical substations with a capacity of 5,000 kilovolt amperes or more and electrical transmission lines capable of transmitting 69 kilovolts or more</i>		<i>SUP</i>
	<i>Railroad facilities including tracks, bridges and switching stations. However, s Spur lines which are to serve and are accessory to existing or proposed development adjacent to existing railroad rights-of-way and track and safety improvements in existing railroad rights-of-way, are permitted generally and shall not require a special use permit</i>		<i>SUP</i>
	<i>Telephone exchanges and telephone switching stations</i>		<i>SUP</i>
	<i>Tower mounted wireless communications facilities in accordance with division 6, Wireless Communications Facilities</i>		<i>SUP</i>
	<i>Transmission pipelines, public or private, including pumping stations and accessory storage, for natural gas, propane gas, petroleum products, chemicals, slurry coal and any other gases, liquids or solids. However, e Extensions for private connections to existing pipelines, which are intended to serve an individual residential or commercial customer and which are accessory to existing or proposed development, are permitted generally and shall not require a special use permit</i>		<i>SUP</i>
	<i>Wireless communications facilities that utilize alternative mounting structures, or are camouflaged, and comply with division 6, Wireless Communications Facilities</i>	<i>P</i>	
	<i>Water facilities, public or private, and sewer facilities (public), including, but not limited to,</i>		<i>SUP</i>

	<p><i>treatment plants, pumping stations, storage facilities and transmission mains, wells and associated equipment such as pumps to be owned and operated by political jurisdictions. However, † The following are permitted generally and shall not require a special use permit:</i></p> <p><i>(a) Private connections to existing mains that are intended to serve an individual customer and that are accessory to existing or proposed development, with no additional connections to be made to the line; and</i></p> <p><i>(b) Distribution lines and local facilities within a development, including pump stations</i></p>		
<i>Open</i>	<i>Timbering, in accordance with section 24-43</i>	<i>P</i>	
<i>Industrial</i>	<i>Publically owned solid waste container sites</i>		<i>SUP</i>

~~Adult day care centers.~~

~~An apartment or living quarters for a guard, caretaker, proprietor or the person employed on the premises, which is clearly secondary to the commercial use of the property.~~

~~Bakeries and fish markets.~~

~~Banks and other similar financial institutions.~~

~~Barber and beauty shops.~~

~~Business, governmental and professional offices.~~

~~Catering and meal preparation 5,000 sq. ft. or less.~~

~~Child day care centers.~~

~~Contractor's offices (with storage of materials and equipment limited to a fully enclosed building).~~

~~Drug stores 10,000 sq. ft. or less.~~

~~Dry cleaners and laundries.~~

~~Feed, seed and farm supply stores.~~

~~Fire stations.~~

~~Funeral homes.~~

~~Health clubs, exercise clubs, fitness centers.~~

~~Houses of worship.~~

~~Libraries.~~

~~Lodges, civic clubs, fraternal organizations and service clubs.~~

~~Lumber and building supply (with storage limited to a fully enclosed building).~~

~~Mailing and facsimile transmission reception.~~

~~Medical clinics or offices.~~

~~New and/or rebuilt automotive parts sales (with storage limited to a fully enclosed building).~~

~~Off street parking as required by this section 24-53.~~

~~Office supply stores, secretarial and duplicating services.~~

~~Photography studios and sales, artist and sculptor studios, hobby shops, art and crafts and handcraft shops, antique shops, reproduction and gift shops, and souvenir shops.~~

~~Plumbing and electrical supply (with storage limited to a fully enclosed building).~~

~~Post offices.~~

~~Public meeting halls.~~

~~Restaurants (excluding fast food restaurants) tea rooms with 100 seats or less.~~

~~Retail and service stores, including the following stores: books, candy, carpet, coin, department, dressmaking, florist, furniture, furrier, garden supply, greeting card, gunsmith (excluding shooting ranges), hardware, home appliance sales and service, ice cream, jewelry sales and service, locksmith, music and records, paint, pet, picture framing, plant supply, shoe, sporting goods, stamp, tailor, tobacco and pipes, toys, travel bureau, upholstery, wearing apparel and yard goods.~~

~~Retail food stores 5,000 sq. ft. or less.~~

~~Schools~~

~~Timbering in accordance with section 24-43.~~

~~Tourist homes.~~

~~Veterinary hospitals (with all activities limited to a fully enclosed building).~~

~~Wireless communications facilities that utilize alternative mounting structures, or are building mounted, or are camouflaged, and comply with division 6, Wireless Communications Facilities.~~

Sec. 24-369. Uses permitted by special use permit only.

~~In the Limited Business District, LB, buildings or structures to be erected or land to be used for one or more of the following uses shall be permitted only after the issuance of a special use permit by the board of supervisors.~~

~~Automobile service stations, in areas not designated Neighborhood Commercial or Low Density Residential on the Comprehensive Plan; if fuel is sold, then in accordance with section 24-38.~~

~~Convenience stores without the sale of fuel.~~

~~Electrical substations (public or private), with a capacity of 5,000 kilovolt amperes or more and electrical transmission lines capable of transmitting 69 kilovolts or more.~~

~~Flea markets, in areas not designated Neighborhood Commercial or Low Density Residential on the Comprehensive Plan.~~

~~Marinas, docks, piers, yacht clubs, boat basins and servicing, repair and sale facilities for the same; if fuel is sold, then in accordance with section 24-38.~~

~~Publicly owned solid waste container sites.~~

~~Railroad facilities including tracks, bridges and stations. However, spur lines which are to serve and are accessory to existing or proposed development adjacent to existing railroad right of ways and track and safety improvements in existing railroad right of ways are permitted generally and shall not require a special use permit.~~

~~Restaurants (excluding fast food restaurants), tea rooms and taverns over 100 seats.~~

~~Retail food stores over 5,000 sq. ft.~~

~~Telephone exchanges and telephone switching stations.~~

~~Transmission pipelines (public or private), including pumping stations and accessory storage, for natural gas, propane gas, petroleum products, chemicals, slurry coal and any other gases, liquids or solids. However, extensions for private connections to existing pipelines, which are intended to serve an individual residential or commercial customer and which are accessory to existing or proposed development, are permitted generally and shall not require a special use permit.~~

~~Water facilities (public or private), and sewer facilities (public), including, but not limited to, treatment plants, pumping stations, storage facilities and transmission mains, wells and associated equipment such as pumps to be owned and operated by political jurisdictions. However, the following are permitted generally and shall not require a special use permit:~~

- ~~(a) Private connections to existing mains that are intended to serve an individual customer and are accessory to existing or proposed development, with no additional connections to be made to the line;~~
- ~~(b) Distribution lines and local facilities within a development, including pump stations.~~

Sec. 24-370 369. Special provisions for areas within the Limited Business District, LB, designated Neighborhood Commercial or Low-Density Residential on the Comprehensive Plan.

The Comprehensive Plan defines Neighborhood Commercial areas as limited business activity areas located within the primary service area, serving residents of the surrounding neighborhoods in the immediate area, and having only a limited impact on nearby development. Neighborhood Commercial development shall be compatible with surrounding development in terms of scale, building design, materials and color. The Comprehensive Plan specifies that within Low-Density Residential areas, non-residential uses should not alter, but rather, complement the residential character of the low-density residential area in which they are located. For non-residential uses in Low-Density Residential areas, measures shall be provided to protect nearby residential uses and the character of the surrounding area. The requirements of this section shall apply to areas within the Limited Business District, LB, that are designated Neighborhood Commercial or Low-Density Residential on the Comprehensive Plan as determined by the ~~director of planning~~ *director*.

(a) *Permitted uses.* For areas within the Limited Business District, LB, that are designated Neighborhood Commercial or Low-Density Residential on the Comprehensive Plan, buildings to be erected or land to be used shall be for one or more of the uses as permitted in section 24-368.

(b) *Uses permitted with a special use permit only.* For areas within the Limited Business District, LB, that are designated Neighborhood Commercial or Low-Density Residential on the Comprehensive Plan, buildings to be erected or land to be used shall be for one or more of the uses permitted in section 24-369 only after the issuance of a special use permit by the board of supervisors. A special use permit application shall demonstrate to the ~~director of planning~~ *director* substantial conformance to the county's Neighborhood Commercial Development Standards policy.

(c) *Design standards.* Development within areas designated Neighborhood Commercial or Low-Density Residential on the Comprehensive Plan shall demonstrate to the ~~director of planning~~ *director* substantial consistency with the following provisions:

(1) Large work area doors or open bays shall be screened from external roadways by fencing or landscaping *or oriented on the sides or rear of the proposed building.*

(2) Heating, ventilating and air conditioning equipment, duct work, air compressors, and other fixed operating machinery shall be screened from adjoining property and the street right-of-way with fencing, ~~or~~ landscaping, *parapet walls or other types of roof top screens up to four feet above the roof line, if such equipment is located upon the roof.* Large trash receptacles, dumpsters, utility meters, above ground tanks, satellite dishes, antennas, etc. shall be similarly screened.

(3) If used, fences in front of buildings on the site *shall be decorative in appearance, as determined by the planning director, and* shall be landscaped *in accordance with article II, division 4.*

(4) Signs shall generally have no more than three colors. Generally, pastel colors shall not be used. Free-standing signs shall be of a ground-mounted monument type and shall not be larger than 32 square feet not erected to a height greater than eight feet *and shall employ ground mounted lighting concealed by landscaping in accordance with article II, division 4.*

(5) Site landscaping, *in accordance with article II, division 4,* shall be reviewed and approved by the ~~director of planning~~ *director* and shall be consistent with the natural landscape and character of the surroundings *properties.* A unified landscape design shall be provided, including street trees.

(6) Compliance with the provisions of this subsection shall be evidenced by the submission to the ~~director of planning~~ *director* of a site plan, in accordance with the requirements of section 24-145, site plan submittal requirements.

(d) *Building coverage limits.* For areas within the Limited Business District, LB, that are designated Neighborhood Commercial or Low-Density Residential on the Comprehensive Plan, a special use permit issued in accordance with section 24-9 shall be required for any building that exceeds a ~~2,750~~ **5,000** square foot building footprint. A special use permit application shall demonstrate to the ~~director of~~ planning **director** substantial conformance to the county's Neighborhood Commercial Development Standards policy.

(e) *Appeals.* In the event the ~~director of~~ planning **director** disapproves plans submitted under the provisions of this section or recommends conditions or modifications which are unacceptable to the applicant, the applicant may appeal the decision of the ~~planning commission~~ **planning director to the development review committee who shall forward a recommendation to the planning commission.**

Sec. 24-~~371~~ 370. Area requirements.

No area requirements.

Sec. 24-~~372~~ 371. Setback requirements.

Structures shall be located 50 feet or more from any street right-of-way which is 50 feet or greater in width. Where the street right-of-way is less than 50 feet in width, structures shall be located 75 feet or more from the centerline of the street.

Setbacks may be reduced to 25 feet from any street right-of-way which is 50 feet or greater in width or 50 feet from the centerline of the street where the street right-of-way is less than 50 feet in width with approval of the ~~development review committee~~ **planning director.** *In the event the planning director disapproves plans of this section or recommends conditions or modifications which are unacceptable to*

the applicant, the applicant may appeal the decision to the development review committee who shall forward a recommendation to the planning commission.

A site shall not be considered for a setback reduction if it is located on a planned road that is designated for widening improvements. A planned road includes any road or similar transportation facility as designated on the Comprehensive Plan, Six-Year Primary or Secondary Road Plan, Peninsula Area Transportation Plan or any road plan adopted by the board of supervisors. The ~~development review committee~~ *planning director* will consider a setback reduction only if the setback reduction will achieve results which clearly satisfy the overall purposes and intent of section 24-86 (Landscaping and Tree Preservation Requirements); if the setbacks do not negatively impact adjacent property owners; and if one or more of the following criteria are met:

- (a) The site is located on a Community Character Corridor or is designated a Community Character Area on the Comprehensive Plan Land Use Map, and proposed setbacks will better complement the design standards of the Community Character Corridor.
- (b) The adjacent properties have setbacks that are non-conforming with this section, and the proposed setbacks will better complement the established setbacks of adjacent properties, where such setbacks help achieve the goals and objectives of the Comprehensive Plan.
- (c) The applicant has offered extraordinary site design which better meets the Development Standards of the Comprehensive Plan.

Appeals. In the event the planning director disapproves plans of this section or recommends conditions or modifications which are unacceptable to the applicant, the applicant may appeal the decision to the development review committee who shall forward a recommendation to the planning commission.

Sec. 24-373 372. Yard regulations requirements.

(a) The minimum side yard shall be 20 feet for each main structure. The minimum rear yard shall be 20 feet.

(b) All accessory structures shall be located at least ten feet from any side lot line.

(c) The minimum side yard shall be increased to 35 feet if the side yard adjoins property in a residential district or an agricultural district that is designated for residential use, on the Comprehensive Plan. The minimum rear yard shall be increased to 35 feet if the rear yard adjoins property in a residential district or an agricultural district that is designated for residential use on the Comprehensive Plan. The minimum side yard shall be increased to 50 feet if the property is designated Neighborhood Commercial or Low-Density Residential on the Comprehensive Plan and the side yard adjoins property in a residential district or an agricultural district that is designated for residential use on the Comprehensive Plan. The minimum rear yard shall be increased to 50 feet if the property is designated Neighborhood Commercial or Low-Density Residential on the Comprehensive Plan and the rear yard adjoins property in a residential district or an agricultural district that is designated for residential use on the Comprehensive Plan. The minimum side and rear yards for any section of a structure in excess of 35 feet in height shall be increased one foot for each two feet of height in excess of 35 feet.

Sec. 24-374 373. Special provisions for the adjustment waiver of yard requirements.

The following may be eligible for a waiver from any part of section 24-373:

The subdivision of commercial property on which commercial units for sale, for sale in condominium, or for lease are:

(a) Constructed as part of a multiunit structure in which the units share common walls, or as part of a multiple-structure commercial development; and

(b) The entire development has been planned and designed as a comprehensive coordinated unit under a single master plan *which has been legislatively approved by the board of supervisors.*

In these instances, the ~~planning commission~~ *planning director* may grant, at ~~its~~ *his* discretion, a waiver from any part of section 24-373 upon finding:

(1) The overall complex or structure, if considered as a single unit, meets all of the requirements of section 24-373; and

(2) Adequate parking is provided as per the requirements of this chapter, and where determined necessary by the *planning* commission, adequate easements or other agreements are recorded to guarantee access and maintenance of the parking areas and other common areas; and

(3) Adequate provisions are made to assure compliance with article II, division 3 of this chapter, and where determined necessary by the *planning* commission, adequate easements or agreements are recorded to allow grouping of signs on one standard, placement of signs in common areas or other appropriate arrangements made necessary because of the reduced yard area of the individual units; and

(4) The complex or structure is adequately designed and serviced from the standpoint of safety, and the county fire chief certifies that the fire safety equipment to be installed is adequately designed and the county building official certifies the complex is designed to conform to the BOCA Code, so as to offer adequate protection to life and property.

Appeals. In the event the planning director disapproves plans of this section or recommends conditions or modifications which are unacceptable to the applicant, the applicant may appeal the decision to the development review committee who shall forward a recommendation to the planning commission.

Sec. 24-375 374. Height limits and height limitation waivers of structures.

(a) Structures may be erected up to 35 feet in height from grade to the top of the structure, including all penthouse, electrical, plumbing, elevator, water tank or other accessory functions which are part of or on top of the structure. Parapet walls may be up to four feet above the height of the building on which the walls rest.

(b) Church spires, belfries, cupolas, athletic field lighting, chimneys, flues, monuments, flagpoles and wireless communications facilities that utilize alternative mounting structures ~~or are building mounted~~ in accordance with division 6, Wireless Communications Facilities may be erected to a total height of 60 feet from grade. Camouflaged wireless communications facilities may be erected to a total height of 120 feet from grade. Upon application for a height limitation waiver, the payment of appropriate fees, notification of adjacent property owners and following a public hearing, the board of supervisors may grant a height limitation waiver for these structures to exceed 60 feet in height but not to exceed 100 feet, from grade to the top of the structure, and for wireless communications facilities that utilize alternative mounting structures or are building mounted to exceed 60 feet in height but not to exceed the maximum approved height of the structure to which it is mounted, upon finding that:

1. Such structure will not obstruct light to adjacent property;
2. Such structure will not impair the enjoyment of historic attractions and areas of significant historic interest and surrounding developments;
3. Such structure will not impair property values in the surrounding area;
4. Such structure is adequately designed and served from the standpoint of safety, and the county fire chief finds that the fire safety equipment to be installed is adequately designed and that the building is reasonably well located in relation to fire stations and equipment, so as to offer adequate protection to life and property; and

5. Such structure will not be contrary to the public health, safety and general welfare.

(c) All accessory structures shall be ~~less~~ *lower in height* than the main structure ~~in height~~.

Sec. 24-~~376~~ 375. Building coverage limits.

Building coverage shall not exceed ~~20~~ *30* percent of the total lot area. The floor area ratio shall not exceed 40 percent of the total lot area.

Sec. 24-~~377~~ 376. Sign regulations.

To assure an appearance and condition which is consistent with the purposes of the Limited Business District, outdoor signs on the properties within the district shall comply with the regulations for exterior signs in article II, division 3 of this chapter.

Sec. 24-~~378~~ 377. Outdoor storage prohibited.

The outdoor storage of materials, supplies and goods for sale shall be prohibited in the limited business district.

Sec. 24-~~379~~ 378. Site plan review.

All buildings or ~~complexes~~ *groups* of buildings erected, altered or restored within the district shall be subject to site plan review in accordance with article III of this chapter.

Sec. 24-~~380~~ 379. Sidewalks *Pedestrian accommodations*.

Sidewalks shall be required for all projects requiring site plan review in accordance with section 24-35.

Sec. ~~24-381~~ 380. Landscaping.

~~Landscaping shall be provided as required in article II, division 4.~~ *To assure an appearance and condition which is consistent with the purposes of the Limited Business District, landscaping on the properties within the district shall comply with article II, division 4 of this chapter.*

Secs. ~~24-382~~ 381 - 24-388. Reserved.

Mary K. Jones
Chairman, Board of Supervisors

ATTEST:

Robert C. Middaugh
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 10th day of January, 2012.

ZO-04-2011_ord1

ORDINANCE NO. _____

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 24, ZONING, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE V, DISTRICTS, DIVISION 10, GENERAL BUSINESS DISTRICT, B-1, BY AMENDING SECTION 24-389, STATEMENT OF INTENT; BY AMENDING AND RENAMING SECTION 24-390, PERMITTED USES WITH NEW NAME USE LIST; BY DELETING SECTION 24-391, USES PERMITTED BY SPECIAL USE PERMIT ONLY; BY RENUMBERING SECTION 24-392, AREA REQUIREMENTS WITH NEW NUMBER 24-391; BY AMENDING AND RENUMBERING SECTION 24-393, SETBACK REQUIREMENTS WITH NEW NUMBER 24-392; BY RENUMBERING AND RENAMING SECTION 24-394, YARD REGULATIONS WITH NEW NUMBER AND NAME 24-393, YARD REQUIREMENTS; BY AMENDING AND RENUMBERING SECTION 24-395, SPECIAL PROVISIONS FOR THE WAIVER OF YARD REQUIREMENTS WITH NEW NUMBER 24-394; BY RENUMBERING SECTION 24-396, RESERVED WITH NEW NUMBER 24-395; BY AMENDING, RENUMBERING AND RENAMING SECTION 24-397, HEIGHT LIMITS AND HEIGHT LIMITATION WAIVERS WITH NEW NUMBER AND NAME 24-396, HEIGHT OF STRUCTURES; BY AMENDING AND RENUMBERING SECTION 24-398, BUILDING COVERAGE LIMITS WITH NEW NUMBER 24-397; BY RENUMBERING SECTION 24-399, SIGN REGULATIONS AND PARKING REQUIREMENTS WITH NEW NUMBER 24-398; BY RENUMBERING SECTION 24-400, SITE PLAN REVIEW WITH NEW NUMBER 24-399; BY RENUMBERING AND RENAMING SECTION 24-401, SIDEWALKS WITH NEW NUMBER AND NAME 24-400, PEDESTRIAN ACCOMMODATIONS; BY AMENDING AND RENUMBERING SECTION 24-402, LANDSCAPING WITH NEW NUMBER 24-401; AND BY RESERVING SECTION 24-402.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 24, Zoning, is hereby amended and reordained by amending Article V, Districts, Division 10, General

Business District, B-1, by amending Section 24-389, Statement of intent; Section 24-390, Use list; Section 24-391, Area requirements; Section 24-392, Setback requirements; Section 24-393, Yard requirements; Section 24-394, Special provisions for the waiver of yard requirements; Section 24-395, Reserved; Section 24-396. Height of structures; Section 24-397, Building coverage limits; Section 24-398, Sign regulations and parking requirements; Section 24-399, Site plan review; Section 24-400, Pedestrian accommodations; Section 24-401, Landscaping; and Section 24-402, Reserved.

Chapter 24. Zoning

ARTICLE V. DISTRICTS

DIVISION 10. GENERAL BUSINESS DISTRICT, B-1

Sec. 24-389. Statement of intent.

Generally, the General Business District, B-1, covers that portion of the community intended for the conduct of general business to which the public requires direct and frequent access, but which is not characterized either by constant heavy ~~trucking~~ *truck traffic* other than stocking and delivery of light retail goods or by any factors other than occasioned by incidental light and noise *commonly associated with the* of congregation of people and passenger vehicles.

Sec. 24-390. ~~Permitted uses~~ *Use list*.

Reference Section 24-11 for special use permit requirements for certain commercial uses and exemptions. In the General Business District, B-1, structures to be erected or land to be used, shall be for one or more of the following uses:

<i>Use Category</i>	<i>Use List</i>	<i>Permitted Uses</i>	<i>Specially Permitted Uses</i>
<i>Residential</i>	<i>An apartment or living quarters for a guard, caretaker, proprietor or the person employed on the premises, which is clearly secondary to the commercial use of the property</i>	<i>P</i>	
<i>Commercial</i>	<i>Accessory uses and structures, as defined in section 24-2</i>	<i>P</i>	
	<i>Adult day care centers</i>	<i>P</i>	
	<i>Amphitheaters</i>		<i>SUP</i>
	<i>Antique shops</i>	<i>P</i>	
	<i>Arts and crafts, hobby and handicraft shops</i>	<i>P</i>	
	<i>Auction houses</i>	<i>P</i>	
	<i>Bakeries or fish markets</i>	<i>P</i>	
	<i>Banks and other financial institutions</i>	<i>P</i>	
	<i>Barber and beauty shops salons</i>	<i>P</i>	
	<i>Business, governmental and professional offices</i>	<i>P</i>	
	<i>Campgrounds</i>		<i>SUP</i>
	<i>Catering and meal preparation</i>	<i>P</i>	
	<i>Child day care centers</i>	<i>P</i>	
	<i>Contractor offices with storage of materials and equipment limited to a fully enclosed building</i>	<i>P</i>	
	<i>Convenience stores which sell and dispense in accordance with section 24-38 fuel</i>		<i>SUP</i>
	<i>Convention centers</i>		<i>SUP</i>
	<i>Country clubs and golf courses, public or private</i>		<i>SUP</i>
	<i>Drug stores</i>	<i>P</i>	
	<i>Dry cleaners and laundries</i>	<i>P</i>	
	<i>Farmer's market</i>	<i>P</i>	
	<i>Feed, seed and farm supply stores</i>	<i>P</i>	
	<i>Firearms sales and service</i>	<i>P</i>	
	<i>Firing and shooting ranges, limited to a fully enclosed building</i>		<i>SUP</i>
	<i>Flea markets</i>		<i>SUP</i>
	<i>Funeral homes</i>	<i>P</i>	
	<i>Gift and souvenir stores</i>	<i>P</i>	
	<i>Grocery stores</i>	<i>P</i>	
	<i>Health clubs and exercise clubs, fitness centers</i>	<i>P</i>	
	<i>Heliports and helistops, as an accessory use</i>		<i>SUP</i>
	<i>Hospitals</i>		<i>SUP</i>
<i>Hotels, motels and tourist homes</i>	<i>P</i>		
<i>Houses of worship</i>	<i>P</i>		

Indoor centers of amusement including billiard halls, arcades, pool rooms, bowling alleys, dance clubs and bingo halls	P	
<i>Indoor sport facilities (excluding firing and shooting ranges)</i>	P	
<i>Indoor theaters</i>	P	
Janitorial service establishments	P	
Kennels and animal boarding facilities	P	SUP
<i>Limousine services (with maintenance limited to a fully enclosed building)</i>	P	
<i>Lodges, civic clubs, fraternal organizations and service clubs</i>	P	
<i>Lumber and building supply (with storage limited to a fully enclosed building or fully-screened from view with a structural barrier approved by the development review committee, located within the building setback area landscaping and fencing with a maximum height of 12 feet)</i>	P	
<i>Machinery sales and service (with storage and repair limited to a fully enclosed building)</i>		
<i>Marinas, docks, piers, yacht clubs, boat basins, boat storage and servicing, repair and sale facilities for the same; if fuel is sold, then in accordance with section 24-38</i>	P	
<i>Marine or waterfront businesses to include the receipt, storage and transshipment of waterborne commerce or seafood receiving, packaging or distribution</i>	P	
<i>Medical clinics or offices</i>	P	
Micro-breweries	P	
<i>Museums</i>	P	
<i>New and/or rebuilt automotive parts sales (with storage limited to a fully enclosed building)</i>	P	
<i>Nursing homes</i>		SUP
<i>Off-street parking as required by section 24-53</i>	P	
Office supply stores	P	
Outdoor centers of amusement, including miniature golf, bumper boats and waterslide parks		SUP
Outdoor sports facilities, including golf driving ranges, batting cages and skate parks		SUP
<i>Parking lots, and structures or garages</i>	P	
Pet stores and pet supply sales	P	
Photography, artist and sculptor stores and studios	P	

Places of public assembly, including houses of worship and public meeting halls	P	
Plumbing and electrical supply and sales (with storage limited to a fully enclosed building)	P	
Printing, mailing , lithographing, engraving, photocopying, blueprinting and publishing establishments	P	
Public billiard parlors, arcades, pool rooms, bowling alleys, dance halls and other indoor centers of amusement	P	
Public meeting halls	P	
Radio and television stations and accessory antenna or towers and tower mounted wireless communications facilities which are 60 feet or less in height	P	
Research, development and design facilities or laboratories	P	
Restaurants, including fast food restaurants , tea rooms, coffee shops , and taverns and micro-breweries	P	
Retail and service stores, including the following stores: alcohol , antiques , appliances , arts and crafts , books, cabinets , cameras , candy, carpet, coin, department, dressmaking, duplicating services , electronics , florist, furniture, furrier, garden supply, gift, gourmet foods , greeting cards, gunsmith (excluding shooting ranges) , handicrafts, hardware, home appliance sales and service , health and beauty aids , ice cream, jewelry sales and service , locksmith, music and records , office supply, optical goods, paint, pet, photography, picture framing, plant supply, secretarial services, shoes, sporting goods, stamps, tailor, tobacco and pipes, toys, travel bureau agencies , upholstery, variety , wearing apparel, and yard goods	P	
Retail food stores, bakeries and fish markets	P	
Security service offices	P	
Taxi service	P	SUP
Theme parks greater than 10 acres in size		SUP
Vehicle repair and service, including tire, transmission, glass, body and fender, and other automotive product sales, new and/or rebuilt, with storage and major repair limited to a fully enclosed building and storage of parts and vehicles screened from adjacent property by landscaping and fencing	P	

	<i>Vehicle and trailer sales and services (with major repair limited to a fully enclosed building)</i>	P	SUP
	<i>Vehicle rentals</i>	P	SUP
	<i>Automobile Vehicle service stations; if fuel is sold, then in accordance with section 24-38</i>		SUP
	<i>Veterinary hospitals with all activities limited to a fully enclosed building with the exception of supervised animal exercise while on a leash</i>	P	
	<i>Wholesale and warehousing (with storage limited to a fully enclosed building)</i>	P	
Civic	<i>Nonemergency medical transport</i>		SUP
	<i>Fire stations</i>	P	
	Governmental offices	P	
	<i>Libraries</i>	P	
	<i>Post offices</i>	P	
	<i>Schools, public or private</i>		SUP
Utility	<i>Antennas and towers in excess of 60 feet in height</i>		SUP
	<i>Electrical generation facilities (public or private), steam generation facilities, and electrical substations with a capacity of 5,000 kilovolt amperes or more and electrical transmission lines capable of transmitting 69 kilovolts or more</i>		SUP
	<i>Railroad facilities including tracks, bridges and stations. Spur lines which are to serve and are accessory to existing or proposed development adjacent to existing railroad rights-of-way and track and safety improvements in existing railroad rights-of-way, are permitted generally and shall not require a special use permit</i>		SUP
	<i>Telephone exchanges and telephone switching stations</i>	P	
	<i>Tower mounted wireless communications facilities in accordance with division 6, Wireless Communications Facilities, in excess of 60 feet in height</i>		SUP
	<i>Transmission pipelines, public or private, including pumping stations and accessory storage, for natural gas, propane gas, petroleum products, chemicals, slurry coal and any other gases, liquids or solids. Extensions for private connections to existing pipelines, which are intended to serve an individual residential or commercial customer and which are accessory to existing or proposed development, are permitted generally and shall not require a special use permit</i>		SUP

	<i>Wireless communications facilities that utilize alternative mounting structures, or are camouflaged, and comply with division 6, Wireless Communications Facilities</i>	P	
	<i>Water facilities, public or private, and sewer facilities (public), including, but not limited to, treatment plants, pumping stations, storage facilities and transmission mains, wells and associated equipment such as pumps to be owned and operated by political jurisdictions. However, the following are permitted generally and shall not require a special use permit:</i> <i>(a) Private connections to existing mains that are intended to serve an individual customer and that are accessory to existing or proposed development, with no additional connections to be made to the line; and</i> <i>(b) Distribution lines and local facilities within a development, including pump stations</i>		SUP
<i>Open</i>	<i>Timbering, in accordance with section 24-43</i>		
<i>Industrial Uses</i>	<i>Processing, assembly and manufacture of light industrial products or components, with all storage, processing, assembly and manufacture conducted indoors or under cover, with no dust, noise, odor or other objectionable effect.</i>		SUP
	<i>Publically owned solid waste container facilities</i>		SUP
	<i>Waste disposal facilities</i>		SUP

~~Adult day care centers.~~

~~An apartment or living quarters for a guard, caretaker, proprietor or the person employed on the premises which is clearly secondary to the commercial use of the property.~~

~~Banks and other similar financial institutions.~~

~~Barber and beauty shops.~~

~~Business, governmental and professional offices.~~

~~Child day care centers.~~

~~Contractor's offices with storage of materials and equipment limited to a fully enclosed building.~~

~~Drug stores.~~

~~Dry cleaners and laundries.~~

~~Farmer's Market.~~

~~Feed, seed and farm supply stores.~~

~~Fire stations.~~

~~Funeral homes.~~

~~Health clubs, exercise clubs, fitness centers.~~

~~Hotels, motels, tourist homes and convention centers.~~

~~Houses of worship.~~

~~Indoor sport facilities (excluding shooting ranges).~~

~~Indoor theaters.~~

~~Libraries.~~

~~Limousine services (with maintenance limited to a fully enclosed building).~~

~~Lodges, civic clubs, fraternal organizations and service clubs.~~

~~Lumber and building supply (with storage limited to a fully enclosed building or fully screened from view with a structural barrier approved by the development review committee, located within the building setback area with a maximum height of 12 feet).~~

~~Machinery sales and service (with storage and repair limited to a fully enclosed building).~~

~~Marinas, docks, piers, yacht clubs, boat basins, and servicing, repair and sale facilities for the same; if fuel is sold, then in accordance with section 24-38.~~

~~Marine or waterfront businesses to include the receipt, storage and transshipment of waterborne commerce or seafood receiving, packing or distribution.~~

~~Medical clinics or offices.~~

~~Micro breweries.~~

~~Museums.~~

~~New and/or rebuilt automotive parts sales (with storage limited to a fully enclosed building).~~

~~Off street parking as required by section 24-53.~~

~~Parking lots and garages.~~

~~Photography, artist and sculptor studios~~

~~Plumbing and electrical supply (with storage limited to a fully enclosed building).~~

~~Post offices.~~

~~Printing and publishing.~~

~~Public billiard parlors, arcades, pool rooms, bowling alleys, dance halls and other indoor centers of amusement.~~

~~Public meeting halls.~~

~~Radio and television stations and accessory antenna or towers and tower mounted wireless communication facilities, which are 60 feet or less in height.~~

~~Research, development and design facilities or laboratories.~~

~~Restaurants, fast food restaurants, tea rooms and taverns.~~

~~Retail and service stores, including the following stores: antiques, arts and crafts, books, candy, carpet, coin, department, dressmaking, duplicating services, florist, furniture, furrier, garden supply, gift, greeting card, gunsmith (excluding shooting ranges), handicrafts, hardware, home appliance sales and service, ice cream, jewelry sales and service, locksmith, music and records, office supply, paint, pet, photography, picture framing, plant supply, secretarial services, shoe, sporting goods, stamp, tailor, tobacco and pipes, toys, travel bureau, upholstery, wearing apparel, and yard goods.~~

~~Retail food stores, bakeries and fish markets.~~

~~Schools.~~

~~Security service offices.~~

~~Telephone exchanges and telephone switching stations gap.~~

~~Timbering in accordance with section 24-43.~~

~~Veterinary hospitals.~~

~~Wholesale and warehousing (with storage limited to a fully enclosed building).~~

~~Wireless communications facilities that utilize alternative mounting structures, or are building mounted, or are camouflaged, and comply with division 6, Wireless Communications Facilities.~~

Sec. 24-391. Uses permitted by special use permit only.

~~In the B-1, General Business District, buildings to be erected or the land to be used for one or more of the following or similar uses shall be permitted only after the issuance of a special use permit by the board of supervisors:~~

~~Antennas and towers in excess of 60 feet in height.~~

~~Automobile service stations; if fuel is sold, then in accordance with section 24-38.~~

~~Campgrounds.~~

~~Convenience stores; if fuel is sold, then in accordance with section 24-38.~~

~~Electrical generation facilities (public or private), electrical substations with a capacity of 5,000 kilovolt amperes or more and electrical transmission lines capable of transmitting 69 kilovolts or more.~~

~~Flea markets.~~

~~Heliports and helistops, as an accessory use.~~

~~Hospitals.~~

~~Kennels.~~

~~Nonemergency medical transport.~~

~~Nursing homes.~~

~~Outdoor centers of amusement~~

~~Outdoor sport facilities.~~

~~Processing, assembly and manufacture of light industrial products or components, with all storage, processing, assembly and manufacture conducted indoors and under cover, with no dust, noise, odor or other objectionable effect.~~

~~Privately or publicly owned solid waste container sites.~~

~~Railroad facilities including tracks, bridges and stations. However, spur lines which are to serve and are accessory to existing or proposed development adjacent to existing railroad right of ways and track and safety improvements in existing railroad right of ways, are permitted generally and shall not require a special use permit.~~

~~Taxi service.~~

~~Theme parks of ten acres or more.~~

~~Tire, transmission, glass, body and fender and other automotive repair and service (with storage and major repair limited to a fully enclosed building).~~

~~Tower mounted wireless communications facilities in accordance with division 6, Wireless Communications Facilities, in excess of 60 feet in height.~~

~~Transmission pipelines (public or private), including pumping stations and accessory storage, for natural gas, propane gas, petroleum products, chemicals, slurry coal and any other gases, liquids or solids.~~

~~However, extensions for private connections to existing pipelines, which are intended to serve an individual customer and which are accessory to existing or proposed development, are permitted generally and shall not require a special use permit.~~

~~Vehicle and trailer sales and services (with major repair limited to a fully enclosed building).~~

~~Vehicle rentals.~~

~~Waste disposal facilities.~~

~~Water facilities (public or private), and sewer facilities (public), including, but not limited to, treatment plants, pumping stations, storage facilities and transmission mains, wells and associated equipment such as pumps to be owned and operated by political jurisdictions. However, the following are permitted generally and shall not require a special use permit:~~

- ~~(a) Private connections to existing mains that are intended to serve an individual customer and that are accessory to existing or proposed development, with no additional connections to be made to the line; and~~
- ~~(b) Distribution lines and local facilities within a development, including pump stations.~~

~~Water impoundments, new or expansion of, 50 acres or more or with dam heights of 25 feet or more.~~

Sec. 24-~~392~~ 391. Area requirements.

No area requirements.

Sec. 24-~~393~~ 392. Setback requirements.

Structures shall be located 50 feet or more from any street right-of-way which is 50 feet or greater in width. Where the street right-of-way is less than 50 feet in width, structures shall be located 75 feet or more from the centerline of the street.

(1) Setbacks may be reduced to 25 feet from any street right-of-way which is 50 feet or greater in width or 50 feet from the centerline of the street where the street right-of-way is less than 50 feet in width with approval of the development review committee.

A site shall not be considered for a setback reduction if it is located on a planned road that is designated for widening improvements. A planned road includes any road or similar transportation facility as designated on the Comprehensive Plan, Six-Year Primary or Secondary Road Plan, Peninsula Area Transportation Plan or any road plan adopted by the board of supervisors. The ~~development review committee~~ *planning director* will consider a setback reduction only if the setback reduction will achieve

results which clearly satisfy the overall purposes and intent of section 24-86 (Landscaping and Tree Preservation Requirements); if the setbacks do not negatively impact adjacent property owners; and if one or more of the following criteria are met:

(a) The site is located on a Community Character Corridor or is designated a Community Character Area on the Comprehensive Plan Land Use Map, and proposed setbacks will better complement the design standards of the Community Character Corridor.

(b) The adjacent properties have setbacks that are non-conforming with this section, and the proposed setbacks will better complement the established setbacks of adjacent properties, where such setbacks help achieve the goals and objectives of the Comprehensive Plan.

(c) The applicant has offered site design which meets or exceeds the Development Standards of the Comprehensive Plan.

(2) In areas where the board of supervisors has adopted specific design guidelines that call for reduction of setbacks in excess of those permitted in sub-section (1), the ~~development review committee~~ *planning director* can approve reductions upon finding substantial conformance with recommendations from the guidelines and compliance with the criteria from sub-section (1) above.

(3) Appeals. In the event the planning director disapproves plans submitted under the provisions of this section or recommends conditions or modifications which are unacceptable to the applicant, the applicant may appeal the decision of the planning director to the development review committee who shall forward a recommendation to the planning commission.

Sec. 24-394 393. Yard ~~regulations~~ requirements.

(a) Buildings shall be located 20 feet or more from side or rear property lines. However, the minimum side yard shall be 50 feet if the side yard adjoins property in a residential district or an agricultural district that is designated for residential use on the Comprehensive Plan. The minimum rear yard shall be 50 feet

if the rear yard adjoins property in a residential district or an agricultural district that is designated for residential use on the Comprehensive Plan. The minimum side and rear yards shall be increased an additional one foot for each one foot of building height in excess of 35 feet.

(b) All accessory structures shall be located at least ten feet from any side or rear lot line.

Sec. 24-395 394. Special provisions for the waiver of yard requirements.

The following may be eligible for a waiver from any part of section 24-394:

The subdivision of commercial property on which commercial units for sale, for sale in condominium, or for lease are both:

(a) Constructed as part of a multiunit structure in which the units share common walls, or as part of a multiple-structure commercial development; and

(b) The entire development has been planned and designed as a comprehensive coordinated unit under a single master plan *which has been legislatively approved by the board of supervisors.*

In these instances, the ~~planning commission~~ *planning director* may grant, at ~~its~~ *his* discretion, a waiver from any part of section 24-394 upon finding:

(1) The overall complex or structure, if considered as a single unit, meets all of the requirements of section 24-394;

(2) Adequate parking is provided as per the requirements of this chapter and, where determined necessary by the *planning* commission, adequate easements or other agreements are recorded to guarantee access and maintenance of the parking areas and other common areas;

(3) Adequate provisions are made to assure compliance with article II, division 3 of this chapter and, where determined necessary by the *planning* commission, adequate easements, or agreements are recorded to allow grouping of signs on one standard, placement of signs in common areas or other appropriate arrangements made necessary because of the reduced yard area of the individual units; and

(4) The complex or structure is adequately designed and serviced from the standpoint of safety, and that the county fire chief certifies that the fire safety equipment to be installed is adequately designed and the county building official certifies the complex is designed to conform to the BOCA Code, so as to offer adequate protection to life and property.

(5) Appeals. In the event the planning director disapproves plans submitted under the provisions of this section or recommends conditions or modifications which are unacceptable to the applicant, the applicant may appeal the decision of the planning director to the development review committee who shall forward a recommendation to the planning commission.

Sec. 24-396 395. Reserved.

Sec. 24-397 396. Height limits and height limitation waivers of structures.

Structures may be erected up to 60 feet in height from grade to the top of the structure, including all church spires, belfries, cupolas, athletic field lighting, monuments, flagpoles, penthouse, electrical, plumbing, elevator, water tank or other accessory functions which are part of or on top of the structure and camouflaged wireless communications facilities may be erected to a total height of 120 feet from grade, in accord with the following criteria:

(1) A structure in excess of 60 feet in height but not in excess of 100 feet from grade to the top of the structure, including all church spires, belfries, cupolas, athletic field lighting, monuments, flagpoles, penthouse, electrical, plumbing, elevator, water tank or other accessory functions which are part of or on top of the structure and accessory and non-accessory wireless communications facilities that utilize alternative mounting structures ~~or are building mounted~~ in accordance with division 6, Wireless Communications Facilities in excess of 60 feet in height but not in excess of the maximum approved height of the structure to which it is mounted, may be erected only upon the granting of a height limitation

waiver by the board of supervisors. Upon application for a height limitation waiver, the payment of appropriate fees, notification of adjacent property owners and following a public hearing, the board of supervisors may grant a height limitation waiver upon finding that:

- a. The regulations of section 24-398 397 regarding building coverage, floor area ratio and open space are met;
- b. Such structure will not obstruct light from adjacent property;
- c. Such structure will not impair the enjoyment of historic attractions and areas of significant historic interest and surrounding developments;
- d. Such structure will not impair property values in the surrounding area;
- e. Such structure is adequately designed and served from the standpoint of safety and the county fire chief finds that the fire safety equipment to be installed is adequately designed and the building is reasonably well located in relation to fire stations and equipment, so as to offer adequate protection to life and property; and
- f. Such structure would not be contrary to the public health, safety or general welfare.

(2) Parapet walls may be up to four feet above the height of the building on which the walls rest.

(3) No accessory structure which is within ten feet of any lot line shall be more than one story high. All accessory structures shall be less than the main structure in height.

Sec. 24-398 397. Building coverage limits.

Building coverage shall not exceed ~~25~~ 30 percent of the total lot area and the floor area ratio shall not exceed 60 percent. ~~However, the floor area ratio may be increased to 75 percent if the additional floor area is used to provide indoor parking.~~

Sec. 24-399 398. Sign regulations and parking requirements.

(a) To assure an appearance and condition which is consistent with the purposes of the General Business District, B-1, outdoor signs on the properties within the district shall comply with the regulations for exterior signs in article II, division 3 of this chapter.

(b) Off-street parking and off-street loading shall be provided as required in sections 24-53 and 24-54.

Sec. 24-400 399. Site plan review.

All buildings or complexes of buildings erected, altered or restored within the district shall be subject to site plan review in accordance with section 24-142.

Sec. 24-401 400. Sidewalks Pedestrian accommodations.

Sidewalks shall be required for all projects requiring site plan review in accordance with section 24-35.

Sec. 24-402 401. Landscaping.

~~Landscaping shall be provided as required in article II, division 4.~~ *To assure an appearance and condition which is consistent with the purposes of the General Business District, landscaping on the properties within the district shall comply with article II, division 4 of this chapter.*

Secs. 24-403 402 - 24-409. Reserved.

Mary K. Jones
Chairman, Board of Supervisors

ATTEST:

Robert C. Middaugh
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 10th day of January,
2012.

ZO-04-2011_ord2

ORDINANCE NO. _____

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 24, ZONING, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE V, DISTRICTS, DIVISION 11, LIMITED BUSINESS/INDUSTRIAL DISTRICT, M-1, BY AMENDING SECTION 24-410, STATEMENT OF INTENT; BY AMENDING AND RENAMING SECTION 24-411, PERMITTED USES WITH NEW NAME USE LIST; BY DELETING SECTION 24-412, USES PERMITTED BY SPECIAL USE PERMIT ONLY; BY RENUMBERING SECTION 24-413, OUTDOOR OPERATIONS AND STORAGE WITH NEW NUMBER 24-412; BY RENUMBERING SECTION 24-414, AREA REQUIREMENTS AND MINIMUM LOT WIDTH WITH NEW NUMBER 24-413; BY AMENDING AND RENUMBERING SECTION 24-415, SETBACK REQUIREMENTS WITH NEW NUMBER 24-414; BY AMENDING, RENUMBERING AND RENAMING SECTION 24-416, YARD REGULATIONS WITH NEW NUMBER AND NAME 24-415, YARD REQUIREMENTS; BY RENUMBERING SECTION 24-417, RESERVED WITH NEW NUMBER 24-416; BY AMENDING AND RENUMBERING SECTION 24-418, SPECIAL PROVISIONS FOR THE WAIVER OF AREA, LOT WIDTH, YARD AND YARD SETBACK REQUIREMENTS WITH NEW NUMBER 24-417; BY AMENDING, RENUMBERING AND RENAMING SECTION 24-419, HEIGHT LIMITS AND HEIGHT LIMITATION WAIVERS WITH NEW NUMBER AND NAME 24-418, HEIGHT OF STRUCTURES; BY RENUMBERING SECTION 24-420, RESERVED WITH NEW NUMBER 24-419; BY RENUMBERING SECTION 24-421, SIGN REGULATIONS AND PARKING REQUIREMENTS WITH NEW NUMBER 24-420; BY RENUMBERING SECTION 24-422, UTILITIES WITH NEW NUMBER 24-421; BY RENUMBERING SECTION 24-423, SITE PLAN REVIEW WITH NEW NUMBER 24-422; AND BY ADDING NEW SECTION 24-423, LANDSCAPING.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 24, Zoning, is hereby amended and reordained by amending Article V, Districts, Division 11, Limited Business/Industrial District, M-1, by amending Section 24-410, Statement of intent; Section 24-411, Use list; Section 24-412, Outdoor operations and storage; Section 24-413, Area requirements and minimum lot width; Section 24-414, Setback requirements; Section 24-415, Yard requirements; Section 24-416, Reserved; Section 24-417, Special provisions for the waiver of area, lot width, yard and yard setback requirements; Section 24-418, Height of structures; Section 24-419, Reserved; Section 24-420, Sign regulations and parking requirements; Section 24-421, Utilities; Section 24-422, Site plan review; and Section 24-423, Landscaping.

Chapter 24. Zoning

ARTICLE V. DISTRICTS

DIVISION 11. LIMITED BUSINESS/INDUSTRIAL DISTRICT, M-1

Sec. 24-410. Statement of intent.

The primary purpose of the Limited Business/Industrial District, M-1, is to establish an area where the principal use of land is for limited business/industrial operations which are not ordinarily compatible with *adjacent* residential development. The specific intent of this district is to accomplish the following:

- (1) Encourage the use of land for limited business and industrial purposes;
- (2) Prohibit residential developments on land reserved for limited business and industrial uses;
- (3) Permit certain commercial and office uses in a manner which is compatible with limited business and industrial uses; and

(4) Establish minimum requirements to protect the health, safety and welfare of the citizens of James City County from the effects *or impacts commonly associated with* of the development of limited business and industrial uses.

Sec. 24-411. Permitted uses Use list.

Reference section 24-11 for special use permit requirements for certain commercial uses and exemptions.

In the Limited Business/Industrial District, M-1, buildings to be erected or land to be used shall be for one or more of the following or similar uses:

<i>Use Category</i>	<i>Use List</i>	<i>Permitted Uses</i>	<i>Specially Permitted Uses</i>
<i>Residential</i>	<i>An apartment or living quarters for a guard, caretaker, proprietor or the person employed on the premises, which is clearly secondary to the business commercial or industrial use of the property</i>	<i>P</i>	
<i>Commercial</i>	<i>Accessory uses and structures as defined in section 24-2</i>	<i>P</i>	
	<i>Adult day care centers</i>	<i>P</i>	
	<i>Antique shops</i>	<i>P</i>	
	<i>Arts and crafts, hobby and handicraft shops</i>	<i>P</i>	
	<i>Auction houses</i>	<i>P</i>	
	<i>Bakeries or fish markets</i>	<i>P</i>	
	<i>Banks and other financial institutions</i>	<i>P</i>	
	<i>Barber shops and beauty salons</i>	<i>P</i>	
	<i>Business; and professional and government offices</i>	<i>P</i>	
	<i>Catering and meal preparation</i>	<i>P</i>	
	<i>Child day care centers</i>	<i>P</i>	
	<i>Contractor offices, equipment storage yards, shops and warehouses with materials and equipment storage limited to a fully enclosed building or screened with landscaping and fencing with a maximum height of 12 feet from adjacent property</i>	<i>P</i>	
	<i>Convenience stores; if fuel is sold, then in accordance with section 24-38 fuel</i>		<i>SUP</i>
	<i>Convention centers</i>	<i>P</i>	
	<i>Courier services</i>	<i>P</i>	
	<i>Data processing centers</i>	<i>P</i>	

<i>Drug stores</i>	<i>P</i>	
<i>Dry cleaners and laundries</i>	<i>P</i>	
<i>Farmer's market</i>	<i>P</i>	
<i>Fast food restaurants</i>		<i>SUP</i>
<i>Feed, seed and farm supply stores</i>	<i>P</i>	
<i>Firearms sales and service</i>	<i>P</i>	
<i>Firing and shooting ranges, limited to a fully enclosed building</i>	<i>P</i>	
<i>Funeral homes</i>	<i>P</i>	
<i>Gift and souvenir stores</i>	<i>P</i>	
<i>Grocery stores</i>	<i>P</i>	
<i>Health and exercise clubs, fitness centers</i>	<i>P</i>	
<i>Heliports, helistops and accessory uses</i>		<i>SUP</i>
<i>Hospitals</i>		<i>SUP</i>
<i>Hotels and motels or convention centers with accessory retail sales, barber shops and beauty shops located within the hotel, motel, or convention center for the principal benefit of the-resident guest</i>	<i>P</i>	
<i>Houses of worship</i>	<i>P</i>	
<i>Indoor centers of amusement including billiard halls, arcades, pool rooms, bowling alleys, dance clubs and bingo halls</i>	<i>P</i>	
<i>Indoor sport facilities, including firing and shooting ranges</i>	<i>P</i>	
<i>Indoor theaters</i>	<i>P</i>	
<i>Janitorial service establishments</i>	<i>P</i>	
<i>Kennels and animal boarding facilities</i>	<i>P</i>	
<i>Laboratories, research and development centers</i>	<i>P</i>	
<i>Laser technology production</i>	<i>P</i>	
<i>Limousine services, with maintenance limited to a fully enclosed building</i>	<i>P</i>	
<i>Lodges, civic clubs, fraternal organizations and service clubs</i>	<i>P</i>	
<i>Lumber and building supply, with storage limited to a fully enclosed building or screened from view with landscaping and fencing with a maximum height of 12 feet from adjacent property</i>	<i>P</i>	
<i>Printing, mailing, lithographing, engraving, photocopying, blueprinting and publishing establishments</i>	<i>P</i>	
<i>Machinery sales and service, with storage and repair limited to a fully enclosed building or screened from adjacent property with landscaping and fencing with a maximum height of 12 feet</i>	<i>P</i>	

Commercial <i>Marinas, docks, piers, yacht clubs, boat basins, boat storage and servicing, repair and sale facilities for the same; if fuel is sold, then in accordance with section 24-38</i>	<i>P</i>	
<i>Marine or waterfront businesses to include the receipt, storage and transshipment of waterborne commerce or seafood receiving, packaging or distribution</i>	<i>P</i>	
<i>Medical clinics or offices, including emergency care and first aid centers</i>	<i>P</i>	
Micro <i>breweries</i>	<i>P</i>	
<i>Museums</i>	<i>P</i>	
<i>New and/or rebuilt automotive parts sales, with storage limited to a fully enclosed building or screened from adjacent property with landscaping and fencing with a maximum height of 12 feet</i>	<i>P</i>	
<i>Nursing homes</i>		<i>SUP</i>
<i>Nurseries</i>	<i>P</i>	
<i>Off-street parking as required by section 24-53</i>	<i>P</i>	
<i>Office supply stores</i>	<i>P</i>	
<i>Outdoor centers of amusement, including miniature golf, bumper boats and waterslide parks</i>		<i>SUP</i>
<i>Outdoor sports facilities, including golf courses, driving ranges, batting cages and skate parks, with water and sewer facilities for golf courses as approved by the board of supervisors</i>		<i>SUP</i>
<i>Parking lots, structures or garages</i>	<i>P</i>	
<i>Pet stores and pet supply sales</i>	<i>P</i>	
<i>Photography, artist and sculptor stores and studios</i>	<i>P</i>	
<i>Places of public assembly, including houses of worship and public or private meeting halls</i>	<i>P</i>	
<i>Plumbing and electrical supply and sales with storage limited to a fully enclosed building or screened with landscaping and fencing with a maximum height of 12 feet from adjacent property</i>	<i>P</i>	
<i>Printing, mailing, lithographing, engraving, photocopying, blueprinting and publishing establishments</i>	<i>P</i>	
<i>Private streets within "qualifying industrial parks" in accordance with section 24-55</i>	<i>P</i>	
Publically <i>owned solid waste container sites</i>	<i>P</i>	
<i>Radio and television stations and accessory antenna or towers, self supported, (not attached to buildings) which are 60 feet less in height</i>	<i>P</i>	

Research, development and design facilities or laboratories	P	
Restaurants, tea rooms, coffee shops , taverns and micro-breweries, not to include fast food restaurants	P	
Retail and service stores, including the following stores: alcohol, appliances , books, cabinets, cameras, candy, carpet, coin, department, dressmaking, electronics , florist, furniture, furrier, garden supply, gourmet foods , greeting card, gunsmith (excluding firing or shooting ranges) , hardware, home appliance sales and service, health and beauty aids , ice cream, jewelry sales and service, locksmith, music and records, optical goods, paint, pet, picture framing, plant supply, shoes, sporting goods, stamps, tailor, tobacco and pipes, toys, travel bureaus agencies, upholstery, variety , wearing apparel, and yard goods	P	
Retail food stores, bakeries and fish markets	P	
Security service offices	P	
Shooting ranges, indoor		SUP
Tattoo parlors		SUP
Taxi service	P	
Theme parks greater than 10 acres in size		SUP
Tire, transmission, glass, body and fender and other automotive product sales and service with major repair limited to a fully enclosed building and vehicle storage screened from adjacent property by landscaping and fencing	P	
Truck stops; if fuel is sold, then in accordance with section 24-38		SUP
Truck terminals; if fuel is sold, then in accordance with section 24-38		SUP
Vehicle and trailer sales and service, with major repair limited to a fully enclosed building and screened from adjacent property by landscaping and fencing with a maximum height of 12 feet	P	
Vehicle repair and service, including tire, transmission, glass, body and fender, and other automotive product sales, new and/or rebuilt , with major repair limited to a fully enclosed building and vehicle storage of parts and vehicles screened from adjacent property by landscaping and fencing with a maximum height of 12 feet	P	
Vehicle rentals	P	

	Automobile Vehicle service stations; if fuel is sold, then in accordance with section 24-38	P	
	Veterinary hospitals with all activities limited to a fully enclosed building with the exception of supervised animal exercise	P	
	Warehousing, wholesaling , storage and distribution centers with storage limited to a fully enclosed building or screened by landscaping and fencing with a maximum height of 12 feet from adjacent property	P	
	Water impoundments, new or expansion of, less than 50 acres and with dam heights of less than 25 feet	P	
	Water impoundments, new or expansion of, greater than 50 acres, or with dam heights of less than 25 feet or more		SUP
	Water well drilling establishments	P	
	Welding and machine shops with storage limited to a fully enclosed building or screened from adjacent property with landscaping and fencing from adjacent property with a maximum height of 12 feet	P	
Civic	Nonemergency medical transport	P	
	Fire stations	P	
	Governmental offices	P	
	Libraries	P	
	Post offices	P	
	Schools, public or private		SUP
Utility	Antennas and towers, self supported, (not attached to buildings) and tower mounted wireless communications facilities which are 60 feet or less in height	P	
	Antennas and towers (not attached to buildings) in excess of 60 feet in height		SUP
	Electrical generation facilities (public or private), steam generation facilities, electrical substations with a capacity of 5,000 kilovolt amperes or more and electrical transmission lines capable of transmitting 69 kilovolts or more		SUP
	Railroad facilities including tracks, bridges and switching stations. However, s Spur lines which are to serve and are accessory to existing or proposed development adjacent to existing railroad rights-of-way and track and safety improvements in existing railroad rights-of-way, are permitted generally and shall not require a special use permit		SUP

	Telephone exchanges and telephone switching stations	P	
	Tower mounted wireless communications facilities in accordance with division 6, Wireless Communications Facilities, less than 60 feet in height	P	
	Tower mounted wireless communications facilities in accordance with division 6, Wireless Communications Facilities, in excess of 60 feet in height		SUP
	Transmission pipelines, public or private, including pumping stations and accessory storage, for natural gas, propane gas, petroleum products, chemicals, slurry coal and any other gases, liquids or solids. However, e Extensions for private connections to existing pipelines, which are intended to serve an individual residential or commercial customer and which are intended to serve accessory to existing or proposed development, are permitted generally and shall not require a special use permit		SUP
	Wireless communications facilities that utilize alternative mounting structures, or are building mounted, or are camouflaged, and comply with division 6, Wireless Communications Facilities	P	
	Water facilities (public or private) and sewer facilities (public), including, but not limited to, treatment plants, pumping stations, storage facilities and transmission mains, wells and associated equipment, such as pumps to be owned and operated by political jurisdictions. However, t The following are permitted generally and shall not require a special use permit: (a) Private connections to existing mains that are intended to serve an individual customer and that are accessory to existing or proposed development, with no additional connections to be made to the line; and (b) Distribution lines and local facilities within a development, including pump stations		SUP
Open	Timbering, in accordance with section 24-43		
Industrial Uses	Heavy equipment sales and service, with major repair limited to a fully enclosed building or screened with landscaping and fencing from adjacent property	P	
	Industrial dry cleaners or laundries	P	

<i>Industrial or technical training centers or schools</i>	<i>P</i>	
<i>Manufacture and assembly of musical instruments, toys, novelties, and rubber and metal stamps</i>	<i>P</i>	
<i>Manufacture and bottling of soft drinks, water and wine alcoholic beverages</i>	<i>P</i>	
<i>Manufacture and processing of textiles and textile products</i>	<i>P</i>	
<i>Manufacture and storage of ice, including dry ice</i>	<i>P</i>	
<i>Manufacture, assembly, or fabrication of sheet metal products.</i>	<i>P</i>	
<i>Manufacture, compounding, assembly or treatment of products made from previously prepared paper, plastic, metal, textiles, tobacco, wood, paint, fiber, glass, rubber, leather, cellophane, felt, fur, horn, wax, hair, yarn, and stone</i>	<i>P</i>	
<i>Manufacture, compounding, processing and packaging of cosmetics, toiletries and pharmaceutical products</i>	<i>P</i>	
<i>Manufacture, compounding, processing or packaging of food and food products, but not the slaughter of animals</i>		<i>SUP</i>
<i>Manufacture of cans and other products from previously processed metals</i>	<i>P</i>	
<i>Manufacture of carpets and carpet yarns</i>	<i>P</i>	
<i>Manufacture of furniture</i>	<i>P</i>	
<i>Manufacture of glass and glass products</i>	<i>P</i>	
<i>Manufacture of pottery and ceramic products using kilns fired by gas or electricity</i>	<i>P</i>	
<i>Manufacture or assembly of appliances, tools, firearms, hardware products and heating, cooling or ventilation equipment</i>	<i>P</i>	
<i>Manufacture or assembly of electronic instruments, electronic devices or electronic components</i>	<i>P</i>	
<i>Manufacture or assembly of medical, drafting, metering, marine, photographic and mechanical instruments and equipment</i>	<i>P</i>	
<i>Manufactured home or mobile home sales</i>	<i>P</i>	
<i>Petroleum storage and retail distribution</i>		<i>SUP</i>
<i>Processing, assembly and manufacture of light industrial products or components, with all storage, processing, assembly and manufacture conducted indoors or under cover, with no dust, noise, odor or other objectionable effect.</i>		<i>SUP</i>
<i>Propane storage, distribution or sale</i>		<i>SUP</i>
<i>Recycling center or plant</i>	<i>P</i>	
<i>Resource recovery facilities</i>		<i>SUP</i>

	<i>Solid waste transfer stations and container sites, public or private</i>		<i>SUP</i>
	<i>Waste disposal facilities</i>		<i>SUP</i>

~~Accessory uses as defined in section 24-2.~~

~~Adult day care centers.~~

~~An apartment or living quarters for a guard, caretaker, proprietor, or other person employed on the premises which is clearly secondary to the business or industrial use of the property.~~

~~Antennas and towers, self supported, (not attached to buildings) and tower mounted wireless communications facilities which are 60 feet or less in height.~~

~~Automobile sales and service with major repair limited to a fully enclosed building.~~

~~Automobile service stations; if fuel is sold, then in accordance with section 24-38.~~

~~Banks and other similar financial institutions.~~

~~Barber and beauty shops.~~

~~Business, professional and governmental offices.~~

~~Child day care centers.~~

~~Commercial marinas, docks, piers, yacht clubs, boat basins and servicing areas for same; if fuel is sold, then in accordance with section 24-38.~~

~~Contractor offices, equipment storage yards, shops and warehouses with storage limited to a fully enclosed building or screened with landscaping and fencing from adjacent property.~~

~~Courier services.~~

~~Data processing centers.~~

~~Drugstores.~~

~~Dry cleaners and laundries.~~

~~Farmer's markets.~~

~~Feed, seed and farm supply stores.~~

~~Fire stations.~~

~~Funeral homes.~~

~~Health clubs, exercise clubs, and fitness centers.~~

~~Heavy equipment sales and service, with major repair limited to a fully enclosed building or screened with landscaping and fencing from adjacent property.~~

~~Hotels, motels or convention centers with accessory retail sales, barber shops and beauty shops located within the hotel, motel or convention center for the principal benefit of the resident guest.~~

~~Houses of worship.~~

~~Indoor sport facilities.~~

~~Industrial dry cleaner and laundry.~~

~~Industrial and technical training schools.~~

~~Janitorial service establishments.~~

~~Kennels.~~

~~Laser technology production.~~

~~Lumber and building supply stores with storage limited to a fully enclosed building or screened with landscaping and fencing from adjacent property.~~

~~Machinery sales and service with major repair limited to a fully enclosed building.~~

~~Manufacture and assembly of musical instruments, toys, novelties, and rubber and metal stamps.~~

~~Manufacture and bottling of soft drinks and wine.~~

~~Manufacture and processing of textiles and textile products.~~

~~Manufacture and storage of ice, including dry ice.~~

~~Manufacture, assembly, or fabrication of sheet metal products.~~

~~Manufacture, compounding, assembly or treatment of products made from previously prepared paper, plastic, metal, textiles, tobacco, wood, paint, fiber glass, glass, rubber, leather, cellophane, canvas, felt, fur, horn, wax, hair, yarn, and stone.~~

~~Manufacture, compounding, processing or packaging of cosmetic, toiletry and pharmaceutical products.~~

~~Manufacture of cans and other products from previously processed metals.~~

~~Manufacture of carpets and carpet yarns.~~

~~Manufacture of furniture.~~

~~Manufacture of glass and glass products.~~

~~Manufacture of pottery and ceramic products using kilns fired only by gas or electricity.~~

~~Manufacture or assembly of appliances, tools, firearms, hardware products and heating, cooling or ventilating equipment.~~

~~Manufacture or assembly of electronic instruments, electronic devices or electronic components.~~

~~Manufacture or assembly of medical, drafting, metering, marine, photographic and mechanical instruments.~~

~~Manufactured home or mobile home sales.~~

~~Marine or waterfront businesses to include receipt, storage and transshipment of waterborne commerce, or seafood receiving, packing and distribution.~~

~~Medical clinics and offices~~

~~Micro breweries.~~

~~Nonemergency medical transport.~~

~~Nurseries.~~

~~Off street parking as required by section 24-53.~~

~~Plumbing and electrical supply stores with storage limited to a fully enclosed building or screened with landscaping and fencing from adjacent property.~~

~~Post offices.~~

~~Printing, lithographing, engraving, photocopying, blueprinting and publishing establishments.~~

~~Private streets within "qualifying industrial parks" in accordance with section 24-55.~~

~~Publicly owned solid waste container sites.~~

~~Radio and television stations and accessory antenna or towers, self-supported, (not attached to buildings) which are 60 feet or less in height.~~

~~Research, development and design facilities or laboratories.~~

~~Restaurants, tearooms and taverns.~~

~~Retail and service stores, including the following stores: books, cabinet, candy, carpet, coin, department, dressmaking, florist, furniture, furrier, garden supply, greeting card, gunsmith (excluding shooting ranges), hardware, home appliance sales and service, ice cream, jewelry sales and service, locksmith, music and records, paint, pet, picture framing, plant supply, shoe, sporting goods, stamp, tailor, tobacco and pipes, toys, travel bureau, upholstery, wearing apparel, and yard goods.~~

~~Retail food stores, bakeries and fish markets.~~

~~Security service offices.~~

~~Telephone exchanges and telephone switching stations.~~

~~Timbering in accordance with section 24-43.~~

~~Tire, transmission, glass, body and fender and other automotive product sales and service with major repair limited to a fully enclosed building and vehicle storage screened from adjacent property by landscaping and fencing.~~

~~Vehicle and trailer sales and service with major repair limited to a fully enclosed building.~~

~~Vehicle rentals.~~

~~Veterinary hospitals.~~

~~Warehouse, storage and distribution centers with storage limited to a fully enclosed building or screened with landscaping and fencing from adjacent property;~~

~~Water impoundments, new or expansion of, less than 50 acres and with dam heights of less than 25 feet.~~

~~Water well drilling establishments.~~

~~Welding and machine shops with storage limited to a fully enclosed building or screened with landscaping and fencing from adjacent property.~~

~~Wireless communications facilities that utilize alternative mounting structures, or are building mounted, or are camouflaged, and comply with division 6, Wireless Communications Facilities.~~

~~Sec. 24-412. Uses permitted by special use permit only.~~

~~In the Limited Business/Industrial District, M-1, buildings to be erected or land to be used for one or more of the following or similar uses shall be permitted only after the issuance of a special use permit by the board of supervisors:~~

~~Antennas and towers (not attached to buildings) in excess of 60 feet in height.~~

~~Convenience stores; if fuel is sold, then in accordance with section 24-38.~~

~~Electrical generation facilities (public or private), steam generation facilities, electrical substations with a capacity of 5,000 kilovolt amperes or more and electrical transmission lines capable of transmitting 69 kilovolts or more.~~

~~Heliports, helistops and accessory uses.~~

~~Hospitals.~~

~~Manufacture, compounding, processing or packaging of food and food products, but not the slaughter of animals.~~

~~Outdoor sports facilities with water and sewer facilities for golf courses as approved by the board of supervisors.~~

~~Petroleum storage.~~

~~Propane storage, distribution and sale.~~

~~Railroad facilities including tracks, bridges, switching yards and stations. However, spur lines which are to serve and are accessory to existing or proposed development adjacent to existing railroad right of ways and track and safety improvements in existing railroad right of ways are permitted generally and shall not require a special use permit.~~

~~Resource recovery facilities.~~

~~Shooting ranges, indoor.~~

~~Solid waste transfer stations.~~

~~Theme parks of ten acres or more.~~

~~Tower mounted wireless communication facilities in accordance with division 6, Wireless Communications Facilities, in excess of 60 feet in height.~~

~~Transmission pipelines (public or private), including pumping stations and accessory storage, for natural gas, propane gas, petroleum products, chemicals, slurry coal and any other gases, liquids or solids.~~

~~However, extensions or private connections to existing pipelines, which are intended to serve an individual customer and which are accessory to existing or proposed development, are permitted generally and shall not require a special use permit.~~

~~Truck stops; if fuel is sold, then in accordance with section 24-38.~~

~~Truck terminals; if fuel is sold, then in accordance with section 24-38.~~

~~Water facilities (public or private), and sewer facilities (public), including, but not limited to, treatment plants, pumping stations, storage facilities and transmission mains, wells and associated equipment, such as pumps to be owned and operated by political jurisdictions. However, the following are permitted generally and shall not require a special use permit:~~

- ~~(a) Private connections to existing mains that are intended to serve an individual customer and that are accessory to existing or proposed development, with no additional connections to be made to the line; and~~
- ~~(b) Distribution lines and local facilities within a development, including pump stations.~~

~~Water impoundments, new or expansion of, 50 acres or more or with dam heights of 25 feet or more.~~

Sec. 24-413 412. Outdoor operations and storage.

Any commercial or industrial operation or storage conducted in whole or in part out-of-doors shall meet the requirements of section 24-41.

Sec. 24-414 413. Area requirements and minimum lot width.

- (a) Minimum lot size shall be 10,000 square feet.
- (b) Minimum width of lots shall be 75 feet at the setback line.

Sec. 24-415 414. Setback requirements.

- (a) Structures shall be located 50 feet or more from any street right-of-way which is 50 feet or greater in width. Where the street right-of-way is less than 50 feet in width, structures shall be located 75 feet or more from the center line of the street. The minimum setback of any portion of a structure which is in excess of 35 feet in height shall be increased one foot for each two feet of the structure's height in excess of 35 feet.
- (b) The minimum setback shall also be increased to a minimum of 75 feet from any street with a right-of-way 50 feet or greater in width and 100 feet from any street with a right-of-way of less than 50 feet of width when the property immediately across the street is zoned residential. The minimum setback of any portion of a structure across the street from property zoned residential which is in excess of 35 feet in height shall be increased one foot for each two feet of the structure's height in excess of 35 feet.

(c) Setbacks for commercial uses may be reduced to 25 feet from any street right-of-way which is 50 feet or greater in width or 50 feet from the centerline of the street where the street right-of-way is less than 50 feet in width with approval of the ~~development review committee~~ *planning director*.

A site shall not be considered for a setback reduction if it is located on a planned road that is designated for widening improvements. A planned road includes any road or similar transportation facility as designated on the Comprehensive Plan, Six-Year Primary or Secondary Road Plan, Peninsula Area Transportation Plan or any road plan adopted by the board of supervisors. The ~~development review committee~~ *planning director* will consider a setback reduction only if the setback reduction will achieve results which clearly satisfy the overall purposes and intent of section 24-86 (Landscaping and Tree Preservation Requirements); if the setbacks do not negatively impact adjacent property owners; and if one or more of the following criteria are met:

(1) The site is located on a Community Character Corridor or is designated a Community Character Area on the Comprehensive Plan Land Use Map, and proposed setbacks will better complement the design standards of the Community Character Corridor.

(2) The adjacent properties have setbacks that are non-conforming with this section, and the proposed setbacks will better complement the established setbacks of adjacent properties, where such setbacks help achieve the goals and objectives of the Comprehensive Plan.

(3) The applicant has offered site design which meets or exceeds the Development Standards of the Comprehensive Plan.

(d) In areas where the board of supervisors has adopted specific design guidelines that call for reduction of setbacks in excess of those permitted in sub-section (c), the ~~development review committee~~ *planning director* can approve reductions upon finding substantial conformance with recommendations from the guidelines and compliance with the criteria from sub-section (c) above.

(e) Appeals. In the event the planning director disapproves plans submitted under the provisions of this section or recommends conditions or modifications which are unacceptable to the applicant, the applicant may appeal the decision of the planning director to the development review committee who shall forward a recommendation to the planning commission.

Sec. 24-416 415. Yard regulations requirements.

(a) Structures shall be located 20 feet or more from side or rear property lines. The side and rear yards for any section of a structure in excess of 35 feet in height shall be increased one foot for each two feet of height in excess of 35 feet.

(b) The minimum side yard shall be increased to 75 feet if the side yard adjoins property in a residential district, or an agricultural district that is designated for residential use on the Comprehensive Plan. The minimum rear yard shall be increased to 75 feet if the rear yard adjoins property in a residential district or an agricultural district that is designated for residential use on the Comprehensive Plan. The minimum side and rear yards for any section of a structure in excess of 35 feet in height shall be increased one foot for each two feet of height in excess of 35 feet.

(c) Accessory structures may be located within the required side or rear yards upon approval of the ~~planning commission~~ *planning director*; provided, however, that no structure shall be located within ten feet of any property line.

(d) Appeals. In the event the planning director disapproves plans submitted under the provisions of this section or recommends conditions or modifications which are unacceptable to the applicant, the applicant may appeal the decision of the planning director to the development review committee who shall forward a recommendation to the planning commission.

Sec. 24-417 416. Reserved.

Sec. 24-418 417. Special provisions for the waiver of area, lot width, yard and yard setback requirements.

The following may be eligible for a waiver from any part of section 24-414 through 24-416:

The subdivision of business/industrial property on which business and industrial units for sale, for sale in condominium, or for lease are both:

- (a) Constructed as part of a multiunit structure in which the units share common walls or as part of a multiple-structure commercial development; and
- (b) The entire development has been planned and designed as a comprehensive coordinated unit under a single master plan *which has been legislatively approved by the board of supervisors*.

In these instances, the ~~planning commission~~ *planning director* may grant, at its discretion, a waiver from any part of section 24-414 through 24-416 upon finding:

- (1) The overall complex or structure, if considered as a single unit, meets all of the requirements of section 24-414 through 24-416;
- (2) Adequate parking is provided as per the requirements of this chapter. The ~~planning commission~~ *planning director* also may require recordation of adequate easements or other agreements to guarantee access and maintenance of the parking areas and other common areas;
- (3) Adequate provisions are made to assure compliance with the requirements of this chapter with regards to signs. The planning commission also may require the recordation of adequate easements or agreements to allow grouping of signs on one standard sign, placement of signs in common areas or other appropriate arrangements made necessary as a result of the reduced frontage or yard area of the individual units; and
- (4) The complex or structure is adequately designed and serviced from the standpoint of safety. The county fire chief finds that the fire safety equipment to be installed is adequately designed, and the county

building official finds that the complex is designed to conform to the Uniform Statewide Building Code, so as to offer adequate protection to life and property.

(5) Appeals. In the event the planning director disapproves plans submitted under the provisions of this section or recommends conditions or modifications which are unacceptable to the applicant, the applicant may appeal the decision of the planning director to the development review committee who shall forward a recommendation to the planning commission.

Sec. 24-419 418. Height limits and height limitation waivers of structures.

(a) Structures may be erected up to 60 feet in height from grade to the top of the structure. Camouflaged wireless communications facilities may be erected to a total height of 120 feet from grade. Structures in excess of 60 feet in height from grade to the top of the structure may be erected only upon the granting of a height limitation waiver by the board of supervisors.

(b) Water towers, church spires, belfries, cupolas, monuments, chimneys, flues, flagpoles, communication antennae, mechanical penthouse, electrical, plumbing, elevator, parapet walls or other accessory mechanical functions which are part of or on top of a main structure shall be considered part of the structure.

(c) Upon application for a height limitation waiver, the payment of appropriate fees, notification of adjacent property owners and following a public hearing, the board of supervisors may grant a height limitation waiver upon finding that:

(1) Additional setbacks have been provided as required by section 24-415 and section 24-416; however, the board *of supervisors* may waive additional setbacks in excess of 60 feet;

(2) Such structure will not obstruct light from adjacent property;

- (3) Such structure will not impair the enjoyment of historic attractions and areas of significant historic interest and surrounding developments;
- (4) Such structure will not impair property values in the area;
- (5) Such structure is adequately designed and served from the standpoint of safety and that the county fire chief finds the fire safety equipment to be installed is adequately designed and that the structure is reasonably well located in relation to fire stations and equipment, so as to offer adequate protection to life and property; and
- (6) Such structure will not be contrary to the public health, safety and general welfare.

Sec. 24-420 419. Reserved.

Sec. 24-421 420. Sign regulations and parking requirements.

- (a) To assure an appearance and condition which is consistent with the purposes of the Limited Business/Industrial District, M-1, outdoor signs on the properties within the district shall comply with the regulations for exterior signs in article II, division 3 of this chapter.
- (b) Off-street parking and off-street loading shall be provided as required in sections 24-53 and 24-54.

Sec. 24-422 421. Utilities.

- (a) Unless otherwise specified in this district, all development in the Limited Business/Industrial District, M-1, shall be served by public water and sewer.
- (b) The location of all utilities and utility easements shall be shown on the site plans and be approved as per article III, Site Plan, of this chapter.

Sec. 24-~~423~~ 422. Site plan review.

All structures or complexes of structures erected, altered or restored within the district shall be subject to Site Plan Review in accordance with article III of this chapter.

Sec. 24-423. Landscaping.

To assure an appearance and condition which is consistent with the purposes of the Limited Business/Industrial District, landscaping on the properties within the district shall comply with article II, division 4 of this chapter.

Secs. 24-424 - 24-434. Reserved.

Mary K. Jones
Chairman, Board of Supervisors

ATTEST:

Robert C. Middaugh
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 10th day of January, 2012.

ZO-04-2011_ord3

ORDINANCE NO. _____

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 24, ZONING, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE V, DISTRICTS, DIVISION 12, GENERAL INDUSTRIAL DISTRICT, M-2, BY AMENDING AND RENAMING SECTION 24-436, PERMITTED USES WITH NEW NAME USE LIST; BY DELETING SECTION 24-437, USES PERMITTED BY SPECIAL USE PERMIT ONLY; BY RENUMBERING SECTION 24-438, OUTDOOR OPERATIONS AND STORAGE WITH NEW NUMBER 24-437; BY RENUMBERING SECTION 24-439, AREA REQUIREMENTS AND MINIMUM LOT WIDTH WITH NEW NUMBER 24-438; BY RENUMBERING SECTION 24-440, SETBACK REQUIREMENTS WITH NEW NUMBER 24-439; BY AMENDING, RENUMBERING AND RENAMING SECTION 24-441, YARD REGULATIONS WITH NEW NUMBER AND NAME 24-440, YARD REQUIREMENTS; BY RENUMBERING SECTION 24-442, RESERVED WITH NEW NUMBER 24-441; BY AMENDING AND RENUMBERING SECTION 24-443, SPECIAL PROVISIONS FOR THE WAIVER OF AREA, LOT WIDTH, YARD AND SETBACK REQUIREMENTS WITH NEW NUMBER 24-442; BY AMENDING, RENUMBERING AND RENAMING SECTION 24-444, HEIGHT LIMITS AND HEIGHT LIMITATION WAIVERS WITH NEW NUMBER AND NAME 24-443, HEIGHT OF STRUCTURES; BY RENUMBERING SECTION 24-445, RESERVED WITH NEW NUMBER 24-444; BY RENUMBERING SECTION 24-446, SIGN REGULATIONS AND PARKING REQUIREMENTS WITH NEW NUMBER 24-445; BY AMENDING AND RENUMBERING SECTION 24-447, UTILITIES WITH NEW NUMBER 24-446; BY RENUMBERING SECTION 24-448, PUBLIC UTILITIES WAIVER WITH NEW NUMBER 24-447; BY RENUMBERING SECTION 24-449, SITE PLAN REVIEW WITH NEW NUMBER 24-448; AND BY ADDING NEW SECTION 24-449, LANDSCAPING.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 24, Zoning, is hereby amended and reordained by amending Article V, Districts, Division 12, General Industrial District, M-2, by amending Section 24-436, Use list; Section 24-437, Outdoor operations and storage; Section 24-438, Area requirements and minimum lot width; Section 24-439, Setback requirements; Section 24-440, Yard requirements; Section 24-441, Reserved; Section 24-442, Special provisions for the waiver of area, lot width, yard and setback requirements; Section 24-443, Height of structures; Section 24-444, Reserved; Section 24-445, Sign regulations and parking requirements; Section 24-446, Utilities; Section 24-447, Public utilities waiver; Section 24-448, Site plan review; and Section 24-449, Landscaping.

Chapter 24. Zoning

ARTICLE V. DISTRICTS

DIVISION 12. GENERAL INDUSTRY DISTRICT, M-2

Sec. 24-435. Statement of intent.

The primary purpose of the General Industrial District, M-2, is to establish an area where the principal use of land is for industrial operations which are not compatible with residential or commercial service establishments. The specific intent of this district is to accomplish the following:

- (1) Encourage the use of land for industrial purposes;
- (2) Prohibit residential and commercial service developments on land reserved for industrial uses; and
- (3) Establish minimum requirements to protect the health, safety and welfare of the citizens of James City County from the effects of the development of industrial uses.

Sec. 24-436. Permitted uses Use list.

Reference section 24-11 for special use permit requirements for certain commercial uses and exemptions.

In the General Industry, M-2, buildings to be erected or land to be used shall be for one or more of the following or similar uses:

<i>Use Category</i>	<i>Use List</i>	<i>Permitted Uses</i>	<i>Specially Permitted Uses</i>
<i>Residential</i>	<i>An apartment or living quarters for a guard, caretaker, proprietor or the person employed on the premises, which is clearly secondary to the business commercial or industrial use of the property</i>	<i>P</i>	
<i>Vehicle</i>	<i>Accessory uses and structures as defined in section 24-2</i>	<i>P</i>	
	<i>Adult day care centers</i>	<i>P</i>	
	<i>Antique shops</i>	<i>P</i>	
	<i>Arts and crafts, hobby and handicraft shops</i>	<i>P</i>	
	<i>Auction houses</i>	<i>P</i>	
	<i>Bakeries or fish markets</i>	<i>P</i>	
	<i>Banks and other financial institutions</i>	<i>P</i>	
	<i>Barber shops and beauty salons</i>	<i>P</i>	
	<i>Business, and professional and government offices</i>	<i>P</i>	
	<i>Catering and meal preparation</i>	<i>P</i>	
	<i>Child day care centers</i>	<i>P</i>	
	<i>Contractor offices, equipment storage yards, shops and warehouses with materials and equipment storage limited to a fully enclosed building or screened with landscaping and fencing with a maximum height of 12 feet from adjacent property</i>	<i>P</i>	
	<i>Convenience stores; if fuel is sold, then in accordance with section 24-38 fuel</i>		<i>SUP</i>
	<i>Convention centers</i>	<i>P</i>	
	<i>Courier services</i>	<i>P</i>	
	<i>Data processing centers</i>	<i>P</i>	
	<i>Drug stores</i>	<i>P</i>	
	<i>Dry cleaners and laundries</i>	<i>P</i>	
	<i>Farmer's market</i>	<i>P</i>	
	<i>Feed, seed and farm supply stores</i>	<i>P</i>	
	<i>Firearms sales and service</i>	<i>P</i>	
	<i>Firing and shooting ranges, limited to a fully enclosed building</i>	<i>P</i>	
	<i>Funeral homes</i>	<i>P</i>	

Gift and souvenir stores	P	
Grocery stores	P	
Health and exercise clubs, fitness centers	P	
Heliports, helistops and accessory uses		SUP
Hospitals		SUP
Hotels and motels or convention centers with accessory retail sales, barber shops and beauty shops located within the hotel, motel, or convention center for the principal benefit of the-resident guest	P	
Houses of worship	P	
Indoor centers of amusement including billiard halls, arcades, pool rooms, bowling alleys, dance clubs and bingo halls	P	
Indoor sport facilities, including firing and shooting ranges	P	
Indoor theaters	P	
Janitorial service establishments	P	
Kennels and animal boarding facilities	P	
Laboratories, research and development centers	P	
Laser technology production	P	
Limousine services, with maintenance limited to a fully enclosed building	P	
Lodges, civic clubs, fraternal organizations and service clubs	P	
Lumber and building supply, with storage limited to a fully enclosed building or screened from view with landscaping and fencing with a maximum height of 12 feet from adjacent property	P	
Printing, mailing, lithographing, engraving, photocopying, blueprinting and publishing establishments	P	
Machinery sales and service, with storage and repair limited to a fully enclosed building or screened from adjacent property with landscaping and fencing with a maximum height of 12 feet	P	
Commercial Marinas, docks, piers, yacht clubs, boat basins, boat storage and servicing, repair and sale facilities for the same; if fuel is sold, then in accordance with section 24-38	P	
Marine or waterfront businesses to include the receipt, storage and transshipment of waterborne commerce or seafood receiving, packaging or distribution	P	
Medical clinics or offices, including emergency care and first aid centers	P	
Micro-breweries	P	

Museums	P	
New and/or rebuilt automotive parts sales, with storage limited to a fully enclosed building or screened from adjacent property with landscaping and fencing with a maximum height of 12 feet	P	
Nursing homes		SUP
Nurseries	P	
Off-street parking as required by section 24-53	P	
Office supply stores	P	
Outdoor centers of amusement, including miniature golf, bumper boats and waterslide parks		SUP
Outdoor sports facilities, including golf courses, driving ranges, batting cages and skate parks, with water and sewer facilities for golf courses as approved by the board of supervisors		SUP
Parking lots, structures or garages	P	
Pet stores and pet supply sales	P	
Photography, artist and sculptor stores and studios	P	
Places of public assembly, including houses of worship and public or private meeting halls	P	
Plumbing and electrical supply and sales with storage limited to a fully enclosed building or screened with landscaping and fencing with a maximum height of 12 feet from adjacent property	P	
Printing, mailing, lithographing, engraving, photocopying, blueprinting and publishing establishments	P	
Private streets within “qualifying industrial parks” in accordance with section 24-55	P	
Publically owned solid waste container sites	P	
Radio and television stations and accessory antenna or towers, self supported, (not attached to buildings) which are 60 feet less in height	P	
Research, development and design facilities or laboratories	P	
Restaurants, tea rooms, coffee shops, taverns, and micro-breweries, not to include fast food restaurants	P	
Retail and service stores, including the following stores: alcohol, appliances, books, cabinets, cameras, candy, carpet, coin, department, dressmaking, electronics, florist, furniture, furrier, garden supply, gourmet foods, greeting card, gunsmith (excluding firing or shooting ranges), hardware, home appliance sales and service, health and beauty aids, ice cream, jewelry sales and	P	

<i>service, locksmith, music and records, optical goods, paint, pet, picture framing, plant supply, shoes, sporting goods, stamps, tailor, tobacco and pipes, toys, travel bureaus agencies, upholstery, variety, wearing apparel, and yard goods</i>		
<i>Retail food stores, bakeries and fish markets</i>	P	
<i>Security service offices</i>	P	
<i>Shooting ranges, indoor</i>		SUP
<i>Taxi service</i>	P	
<i>Theme parks greater than 10 acres in size</i>		SUP
<i>Truck stops; if fuel is sold, then in accordance with section 24-38</i>		SUP
<i>Truck terminals; if fuel is sold, then in accordance with section 24-38</i>		SUP
<i>Vehicle and trailer sales and service, with major repair limited to a fully enclosed building and screened from adjacent property by landscaping and fencing with a maximum height of 12 feet</i>	P	
<i>Vehicle rentals</i>	P	
<i>Vehicle repair and service, including tire, transmission, glass, body and fender, and other automotive product sales, new and/or rebuilt, with major repair limited to a fully enclosed building and storage of parts and vehicles screened from adjacent property by landscaping and fencing with a maximum height of 12 feet</i>	P	
<i>Automobile Vehicle service stations; if fuel is sold, then in accordance with section 24-38</i>	P	
<i>Veterinary hospitals with all activities limited to a fully enclosed building with the exception of supervised animal exercise</i>	P	
<i>Warehousing, wholesaling, storage and distribution centers with storage limited to a fully enclosed building or screened by landscaping and fencing with a maximum height of 12 feet from adjacent property</i>	P	
<i>Water impoundments, new or expansion of, less than 50 acres and with dam heights of less than 25 feet</i>	P	
<i>Water impoundments, new or expansion of, greater than 50 acres, or with dam heights of less than 25 feet or more</i>		SUP
<i>Water well drilling establishments</i>	P	

	<i>Welding and machine shops with storage limited to a fully enclosed building or screened from adjacent property with landscaping and fencing from adjacent property with a maximum height of 12 feet</i>	<i>P</i>	
<i>Civic</i>	<i>Nonemergency medical transport</i>	<i>P</i>	
	<i>Fire stations</i>	<i>P</i>	
	<i>Governmental offices</i>	<i>P</i>	
	<i>Libraries</i>	<i>P</i>	
	<i>Post offices</i>	<i>P</i>	
	<i>Schools, public or private</i>		<i>SUP</i>
<i>Utility</i>	<i>Antennas and towers, self supported, (not attached to buildings) and tower mounted wireless communications facilities which are 60 feet or less in height</i>	<i>P</i>	
	<i>Antennas and towers (not attached to buildings) in excess of 60 feet in height</i>		<i>SUP</i>
	<i>Electrical generation facilities (public or private), steam generation facilities, electrical substations with a capacity of 5,000 kilovolt amperes or more and electrical transmission lines capable of transmitting 69 kilovolts or more</i>		<i>SUP</i>
	<i>Railroad facilities including tracks, bridges and switching stations. However, s Spur lines which are to serve and are accessory to existing or proposed development adjacent to existing railroad rights-of-way and track and safety improvements in existing railroad rights-of-way, are permitted generally and shall not require a special use permit</i>		<i>SUP</i>
	<i>Telephone exchanges and telephone switching stations</i>	<i>P</i>	
	<i>Tower mounted wireless communications facilities in accordance with division 6, Wireless Communications Facilities, less than 60 feet in height</i>	<i>P</i>	
	<i>Tower mounted wireless communications facilities in accordance with division 6, Wireless Communications Facilities, in excess of 60 feet in height</i>		<i>SUP</i>
	<i>Transmission pipelines, public or private, including pumping stations and accessory storage, for natural gas, propane gas, petroleum products, chemicals, slurry coal and any other gases, liquids or solids. However, e Extensions for private connections to existing pipelines, which are intended to serve an individual residential or commercial customer and</i>		<i>SUP</i>

	<i>which are intended to serve accessory to existing or proposed development, are permitted generally and shall not require a special use permit</i>		
	<i>Wireless communications facilities that utilize alternative mounting structures, or are building mounted, or are camouflaged, and comply with division 6, Wireless Communications Facilities</i>	P	
	<i>Water facilities (public or private) and sewer facilities (public), including, but not limited to, treatment plants, pumping stations, storage facilities and transmission mains, wells and associated equipment, such as pumps to be owned and operated by political jurisdictions. However, t The following are permitted generally and shall not require a special use permit: (a) Private connections to existing mains that are intended to serve an individual customer and that are accessory to existing or proposed development, with no additional connections to be made to the line; and (b) Distribution lines and local facilities within a development, including pump stations</i>		SUP
Open	<i>Timbering, in accordance with section 24-43</i>		
Industrial Uses	<i>Heavy equipment sales and service, with major repair limited to a fully enclosed building or screened with landscaping and fencing from adjacent property</i>	P	
	<i>Industrial dry cleaners or laundries</i>	P	
	<i>Industrial or technical training centers or schools</i>	P	
	<i>Manufacture and assembly of musical instruments, toys, novelties, and rubber and metal stamps</i>	P	
	<i>Manufacture and bottling of soft drinks, wine water and alcoholic beverages</i>	P	
	<i>Manufacture and processing of textiles and textile products</i>	P	
	<i>Manufacture and storage of ice, including dry ice</i>	P	
	<i>Manufacture, assembly, or fabrication of sheet metal products.</i>	P	
	<i>Manufacture, compounding, assembly or treatment of products made from previously prepared paper, plastic, metal, textiles, tobacco, wood, paint, fiber, glass, rubber, leather, cellophane, felt, fur, horn, wax, hair, yarn, and stone</i>	P	
<i>Manufacture, compounding, processing and packaging of cosmetics, toiletries and pharmaceutical products</i>	P		

	<i>Manufacture, compounding, processing or packaging of food and food products, but not the slaughter of animals</i>		<i>SUP</i>
	<i>Manufacture of cans and other products from previously processed metals</i>	<i>P</i>	
	<i>Manufacture of carpets and carpet yarns</i>	<i>P</i>	
	<i>Manufacture of furniture</i>	<i>P</i>	
	<i>Manufacture of glass and glass products</i>	<i>P</i>	
	<i>Manufacture of pottery and ceramic products using kilns fired by gas or electricity</i>	<i>P</i>	
	<i>Manufacture or assembly of appliances, tools, firearms, hardware products and heating, cooling or ventilation equipment</i>	<i>P</i>	
	<i>Manufacture or assembly of electronic instruments, electronic devices or electronic components</i>	<i>P</i>	
	<i>Manufacture or assembly of medical, drafting, metering, marine, photographic and mechanical instruments and equipment</i>	<i>P</i>	
	<i>Manufactured home or mobile home sales</i>	<i>P</i>	
	<i>Petroleum storage and retail distribution</i>		<i>SUP</i>
	<i>Processing, assembly and manufacture of light industrial products or components, with all storage, processing, assembly and manufacture conducted indoors or under cover, with no dust, noise, odor or other objectionable effect.</i>		<i>SUP</i>
	<i>Propane storage, distribution or sale</i>		<i>SUP</i>
	<i>Recycling center or plant</i>	<i>P</i>	
	<i>Resource recovery facilities</i>		<i>SUP</i>
	<i>Solid waste transfer stations and container sites, public or private</i>		<i>SUP</i>
	<i>Waste disposal facilities</i>		<i>SUP</i>

~~Accessory uses as defined in section 24-2.~~

~~An apartment or living quarters for a guard, caretaker, proprietor, or other person employed on the premises which is clearly secondary to the industrial use of the property.~~

~~Antennas and towers, self-supported (not attached to buildings), and tower mounted wireless communications facilities which are 60 feet or less in height.~~

~~Automobile service stations; if fuel is sold, then in accordance with section 24-38.~~

~~Banks and other similar financial institutions as an accessory use to other permitted uses.~~

~~Boiler shops.~~

~~Breweries and other necessary associated activities.~~

~~Business, professional and governmental offices.~~

~~Child day care centers as an accessory use to other permitted uses.~~

~~Contractor offices, equipment storage yards, shops and warehouses.~~

~~Drop forge industries, manufacturing, forgings with a power hammer.~~

~~Electrical generation facilities (public or private), steam generation facilities, electrical substations with a capacity of 5,000 kilovolt amperes or more and electrical transmission lines capable of transmitting 69 kilovolts or more.~~

~~Fire stations.~~

~~Health clubs, exercise clubs, and fitness centers as an accessory use to other permitted uses.~~

~~Heavy equipment sales and service, with major repair limited to a fully enclosed building or screened with landscaping and fencing from adjacent property.~~

~~Industrial and technical training schools.~~

~~Janitorial service establishments.~~

~~Laser technology production.~~

~~Manufacture and assembly of musical instruments, toys, novelties and rubber and metal stamps.~~

~~Manufacture and bottling of soft drinks and wine.~~

~~Manufacture and processing of acrylic and other synthetic fibers.~~

~~Manufacture and processing of textiles and textile products.~~

~~Manufacture and sale of manufactured homes, mobile homes, modular homes and industrialized housing units.~~

~~Manufacture and sale of wood products.~~

~~Manufacture and storage of ice, including dry ice.~~

~~Manufacture, assembly or fabrication of sheet metal products.~~

~~Manufacture, compounding, assembly or treatment of products made from previously prepared paper, plastic, metal, textiles, tobacco, wood, paint, fiber glass, glass, rubber, wax, leather, cellophane, canvas, felt, fur, horn, hair, yarn, and stone.~~

~~Manufacture, compounding, processing or packaging of cosmetics, toiletry and pharmaceutical products.~~

~~Manufacture, compounding, processing or packaging of food and food products, but not the slaughter of animals.~~

~~Manufacture of batteries.~~

~~Manufacture of boats, marine equipment and boat trailers.~~

~~Manufacture of cans and other metal products from previously processed metals.~~

~~Manufacture of carpets and carpet yarns.~~

~~Manufacture of furniture.~~

~~Manufacture of glass and glass products.~~

~~Manufacture of pottery and ceramic products, using kilns fired only by gas or electricity.~~

~~Manufacture or assembly of aircraft and aircraft parts.~~

~~Manufacture or assembly of appliances, tools, firearms, hardware products and heating, cooling or ventilating equipment.~~

~~Manufacture or assembly of automobiles, trucks, machinery or equipment.~~

~~Manufacture or assembly of electronic instruments, electronic devices or electronic components.~~

~~Manufacture or assembly of medical, drafting, metering, marine, photographic and mechanical instruments.~~

~~Marine or waterfront businesses to include the receipt, storage and transshipment of waterborne commerce, or seafood, receiving, packing or distribution.~~

~~Metal foundry and heavy weight casting.~~

~~Off street parking as required by section 24 53.~~

~~Post offices.~~

~~Printing and publishing establishments.~~

~~Private streets within "qualifying industrial parks" in accordance with section 24 55.~~

~~Propane storage, distribution, and sale.~~

~~Publicly owned solid waste container sites.~~

~~Radio and television stations and accessory antenna or towers, self supported (not attached to buildings),
which are 60 feet or less in height.~~

~~Research, development and design facilities or laboratories.~~

~~Restaurants as an accessory use to other permitted uses.~~

~~Retail sales of products related to the main use, provided floor area for retail sales comprises less than 25
percent of the first floor area of the main use.~~

~~Security service offices.~~

~~Structural iron and steel fabrication.~~

~~Telephone exchanges and telephone switching stations.~~

~~Timbering in accordance with section 24 43.~~

~~Warehouse, storage and distribution centers.~~

~~Water impoundments, new or expansion of, less than 50 acres and with dam heights of less than 25 feet.~~

~~Water well drilling establishments.~~

~~Welding and machine shops including punch presses and drop hammers.~~

~~Wireless communications facilities that utilize alternative mounting structures, or are building mounted,
or are camouflaged, and comply with division 6, Wireless Communications Facilities.~~

~~Sec. 24-437. Uses permitted by special use permit only.~~

~~In the General Industrial District, M-2, buildings to be erected or land to be used for one or more of the following or similar uses shall be permitted only after the issuance of a special use permit by the board of supervisors.~~

~~Antennas and towers (not attached to buildings) in excess of 60 feet in height.~~

~~Asphalt mixing plants.~~

~~Automobile graveyards and scrap metal storage yards.~~

~~Crushed stone, sand, gravel, or mineral mining; storage and distribution of same.~~

~~Heliports, helistops and accessory uses.~~

~~Manufacture and compounding of chemicals.~~

~~Manufacture of cement, lime, gypsum, bricks and non-previously prepared stone products (i.e., stone and rock used for general erosion control and road construction).~~

~~Petroleum refining.~~

~~Petroleum storage.~~

~~Railroad facilities including tracks, bridges, switching yards, and stations. However, spur lines which are to serve and are accessory to existing or proposed development adjacent to existing railroad right of ways and track and safety improvements in existing railroad right of ways are permitted generally and shall not require a special use permit.~~

~~Ready mix concrete production.~~

~~Resource recovery facilities.~~

~~Solid waste transfer stations.~~

~~Tower mounted wireless communication facilities in accordance with division 6, Wireless Communications Facilities, in excess of 60 feet in height.~~

~~Transmission pipelines (public or private), including pumping stations and accessory storage, for natural gas, propane gas, petroleum products, chemicals, slurry coal and any other gases, liquids or solids. However, extensions or private connections to existing pipelines, which are intended to serve an individual customer and which are accessory to existing or proposed development, are permitted generally and shall not require a special use permit.~~

~~Truck stops; if fuel is sold, then in accordance with section 24-38.~~

~~Truck terminals; if fuel is sold, then in accordance with section 24-38.~~

~~Water facilities (public or private), and sewer facilities (public), including, but not limited to, treatment plants, pumping stations storage facilities and transmission mains, wells and associated equipment such as pumps to be owned and operated by political jurisdictions. However, the following are permitted generally and shall not require a special use permit:~~

~~(a) Private connections to existing mains that are intended to serve an individual customer and that are accessory to existing or proposed development, with no additional connections to be made to the line; and~~

~~(b) Distribution lines and local facilities within a development, including pump stations.~~

~~Water impoundments, new or expansion of, 50 acres or more or with dam heights of 25 feet or more.~~

~~Wood preserving operations.~~

Sec. 24-438 437. Outdoor operations and storage.

Any commercial or industrial operation or storage conducted in whole or in part out-of-doors, shall meet the requirements of section 24-41 of this chapter.

Sec. 24-439 438. Area requirements and minimum lot width.

(a) Minimum lot size shall be 10,000 square feet.

(b) Minimum width of lots shall be 75 feet at the setback line.

Sec. 24-440 439. Setback requirements.

(a) Structures shall be located 50 feet or more from any street right-of-way which is 50 feet or greater in width. Where the street right-of-way is less than 50 feet in width, structures shall be located 75 feet or more from the center line of the street. The minimum setback of any portion of a structure which is in excess of 35 feet in height shall be increased one foot for each three feet of the structure's height in excess of 35 feet.

(b) The minimum setback shall also be increased to a minimum of 75 feet from any street with a right-of-way 50 feet or greater in width and 100 feet from any street with a right-of-way of less than 50 feet of width when the property immediately across the street is zoned residential. The minimum setback of any portion of a structure across the street from property zoned residential which is in excess of 35 feet in height shall be increased one foot for each two feet of the structure's height in excess of 35 feet.

Sec. 24-441 440. Yard regulations requirements.

(a) Structures shall be located 20 feet or more from side or rear property lines. The side and rear yards for any section of a structure in excess of 35 feet in height shall be increased one foot for each three feet of height in excess of 35 feet.

(b) The minimum side yard shall be increased to 75 feet if the side yard adjoins property in a residential district, or an agricultural district that is designated for residential use on the Comprehensive Plan. The minimum rear yard shall be increased to 75 feet if the rear yard adjoins property in a residential district or an agricultural district that is designated for residential use on the Comprehensive Plan. The minimum side and rear yards for any section of a structure in excess of 35 feet in height shall be increased one foot for each two feet of height in excess of 35 feet.

(c) Accessory structures may be located within the required side or rear yards upon approval of the ~~planning commission~~ *planning director*; provided, however, that no structure shall be located within ten feet of any property line.

Sec. 24-442 441. Reserved.

Sec. 24-443 442. Special provisions for the waiver of area, lot width, yard and setback requirements.

The following may be eligible for a waiver from any part of section 24-439 438 through 24-441 440:

The subdivision of business/industrial property on which business and industrial units for sale, for sale in condominium or for lease are both:

- (a) Constructed as part of a multiunit structure in which the units share common walls or as part of a multiple-structure commercial development; and
- (b) The entire development has been planned and designed as a comprehensive coordinated unit under a single master plan.

In these instances, the ~~planning commission~~ *planning director* may grant, at its discretion, a waiver from any part of section 24-439 438 through 24-441 440 upon finding:

- (1) The overall complex or structure, if considered as a single unit, meets all of the requirements of sections 24-439 through 24-441;
- (2) Adequate parking is provided as per the requirements of this chapter. The planning commission also may require recordation of adequate easements or other agreements to guarantee access and maintenance of the parking areas and other common areas;
- (3) Adequate provisions are made to assure compliance with the requirements of this chapter with regards to signs. The planning commission also may require the recordation of adequate easements or agreements

to allow grouping of signs on one standard sign, placement of signs in common areas or other appropriate arrangements made necessary as a result of the reduced frontage or yard area of the individual units; and

(4) The complex or structure is adequately designed and serviced from the standpoint of safety. The county fire chief finds that the fire safety equipment to be installed is adequately designed, and the county building official finds that the complex is designed to conform to the Uniform Statewide Building Code, so as to offer adequate protection to life and property.

(5) Appeals. In the event the planning director disapproves plans submitted under the provisions of this section or recommends conditions or modifications which are unacceptable to the applicant, the applicant may appeal the decision of the planning director to the development review committee who shall forward a recommendation to the planning commission.

Sec. 24-444 443. Height limits and height limitation waivers of structures.

(a) Structures may be erected up to 60 feet in height from grade to the top of the structure. Camouflaged wireless communications facilities may be erected to a total height of 120 feet from grade. Structures in excess of 60 feet in height from grade to the top of the structure may be erected only upon the granting of a height limitation waiver by the board of supervisors.

(b) Water towers, chimneys, flues, flagpoles, communication antennae, mechanical penthouse, electrical, plumbing, elevator, parapet walls or other accessory mechanical functions which are part of or on top of a main structure shall be considered part of the structure.

(c) Upon application for a height limitation waiver, the payment of appropriate fees, notification of adjacent property owners and following a public hearing, the board of supervisors may grant a height limitation waiver upon finding that:

(1) Additional setbacks have been provided as required by section 24-440 439 and section 24-441 440; however, the ~~Board~~ board of supervisors may waive additional setbacks in excess of 60 feet;

- (2) Such structure will not obstruct light from adjacent property;
- (3) Such structure will not impair the enjoyment of historic attractions and areas of significant historic interest and surrounding developments;
- (4) Such structure will not impair property values in the area;
- (5) Such structure is adequately designed and served from the standpoint of safety and that the county fire chief finds the fire safety equipment to be installed is adequately designed and that the structure is reasonably well located in relation to fire stations and equipment, so as to offer adequate protection to life and property; and
- (6) Such structure will not be contrary to the public health, safety and general welfare.

Sec. 24-445 444. Reserved.

Sec. 24-446 445. Sign regulations and parking requirements.

(a) To assure an appearance and condition which is consistent with the purposes of the General Industrial District, M-2, outdoor signs on the properties within the district shall comply with the regulations for exterior signs in article II, division 3 of this chapter.

(b) Off-street parking and off-street loading shall be provided as required in sections 24-53 and 24-54.

Sec. 24-447 446. Utilities.

All development in the General Industrial District, M-2, shall be served by public water and sewer unless this requirement is waived in accordance with section 24-448 447. The location of all utilities and utility easements shall be shown on the site plans and be approved as per article III, Site Plan, of this chapter.

Sec. 24-448 447. Public utilities waiver.

(a) The board of supervisors may waive the public water and sewer service requirement specified by section 24-447 upon finding:

(1) The development is located in the primary service area as designated by the land use element of the Comprehensive Plan;

(2) The development is located in an area not planned for extension of public water or sewer service as part of the adopted master water or sewer plan; and

(3) The development causes no adverse impact on the water resources of the county.

(b) A condition of such waiver shall be that the development shall connect to public water and sewer at such time that the board of supervisors determines utilities are available.

(c) The board of supervisors may attach additional conditions to any such waiver.

Sec. 24-449 448. Site plan review.

All structures or complexes of structures erected, altered or restored within the district shall be subject to Site Plan Review in accordance with article III of this chapter.

Sec. 24-449. Landscaping.

To assure an appearance and condition which is consistent with the purposes of the General Industrial District, landscaping on the properties within the district shall comply with article II, division 4 of this chapter.

Secs. 24-450 - 24-459. Reserved.

Mary K. Jones
Chairman, Board of Supervisors

ATTEST:

Robert C. Middaugh
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 10th day of January, 2012.

ZO-04-2011_ord4

APPROVED MINUTES OF THE
SEPTEMBER 7, 2011 PLANNING COMMISSION MEETING

ZO-0004-2011, COMMERCIAL DISTRICTS

Mr. Chris Johnson stated staff has reviewed the four commercial districts, special use permit (SUP) triggers, and DRC review criteria since the Board adopted zoning update methodology in June 2010. He stated the Committee and Board reviewed draft ordinances multiple times. Staff incorporated Business Climate Task Force recommendations and other changes intended to increase predictability, flexibility, transparency, and improve the business climate. Staff has switched some uses from SUP to permitted, added new commercial uses, and reworded the ordinances for additional clarity. SUP and DRC triggers and review criteria have been amended based on Commission and Board feedback. Staff recommends approval of the six ordinances.

Mr. Poole stated the tables are much more reader friendly. He stated allowing caretakers to live at their businesses make sense, but asked how the County regulates it.

Mr. Johnson stated he was not aware of anyone living on a commercial property in a residential caretaker capacity. He stated staff would review any potential living quarters during the development review process.

Mr. Basic stated the language in each of the commercial districts seems to indicate pump stations are on the SUP table while other language reads "...the following shall not require a SUP...pump stations."

Mr. Johnson stated that language is in all four districts and is meant to differentiate between private and public water connections. He stated the ordinance requires an SUP to extend service authority's line while allowing exemptions for private communities.

Mr. Basic asked if that language could be clarified.

Mr. Johnson stated staff would attempt to clarify the language before presentation to the Board.

Mr. Poole stated that in the ordinance, 'Economic Development Manager' is capitalized, while 'planning director' and other titles are not.

Mr. Johnson stated staff will review the language before presentation to the Board.

Mr. Fraley opened the public hearing.

There being none, Mr. Fraley closed the public hearing.

Mr. Maddocks moved to recommend approval of the six ordinances.

Mr. Poole stated he would support five of the six ordinances. He stated he was not prepared to support revised commercial SUP triggers in absence of an outcry from the business community that the

thresholds need to be raised from 10,000 square feet to 20,000 square feet. The Planning Commission has been very flexible in working with applicants.

Mr. Maddocks moved to withdraw Section 24-11, Article 1, SUP Requirements For Certain Commercial Uses, from his motion.

In a unanimous roll call vote, the Commission recommended approval of the four commercial districts and DRC review criteria (6-0: Absent: Krapf).

Mr. Johnson stated the increase in thresholds from 10,000 to 20,000 square feet applied to the SUP triggers in Section 24-11. He stated SUPs would still come before the Commission and Board, only using the modified threshold. Staff left the 30,000 square feet DRC threshold as-is, but with new exemptions added.

Mr. Russell Seymour stated staff looked at ways of making the process, with checks and balances intact, more streamlined, cleaner, and smoother to assist businesses mid-sized businesses. He stated an additional layer of review for a proposal less than 20,000 square feet is unmerited, particularly in commercially zoned areas.

Mr. Fraley stated the traffic trip generator trigger is unchanged. He stated it would trigger most things that he would be concerned with, including fast food and supermarkets.

Mr. Basic stated he had once worked with a landowner interested in starting a business. He stated he told the landowner legislative review can add 8 months to the process and cost tens of thousands of dollars. Some prospective business owners opt not to try due to the additional time and expense. Traffic triggers will still catch truly intensive projects. He stated he supported increasing the thresholds.

Mr. Woods stated the County does not have the data that a 10,000 square foot threshold has been onerous. He stated the County is attempting to create an inviting economic development impression, although it is uncertain if it will work. He stated there may be commercial developments that would not trigger traffic thresholds, but are problematic down the road.

Mr. Maddocks asked if the impetus to streamline came from the Business Climate Task Force study.

Mr. Murphy stated yes.

Mr. Maddocks stated the Business Climate Task Force study identified some inefficiencies that could be corrected.

Mr. Johnson stated the Board-accepted Business Climate Task Force report provided for changing ordinances to improve the County's perceived business friendliness and to review whether the County's legislative process was catching too many proposals. He stated roughly half of the commercial SUPs over the past decade would have been administrative site plans if the thresholds had been 20,000 square feet. Staff is uncomfortable increasing the thresholds any further at this time. Staff increased other thresholds for specific by-right commercial uses. Traffic triggers will still capture proposals that warrant

a legislative review. The changes move towards Business Climate task Force recommendations without losing too much control.

Mr. Basic asked if he could remember the uses of the half of commercial SUPs that would have been administrative with a 20,000 square foot threshold.

Mr. Johnson stated he can forward that information to the Commission and Board. He stated it would be very difficult to quantify the number of businesses that found the County's legislative review process too time consuming and costly and chose to locate elsewhere. Staff does not want to have an arbitrary measure that prevents someone from pursuing a business opportunity.

Mr. Poole stated many citizens tell the Commission the county is growing too quickly. He stated he wanted empirical data showing minimal impacts from those commercial SUP proposals that would have administratively reviewed under the revised threshold to answer his off-site impact concerns. Some smaller commercial proposals can impact a nearby residential neighborhood, while some larger proposals do not.

Mr. Johnson stated staff added differentiations recognizing that commercial development adjacent to residential areas often create nuisance impacts worthy of additional staff review and public scrutiny. There have been 25 commercial SUPs over the past decade, averaging out to 2 or 3 annually.

Mr. O'Connor stated the landscaping and lighting ordinances have been rewritten to address adjacent property impacts. He stated traffic triggers would provide for greater reviews. He could support increasing the thresholds.

Mr. Poole stated a 40,000 storage unit may create no impacts, while a 12,500 tattoo parlor would be different. He stated it all depends on the case's nuances. Although the difference is two or three cases a year, if those developments are in a highly visible area or near seniors or families, there is no way to gauge impacts.

Mr. Basic stated the more intense uses would still trigger traffic generation SUP.

Mr. Fraley stated he is confident professional staff will review all of the projects. He stated one of the larger impetuses for the ordinance update is to clarify the language for businesses and citizens. The aura of a business-unfriendly James City is frustrating, although there is no empirical data, and it is difficult to know how to take anecdotal data. These are modest changes to improve perception of the County. The County will not be able to maintain its quality of life without solid economic development. He could accept the changes.

Mr. Maddocks moved to recommend approval of Section 24-11.

In a roll call vote, the Commission recommended approval (5-1; Yes: Basic, O'Connor, Woods, Maddocks, Fraley; No: Poole; Absent: Krapf).

UNAPPROVED MINUTES OF THE
DECEMBER 7, 2011 PLANNING COMMISSION MEETING

ZO-0004-2011, Commercial Districts

Mr. Chris Johnson stated following the passage of the six Commercial Ordinances at the October 11, 2011 Board Of Supervisors (BOS) meeting, staff became aware of inconsistencies between the draft versions of the M-1 and M-2 Ordinances. He stated that the inconsistencies were found on the version that had been posted online prior to the September 7, 2011 Planning Commission and the paper copies of the same Ordinances that had been distributed to the Planning Commission and the BOS. He stated that due to the discrepancies, on November 22, 2011, meeting the BOS voted to rescind their approval and requested that staff reexamine the use list in each of these districts and correct any inconsistencies that were identified. He stated that the draft versions of the M-1 and M-2 Ordinances reviewed by the Planning Commission in October included fast food restaurants as a permitted use in both districts. He stated that fast food restaurants had previously been permitted by-right in B-1, General Business district, but were not permitted in M-1 or M-2. He stated that upon additional review staff has amended the use list to make fast food restaurants a specially permitted use in the M-1 district and has removed the use from the M-2 district. He stated that staff has not made any additional changes to any of the proposed six Ordinances. He stated that at the September 7, 2011 Planning Commission meeting, the Commission voted (6-0) to recommend approval of the four commercial districts and the DRC Review Criteria Ordinances. He stated that the commission voted (5-1) to recommend approval of the Commercial Special Use Permit (SUP) Trigger Ordinance. He stated that staff incorporated elements discussed in the Business Climate Taskforce Report into the ordinances aimed at providing greater predictability and flexibility in the legislative and administrative review processes, improving communications between staff and applicants, and fostering a more business friendly environment. He stated that staff recommends that the Planning Commission recommend approval of the six ordinances.

Mr. Poole asked staff, in light of recent efforts to make the ordinances more business friendly, why fast food restaurants had been removed from the specially permitted use list in M-2. He stated that he thought it would be suitable to have this use in the district.

Mr. Johnson stated that the intent for M-2 states that this district has the most intensive uses and therefore should remain industrial in nature. He stated that there is very little land in the County with this designation. He stated that M-1 is more of a hybrid district. He stated that M-1 is generally closer in proximity to areas with higher residential traffic. He stated that staff did think that fast food restaurants would be more appropriate in this district, but on an SUP basis. He stated that staff determined by looking at the Comprehensive Plan Land Use map that there would be a very low probability that a proposal for a fast food restaurant would be approved within the M-2 district.

Mr. Fraley asked Mr. Johnson to identify the M-1 areas in the County.

Mr. Johnson stated that M-1 properties include Busch Corporate Center on McLaws

Circle, the Pottery, the property along Monticello Avenue and Ironbound Road, portions of the northern area of the County near Hankins Industrial Park, James River Commerce Park, Courthouse Commons, Lightfoot, and the Outlet Mall.

Mr. Fraley stated that there already are fast food restaurants in several of those areas Mr. Johnson identified. He stated that he was trying to think of an example of a poorly placed fast food restaurant in M-1, but he could not think of any.

Mr. Johnson stated that there are some fast food restaurants that do not generate a great deal of vehicular traffic. He stated that fast food restaurants need to be evaluated on a case-by-case and location-by-location basis due to the impacts.

Mr. Fraley stated that he can recall when the commission recommended Oinkers Barbeque near James River Commerce Park. He stated that even though this restaurant does not generate a great deal of traffic it still would trigger the commercial SUP requirement.

Mr. Johnson stated that Oinkers is a lower-intensity use; the location would not be appropriate for a retailer that would draw a higher traffic volume.

Mr. Fraley stated that he does not like the definition provided for fast food restaurants. The ordinance currently reads: "any establishment with its principle business is the sale of any prepared and rapidly prepared food directly to the customer on a ready to consume state or consumption either at the restaurant or off premises." He stated that the definition does not reference drive-thrus. He asked staff if *Starbucks* would be considered a fast food restaurant.

Mr. Johnson stated that *Starbucks* would be considered a coffee shop because the primary product is coffee.

Mr. Fraley asked if the definition will be reworked.

Mr. Johnson stated that staff can revise the definition later in the process.

Mr. Fraley asked if a reference can be made to drive-thru within the new definition.

Mr. Johnson stated that this reference would be useful.

Mr. Fraley asked if there is a way to make our regulations easier for the small, independent businessman.

Mr. Murphy stated that staff can look to achieve that with the definition.

Mr. Fraley stated that it would be helpful to relax the SUP requirements specifically for the small businessman.

Mr. Tim O'Connor asked staff what a deli versus a *Subway* is defined as.

Mr. Johnson stated that consideration would need to be made based on a eat-in or take-out facility, drive-thru or no drive-thru.

Mr. Murphy stated historically those type of uses have not been considered fast food. He stated that staff anticipates making improvements to the definition of fast food restaurant to provide greater clarity.

Mr. Fraley stated that when the discussion originally came up the Policy Committee recommended making fast food restaurants by-right in M-1. He stated that at that time staff did not object. He asked why staff changed their position on this matter.

Mr. Johnson stated that staff has been asked by the BOS to give the specific land use further consideration. He stated that at one time staff had included fast food restaurants since it is a less intense use compared to other industrial-type uses. He stated that initially the thought was, if it is going into M-1 it might as well be included in M-2. He stated that being given the opportunity to revisit this one specific use staff determined that it is most appropriate to not include fast food restaurants in M-2 and only with an SUP in M-1.

Mr. Fraley asked why staff chose to make the distinction between B-1, by-right and M-1 requiring an SUP.

Mr. Johnson stated that there is no obvious distinction other than B-1 areas are the general commercial shopping centers where one would typically see fast food restaurants in the out-parcels.

Mr. Fraley opened the public hearing.

There being none, Mr. Fraley closed the public comment period.

Mr. O'Connor stated that the drive-thru component seems to be the greatest concern. He stated that potentially all businesses with drive-thrus should require SUP's, to include pharmacies like CVS.

Mr. Johnson stated that the primary difference is the hours of operation.

Mr. Murphy stated that one distinction between M-1 and M-2 is the hybrid nature. He stated M-1 can be found in locations that are strictly industrial as well as locations where there is greater commercial development. He stated requiring an SUP in M-1 allows the County to pick and choose the appropriate locations for fast food restaurants.

Mr. Chris Basic stated that he appreciates staff's explanation of removing fast food restaurants in M-2. He stated that staff's explanation has convinced him that this is an appropriate choice.

Mr. Krapf stated that not all drive-thrus have the same impacts. He stated that a drive-thru for a fast food restaurant would have a higher intensity than a drive-thru for a CVS. He stated

that he sees a subtle distinction between M-1 and M-2 based upon the hybrid nature of M-1. He stated that he is comfortable with the proposed changes as well as the rationale used to arrive at these choices.

Mr. Al Woods moved for approval of the Commercial Districts as presented.

In a roll call vote, the Commission recommended approval (6-0; absent, Maddocks).

SUP Trigger List, 2001-2011

Case No.	Application	Zoning	Reason for SUP
SUP-0001-2011	Williamsburg Crossing Car Wash	B-1	Commercial SUP; Automobile Repair and Service
SUP-0002-2011	Greensprings Mobile Home Park Sewer Main Extension	A-1	Public Utility Extension
SUP-0003-2011	Mid-County Park Master Plan	P L	Community Recreation Facility
SUP-0004-2011	St. Bede Catholic Church - Mausoleum Amendment	R-8	House of Worship - SUP Amendment
SUP-0005-2011	Williamsburg Landing - SUP Amendment	R-5	Amend Conditions of Existing SUP
SUP-0006-2011	Shellbank Drive Accessory Apartment	R-1	Accessory Apartment
SUP-0007-2011	Turner's Neck Rd. Mulching & Stump Grinding Operation	A-1	Manufacture and Sale of Wood Products
SUP-0008-2011	Chickahominy Road Manufactured Home	R-8	Manufactured Home
SUP-0009-2011	Hornsby Middle School Temp. Classroom Trailers	P L	Temporary Classroom Trailers

SUP-0001-2010	McKown Family Subdivision, 5552 Riverview Rd.	A-1	Family Subdivision
SUP-0002-2010	CVS/Food Lion at Norge	B-1	Commercial SUP; Building Size and Traffic Generation
SUP-0003-2010	Neck-O-Land Rd. Gilley Duplexes	R-2	Two-Family Dwelling; Amend Existing SUP
SUP-0004-2010	Courthouse Commons	M-1	Commercial SUP; Building Size and Traffic Generation
SUP-0005-2010	Hogge Family Subdivision, 2679 Jolly Pond Rd.	A-1	Family Subdivision
SUP-0007-2010	Colonial Heritage - Deer Lake Water/Sewer Extension	A-1	Public Utility Extension
SUP-0008-2010	Busch Gardens - Theatrical Lighting (Griffon)	M-1	Theme Park Expansion
SUP-0009-2010	USA Waste of Virginia Borrow Pit Renewal	M-2	Resource Recovery Facility - SUP Extension
SUP-0010-2010	Branscome Borrow Pit Renewal	M-2	Resource Recovery Facility - SUP Extension
SUP-0011-2010	Colonial Heritage - Rural Cluster	A-1	Residential Cluster Development
SUP-0012-2010	Tower Development Corp., Camp Rd. WCF	A-1	Wireless Communications Facility
SUP-0013-2010	2818 Chickahominy Rd. - Manufactured Home	R-8	Manufactured Home
SUP-0014-2010	Grove Christian Outreach Center	L B	Building Size in Neighborhood Commercial
SUP-0015-2010	Greenspring's Trail Amendment	R-8	Amend Conditions of Existing SUP
SUP-0016-2010	La Tienda - Virginia Packing	M-1	Processing of Food and Food Products
SUP-0017-2010	Ward Family Subdivision, 8879 Barnes Rd.	A-1	Family Subdivision
SUP-0018-2010	American Heritage RV Park Expansion	R-8	Campgrounds - SUP Expansion
SUP-0019-2010	Harmonious Hardscapes	A-1	Retail Sale of Plant and Garden Supplies
SUP-0020-2010	Williamsburg Place - Psychiatric Pavilion	M-1	Hospitals; Amend Conditions of Existing SUP
SUP-0021-2010	Hogge Family Subdivision, 2677 Jolly Pond Rd.	A-1	Family Subdivision
SUP-0022-2010	Charlie's Antique's	A-1	Retail Sale of Lawn & Garden Supplies
SUP-0023-2010	Cranston's Mill Pond - Dam Restoration	A-1	Water Impoundments > 20 Acres
SUP-0024-2010	Pierce Family Subdivision	A-1	Family Subdivision
SUP-0025-2010	Colonial Towne Plaza - Flea Market	B-1	Flea Market
SUP-0026-2010	Tractor Supply Company	B-1	Commercial SUP; Building Size and Vehicle/Trailer Sales
SUP-0027-2010	Jamestown High School - Auxiliary Gymnasium	P L	Expansion of Specially Permitted Use (School)
SUP-0028-2010	Busch Gardens - Oktoberfest Expansion (Verbolten)	M-1	Theme Park - Expansion
SUP-0029-2010	The Williamsburg Pottery	M-1	Commercial SUP; Building Size and Traffic Generation
SUP-0030-2010	Ford's Colony, Section 35 - Westport	R-4	Amend Conditions of Existing SUP
SUP-0031-2010	3125 Chickahominy Rd. - Manufactured Home	R-8	Manufactured Home
SUP-0032-2010	D. J. Montague Elem. School - Parking Lot Expansion	P L	Expansion of Specially Permitted Use (School)

SUP-0001-2009	Lafayette High School - Temp. Classroom Trailers	P L	Extend Existing SUP Expiration
SUP-0002-2009	D. J. Montague Elem. School - Temp Classroom Trailers	P L	Extend Existing SUP Expiration
SUP-0003-2009	Rawls Byrd Elem. School - Temp. Classroom Trailers	P L	Extend Existing SUP Expiration
SUP-0004-2009	Dee's Childcare	R-2	Child Day Care Center
SUP-0005-2009	Nick's Lawn & Garden	A-1	Retail Sale of Lawn & Garden Supplies
SUP-0007-2009	Convenience Center Relocation	P L	Waste Transfer Station
SUP-0008-2009	CVS at Norge	B-1	Commercial SUP; Building Size and Traffic Generation
SUP-0009-2009	Jamestown Rd. Walgreens	B-1	Commercial SUP; Building Size and Traffic Generation
SUP-0010-2009	Hipple Contractor's Office	A-1	Contractor's Office
SUP-0011-2009	Cedar Dr., Contractor's Office	A-1	Contractor's Office
SUP-0012-2009	Accessory Apartment, 101 Birch Circle	R-6	Accessory Apartments
SUP-0013-2009	Two-Family Dwelling, 114 Cardinal Acres Drive	R-2	Two-Family Dwelling
SUP-0014-2009	Chickahominy Riverfront Park - RV Loop Amendment	P L	Public Recreation Facility
SUP-0015-2009	Sunrise Food Mart Drive Thru	B-1	Convenience Store Expansion
SUP-0016-2009	James City County Police Headquarters	P L	Government Building > 10,000 sq. ft.
SUP-0017-2009	Freedom Market	B-1	Commercial SUP; Convenience Store w/ Fuel Sales; Traffic Generation
SUP-0018-2009	Robinson Family Subdivision, 8788 Richmond Rd.	A-1	Family Subdivision
SUP-0019-2009	AT&T - Treasure Island Rd. WCF	A-1	Wireless Communications Facility
SUP-0020-2009	Vossell & Gross Family Subdivision Amendment	A-1	Family Subdivision
SUP-0021-2009	Cricket Communications - Govt. Center WCF	P L	Wireless Communications Facility
SUP-0022-2009	King of Glory Lutheran Church - SUP Amendment	R-2	Expansion of a Specially Permitted Use (Church)

Case No.	Application	Zoning	Reason for SUP
SUP-0023-2009	Hunt Family Subdivision, 7150 Richmond Rd.	A-1	Family Subdivision
SUP-0024-2009	Hospice Support Care WCF	R-8	Wireless Communications Facility
SUP-0025-2009	St. Bede Catholic Church - Ministry Center Amendment	R-8	Amend Existing SUP Conditions
SUP-0026-2009	AT&T - Constance Ave. WCF	R-8	Wireless Communications Facility
SUP-0027-2009	WJCC Schools Operations Center Expansion	A-1	Expand Area Covered by Existing SUP
SUP-0028-2009	Pegasus - Ingram Rd. WCF	B-1	Wireless Communications Facility

SUP-0001-2008	Stonehouse Elem. School - Temp. Classroom Trailer	P L	Temp. Classroom Trailers - SUP Extension
SUP-0002-2008	Toano Middle School - Temp. Classroom Trailer	P L	Temp. Classroom Trailers - SUP Extension
SUP-0003-2008	Norge Elem. School - Temp. Classroom Trailers	P L	Temp. Classroom Trailers - SUP Extension
SUP-0005-2008	AT&T, JCC-Wmbg Recreation Center WCF	P L	Wireless Communications Facility
SUP-0006-2008	St. Olaf's Catholic Church Expansion	R-8	Expansion of a Specially Permitted Use
SUP-0007-2008	David Nice Contractor's Office	A-1	Contractor's Office
SUP-0008-2008	Aadahl Family Subdivision, 4405 Centerville Rd.	A-1	Family Subdivision
SUP-0009-2008	King's Way Church, Greenwood Christian Academy	R-1	Expansion of a Specially Permitted Use
SUP-0010-2008	Jamestown High School, Temp. Classroom Trailer	P L	Extend Existing SUP
SUP-0011-2008	Williamsburg Dog, Day Care Facility	B-1	Kennels
SUP-0012-2008	Liberty Ridge Clubhouse and Pool	A-1	Clubhouses and Swimming Pool
SUP-0013-2008	Verizon, Lafayette High School WCF	P L	Wireless Communications Facility
SUP-0014-2008	Freedom Park Waterline Extension	A-1	Public Utility Extension
SUP-0015-2008	Franciscan Brethren of St. Philip, Adult Day Care	R-8	Family Subdivision
SUP-0016-2008	Walgreens at Norge	B-1	Commercial SUP; Building Size and Traffic Generation
SUP-0017-2008	Burlington Woods SUP Amendment	R-2	Renew Expired SUP
SUP-0018-2008	Williamsburg Landing Proffer Amendment	R-5	Amend Existing SUP Conditions
SUP-0019-2008	Star Express - Stuckey's Site	B-1	Commercial SUP; Convenience Store w/ Fuel Sales; Traffic Generation
SUP-0020-2008	Gilley Two-Family Dwellings, 248 Neck-O-Land Rd.	R-2	Two Family Dwellings
SUP-0021-2008	Jamestown Rd. Mediterranean Restaurant	L B	Building Size in Neighborhood Commercial
SUP-0022-2008	King's Way Church, Greenwood Christian Academy	R-1	Amend Existing SUP Conditions
SUP-0024-2008	AT&T, WindsorMeade WCF	M U	Wireless Communications Facility
SUP-0025-2008	JCC/Wmbg Accessible Playground	P L	Community Recreation Facilities
SUP-0026-2008	Williamsburg Place, Psychiatric Care Facility	M-1	Hospitals; Expansion of a SUP

SUP-0001-2007	Kristiansand Sewer Extension	R-2	Public Utility Extension
SUP-001A-2007	A-Stat Restoration	R-8	Business and Professional Offices
SUP-0002-2007	Accessory Apartment, 4721 Captain John Smith	R-1	Accessory Apartment
SUP-0003-2007	Newago Family Subdivision, 9128 Croaker Rd.	A-1	Family Subdivision
SUP-0006-2007	Lafayette High School, Temp. Classroom Trailers	P L	Temp. Classroom Trailers - SUP Extension
SUP-0007-2007	Jamestown High School, Temp. Classroom Trailers	P L	Temp. Classroom Trailers - SUP Extension
SUP-0008-2007	D. J. Montague Elem. School, Temp. Classroom Trailers	P L	Temp. Classroom Trailers - SUP Extension
SUP-0009-2007	Clara Byrd Baker Elem. School, Temp Classroom Trailers	P L	Temp. Classroom Trailers - SUP Extension
SUP-0010-2007	Rawls Byrd Elem. School, Temp. Classroom Trailers	P L	Temp. Classroom Trailers - SUP Extension
SUP-0011-2007	Stonehouse Elem. School, Temp. Classroom Trailers	P L	Temp. Classroom Trailers - SUP Extension
SUP-0012-2007	Verizon, Brick Bat Rd. WCF Co-Location	A-1	Wireless Communications Facility
SUP-0013-2007	Denley Brown, Contractor's Office	A-1	Contractor's Office
SUP-0014-2007	Anderson's Corner Veterinary Hospital and Kennels	A-1	Veterinary Hospital and Kennels
SUP-0015-2007	Precious Moments Playhouse SUP Amendment	R-2	Day Care Facility - SUP Renewal
SUP-0017-2007	Longhill Rd. WCF	R-8	Wireless Communications Facility
SUP-0018-2007	Bateman Family Subdivision	A-1	Family Subdivision
SUP-0019-2007	King of Glory Lutheran Church, SUP Amendment	R-2	House of Worship - Expansion of SUP
SUP-0020-2007	Powhatan Terrace	R-2	Residential Cluster Development
SUP-0021-2007	Tiki Tree Service, Contractor's Warehouse	A-1	Contractor's Office
SUP-0022-2007	Monticello at Powhatan, Phase 3	R-2	Residential Cluster Development
SUP-0023-2007	Eastern State Hospital Temp Classroom Trailers	P L	Temporary Classroom Trailers
SUP-0024-2007	Blayton Middle School and Hornsby Elementary School	P L	Schools
SUP-0025-2007	James River Commerce Center Waterline Extension	M-1	Public Utility Extension
SUP-0026-2007	Williamsburg Dodge, Trailer Sales	B-1	Vehicle & Trailer Sales
SUP-0027-2007	Freedom Park - SUP Amendment	A-1	Community Recreation Facility
SUP-0028-2007	Minor Family Subdivision, 6111 Riverview Rd.	A-1	Family Subdivision
SUP-0029-2007	Freedom Park Master Plan Amendment	P L	Master Plan Amendment to remove 90 acres from park
SUP-0030-2007	Blayton Middle School & Hornsby Elementary School	P L	Public Schools
SUP-0031-2007	JCSA, Jolly Pond Water & Sewer Extension	A-1	Public Utility Extension
SUP-0032-2007	Fleet Brothers - Basketville Site	B-1	Commercial SUP; 8,000 SF Expansion, Vehicle & Trailer Sales
SUP-0033-2007	Williamsburg Dodge Expansion	L B	Automobile Sales and Service
SUP-0034-2007	Hill Family Subdivision	A-1	Family Subdivision

<u>Case No.</u>	<u>Application</u>	<u>Zoning</u>	<u>Reason for SUP</u>
SUP-0001-2006	4338/4346 Centerville Rd. Tower Relocation	A-1	Wireless Communications Facility
SUP-0002-2006	Busch Gardens- Griffon Attraction	M-1	Commercial SUP; 7,500 sq. ft. Building Expansion
SUP-0003-2006	Zion Baptist Church Expansion	R-8	6,000 sq. ft. Expansion of House of Worship
SUP-0004-2006	Prime Retail Expansion	B-1	81,000 sq. ft. Expansion of Shopping Center
SUP-0005-2006	Matoaka Elementary School	A-1	Public School
SUP-0006-2006	Rawls Byrd E.S. - Temp. Classroom Trailers	P L	Temporary Classroom trailers
SUP-0007-2006	Lafayette H.S. - Temp. Classroom Trailers	P L	Temporary Classroom trailers
SUP-0008-2006	Jamestown H.S. - Temp. Classroom Trailers	P L	Temporary Classroom trailers
SUP-0009-2006	Stonehouse E.S. - Temp. Classroom Trailers	P L	Temporary Classroom trailers
SUP-0010-2006	Toano M.S. - Temp. Classroom Trailers	P L	Temporary Classroom trailers
SUP-0011-2006	D.J. Montague E.S. - Temp. Classroom Trailers	P L	Temporary Classroom trailers
SUP-0012-2006	Clara Byrd Baker E.S. - Temp. Classroom Trailers	P L	Temporary Classroom trailers
SUP-0013-2006	Unicorn Cottage	R-8	Child Daycare Center
SUP-0014-2006	Matoaka Elementary School - Utility Extension	A-1	Public Utility Extension
SUP-0015-2006	Mann Service Station Conversion	A-1	Contractor's Warehouse
SUP-0016-2006	Hogan Homestead Children's Nursery	A-1	Child Daycare Center
SUP-0017-2006	8391 Richmond Rd. Veterinary Hospital	A-1	Commercial SUP; 6,000 sq. ft. Building Expansion
SUP-0018-2006	Stuckey's Redevelopment	B-1	Commercial SUP; Vehicle Service Station w/ Fuel Sales
SUP-0019-2006	Mason Park	R-8	Residential Cluster Development
SUP-0020-2006	Wythe-Will Commercial Conversion	B-1	Commercial SUP; Building Expansion
SUP-0021-2006	Pleasant Hill Station	A-1	Commercial SUP; Traffic Generation and Automobile Repair/Service
SUP-0022-2006	Hill Pleasant Farm	A-1	Wireless Communications Facility
SUP-0023-2006	Volunteer Fire Dept. Flea Market	B-1	Flea Market
SUP-0024-2006	Coleman Family Subdivision	A-1	Family Subdivision
SUP-0025-2006	Centerville Salvage Yard Property	R-2	
SUP-0026-2006	Mildred Wiley Family Subdivision	A-1	Family Subdivision
SUP-0027-2006	Treleaven Warehouse & Nursery	A-1	Retail sale of plant material
SUP-0028-2006	VFW Post 9046	A-1	3,600 sq. ft. Public Meeting Hall
SUP-0029-2006	Matoaka Elementary School Amendment	A-1	Public School
SUP-0030-2006	Jamestown Rd. Service Station	B-1	Expansion of a non-conforming use
SUP-0031-2006	Toano M.S. Bus Entrance	P L	Master Plan amendment for school
SUP-0032-2006	Prime Outlets Expansion	B-1	Commercial SUP; 5,000 sq. ft. Building Addition
SUP-0033-2006	Johnny Timbers Tree Service	A-1	Contractor's Warehouse
SUP-0034-2006	Bus Loop Rawls Byrd E.S.	P L	Master Plan Amendment for Public School
SUP-0035-2006	Kenneth Brook's Contractors Warehouse	A-1	Contractor's Warehouse
SUP-0036-2006	Williamsburg Pottery Factory	M-1	Commercial SUP; Building Size & Traffic Generation
SUP-0037-2006	KTP Development, LLC (The Candle Factory)	M-1/A-1	Commercial SUP; Traffic Generation

SUP-0001-2005	Alice's Wonderland Playhouse	R-8	Child Daycare Center
SUP-0002-2005	JCSA Water Storage Facility, Stonehouse	PUD-C	165 ' Water Storage Facility
SUP-0003-2005	JCSA Water Storage Facility, Warhill	R-8	165 ' Water Storage Facility
SUP-0004-2005	Christian Life Center Tower	R-8	160 ' Wireless Communications Facility
SUP-0005-2005	Bradley Family Subdivision	A-1	Family Subdivision
SUP-0006-2005	Centerville Road Subdivision (Windmill Meadows)	A-1	Residential Cluster Development
SUP-0007-2005	New Town, Langley Federal Credit Union	M-1	Commercial SUP; Building Size and Traffic Generation
SUP-0008-2005	Lafayette H.S. - Temp. Classroom Trailer	P L	Temporary Classroom Trailers
SUP-0009-2005	Jamestown H.S. - Temp. Classroom Trailer	P L	Temporary Classroom Trailers
SUP-0010-2005	Toano M.S. - Temp. Classroom Trailer	P L	Temporary Classroom Trailers
SUP-0011-2005	Clara Byrd Baker E.S. - Temp. Classroom Trailer	P L	Temporary Classroom Trailers
SUP-0012-2005	D.J. Montague E.S. - Temp. Classroom Trailer	P L	Temporary Classroom Trailers
SUP-0013-2005	Stonehouse E.S. - Temp. Classroom Trailers	P L	Temporary Classroom Trailers
SUP-0014-2005	Norge E.S. - Temp. Classroom Trailers	P L	Temporary Classroom Trailers
SUP-0015-2005	Rawls Byrd E.S. - Temp. Classroom Trailers	P L	Temporary Classroom Trailers
SUP-0016-2005	Treleaven Warehouse & Nursery	A-1	Contractor's Warehouse
SUP-0017-2005	The Villages at Whitehall (LaGrange)	A-1/B-1	Residential Cluster Development
SUP-0018-2005	The Villages at Whitehall (Taskinas, Rochambeau)	A-1/B-1	Residential Cluster Development
SUP-0019-2005	Branscome Inc. Borrow Pit Renewal	M-2	Extension of Existing SUP
SUP-0020-2005	USA Waste of Virginia Landfills, Inc Renewal	M-2	Extension of Existing SUP
SUP-0021-2005	Olde Towne Timeshares Amendment	R-2	Amend previous SUP allowing for 365 timeshare units
SUP-0022-2005	Shops at Norge Crossing	B-1	Commercial SUP; Building Size (Approx. 13, 000 Sq. Ft.)
SUP-0023-2005	TGI Fridays	B-1	Commercial SUP; Traffic Generation
SUP-0024-2005	Gabriel Archer Tavern	R-8	Restaurant in R-8 district
SUP-0025-2005	Prime Outlets SUP Amendment	B-1	Commercial SUP; 5,700 sq. ft. Building Expansion
SUP-0026-2005	Williamsburg Landing Parking Addition	R-5	Expansion of the Facilities for the Care of the Aged
SUP-0027-2005	Chickahominy Baptist Church Expansion	R-8	5,800 sq. ft. House of Worship Expansion
SUP-0028-2005	New Dawn Assisted Living	R-8/L B	Skilled Nursing Facility

<u>Case No.</u>	<u>Application</u>	<u>Zoning</u>	<u>Reason for SUP</u>
SUP-0029-2005	Sulenski/Ripley Family Subdivision	A-1	Family Subdivision
SUP-0030-2005	St. Olaf Catholic Church	R-8	Expansion of House of Worship
SUP-0031-2005	Norge Elementary School Cafeteria Addition	R-2	2,000 sq. ft. Cafeteria Expansion
SUP-0032-2005	Jennings Way	R-2	Residential Cluster Development
SUP-0033-2005	Chickahominy Riverfront Park	A-1	Public Recreation Facility

SUP-0001-2004	STAT Services Inc.	R-8	Office building in R-8 district
SUP-0002-2004	JCSA Gravity Sewer Extension	A-1	Public Utility Extension
SUP-0003-2004	Lafayette H.S. Temp Trailers	P L	Temporary Classroom Trailers
SUP-0004-2004	Jamestown H.S. Temp Trailers	P L	Temporary Classroom Trailers
SUP-0005-2004	Toano M.S. Temp. Trailers	P L	Temporary Classroom Trailers
SUP-0006-2004	Clara Byrd Baker E.S. Temp. Trailers	P L	Temporary Classroom Trailers
SUP-0007-2004	D.J. Montague E.S. Temp. Trailers	P L	Temporary Classroom Trailers
SUP-0008-2004	Stonehouse E.S. Temp. Trailers	P L	Temporary Classroom Trailers
SUP-0009-2004	Chesapeake Bank, Stonehouse - SUP Amendment	B-1	Expiration Date Extension
SUP-0010-2004	Indigo Terrace Day Care	R-2	SUP Conditions Amendment
SUP-0011-2004	Freedom Park Master Plan	A-1	Public Recreation Facilities
SUP-0012-2004	Hogan Homestead Day Care	R-2	SUP Renewal
SUP-0013-2004	Williamsburg Farms Country Inn	R-8	36-room Hotel
SUP-0015-2004	Lafayette H.S. Temp Trailers (CDR)	P L	Temporary Classroom Trailers
SUP-0016-2004	Williamsburg Jamestown Airport SUP Amendment	R-8	Amend SUP Conditions for T-Hanger Expansion
SUP-0017-2004	JCC Communications Tower - Forge Road	B-1	SUP Amendment; increase tower height from 140' to 160'
SUP-0018-2004	Precious Moments Day Care, SUP Renewal	R-2	SUP Conditions Amendment
SUP-0019-2004	Williamsburg Winery, Gabriel Archer Tavern	R-8	Restaurant
SUP-0020-2004	AJC Woodworks - SUP Amend.	A-1	Manufacture of Wood Products
SUP-0021-2004	U.S. Home, BSA Property - Rural Cluster	A-1	50-lot Rural Cluster Development
SUP-0024-2004	Basketville of Williamsburg	B-1	Commercial SUP; Building Size 7,500 ft expansion
SUP-0025-2004	Bay Lands Federal Credit Union at Norge	B-1	Commercial SUP; Traffic Generation
SUP-0026-2004	Gross Family Subdivision	A-1	Family Subdivision
SUP-0027-2004	Williamsburg Community Chapel Expansion	R-8	House of Worship Expansion
SUP-0028-2004	Avery Family Subdivision	A-1	Family Subdivision
SUP-0029-2004	JCSA Cardinal Acres Duplex	R-8	Two-Family Dwelling
SUP-0030-2004	JCSA Riverview Plantation H2O System Improvements	A-1	Public Utility Extension
SUP-0031-2004	Monticello at Powhatan North	R-2	Residential Cluster Development
SUP-0032-2004	Diamond Healthcare, Williamsburg Place	M-1	Hospital Expansion
SUP-0033-2004	John Hogge Family Subdivision	A-1	Family Subdivision
SUP-0034-2004	The Villas at Five Forks	R-2	92-Unit, Age Restricted Condominiums
SUP-0035-2004	Burlington Woods	R-2	Residential Cluster Development
SUP-0036-2004	Farm Fresh Gas Pumps	B-1	Commercial SUP; Automobile Service Station w/ Fuel Sales
SUP-0037-2004	Winston Drive Duplex	R-2	Two-Family Dwelling

SUP-0001-2003	Williamsburg Plantation, Sec. 10	R-2	Construction of two 8-unit dwellings
SUP-0002-2003	Hankins Industrial Park, Ready Mix Concrete Plant	M-1	Manufacture of Concrete
SUP-0003-2003	JCSA Rt. 5 Water Main Extension Amend.	R-8	Public Utility Extension
SUP-0004-2003	Hankins Farms Water & Sewer Extension	A-1	Public Utility Extension
SUP-0005-2003	Jamestown H.S. Temp Trailers	P L	Temporary Classroom Trailers
SUP-0006-2003	Lafayette H.S. Temp Trailers	P L	Temporary Classroom Trailers
SUP-0007-2003	Clara Byrd Baker E.S. Temp. Trailers	P L	Temporary Classroom Trailers
SUP-0008-2003	Stonehouse E.S. Temp. Trailers	P L	Temporary Classroom Trailers
SUP-0009-2003	York River Competition Park	P L	Public Recreation Facilities
SUP-0010-2003	Leighton- Hermann Family Subdivision	A-1	Family Subdivision
SUP-0011-2003	AJC Woodworks	A-1	Woodworking Shop
SUP-0012-2003	Accessory Apartment - Turlington Road	R-2	Accessory Apartment
SUP-0013-2003	Old Elk Capitol Lodge	R-8	SUP Conditions Amendment; 2,400 sq. ft. expansion
SUP-0014-2003	JCSA Concentrate Discharge Main	R-8/L B	Public Utility Extension
SUP-0015-2003	Custom Culinary Connections - Barnes Road	A-1	Construct and operate catering kitchen
SUP-0016-2003	Williamsburg Winery - Gabriel Archer Tavern	R-8	Restaurant
SUP-0017-2003	Warhill Sports Complex Master Plan Amendment	R-8	Public Recreation Facilities
SUP-0018-2003	Olde Towne Timeshares	R-2	Amend existing SUP to allow 2,400 sq. ft. Building Expansion
SUP-0019-2003	Christian Life Center	R-8	Expand House of Worship & Youth Fellowship Center
SUP-0020-2003	Jamestown Hundred, MP Amendment	R-8	Amend Master Plan
SUP-0021-2003	Milanville Kennel	A-1	Kennels
SUP-0022-2003	Busch Gardens - Oktoberfest Expansion (DarKastle)	M-1	Approx. 40,000 Sq. Ft. Building for Amusement Attraction
SUP-0023-2003	Nice Office Building Expansion	A-1	Office expansion
SUP-0024-2003	Communications Tower Forge Road	B-1	140' Wireless Telecommunications Facility

Case No.	Application	Zoning	Reason for SUP
SUP-0025-2003	Communications Tower Merrimac Trail	R-8	280' Wireless Telecommunications Facility
SUP-0026-2003	Communications Tower Jolly Pond Road	A-1	380' Wireless Telecommunications Facility
SUP-0027-2003	Communications Tower Industrial Blvd.	M-2	380' Wireless Telecommunications Facility
SUP-0028-2003	Communications Tower Industrial Blvd.	M-1	Wireless Telecommunications Facility
SUP-0029-2003	Michelle Point	A-1	Residential Cluster Development
SUP-0030-2003	Chesapeake Bank at Lightfoot	B-1	Commercial SUP; Traffic Generation

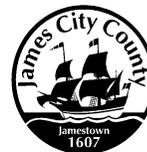
SUP-0001-2002	Voice Stream Wireless - Chesapeake Forest Products	A-1	20' Extension to approved WCF
SUP-0002-2002	Manufactured Home - Walker	R-8	Manufactured Home
SUP-0003-2002	Truswood Properties Waterline Extension	M-1/M-2	Public Utility Extension
SUP-0004-2002	J. W. Crossing Shopping Center Expansion	B-1	Commercial SUP; Ewell Station Expansion (Approx. 17,000 Sq. Ft.)
SUP-0005-2002	Lafayette H.S. Temp Trailers	P L	Temporary Classroom Trailers
SUP-0006-2002	Jamestown H.S. Temp Trailers	P L	Temporary Classroom Trailers
SUP-0007-2002	Toano M.S. Temp. Trailers	P L	Temporary Classroom Trailers
SUP-0008-2002	Clara Byrd Baker E.S. Temp. Trailers	P L	Temporary Classroom Trailers
SUP-0009-2002	D.J. Montague E.S. Temp. Trailers	P L	Temporary Classroom Trailers
SUP-0010-2002	Voice Stream Tower - Exit 231 of Interstate 64	A-1	199' Wireless Telecommunications Facility
SUP-0011-2002	Kristiansand Sewer Extension	R-2	Public Utility Extension
SUP-0012-2002	Mt. Gilead Playground and Temp. Trailers	R-2	Temporary Classroom Trailers
SUP-0013-2002	Manufactured Home - Fiorello	R-8	Manufactured Home
SUP-0014-2002	Pochantas Tr. - Infant & Toddler Family Daycare	R-2	Child Daycare Center
SUP-0015-2002	Jamestown 4H Center Preschool	R-8	Lease of Lodge for Preschool
SUP-0016-2002	Williamsburg Honda SUP Amend.	B-1	Trailer sales (previously only vehicle sales permitted)
SUP-0017-2002	Accessory Apartment - Gatehouse Farms	R-1	Accessory Apartment
SUP-0018-2002	Wellspring Adult Day Care	R-2	Adult Daycare Center
SUP-0019-2002	JCSA Water Treatment Facility Concentrate Main	R-8	Water Treatment Facility
SUP-0020-2002	Nationwide Transmission Auto Sales	B-1	Vehicle Sales
SUP-0021-2002	Jamestown Island Expansion	R-8	Expansion of Park Offices
SUP-0022-2002	Schmidt Landscaping	A-1	Contractors Warehouse & Office; Nursery & Storage Facilities
SUP-0023-2002	Mt. Gilead Duplexes	R-2	Two-Family Dwellings
SUP-0025-2002	Ready Mixed Concrete Expansion	M-2	Extension of SUP Expiration; Manufacture of Concrete

SUP-0001-2001	Wright Family Subdivision	A-1	Family Subdivision
SUP-0002-2001	JCSA, Route 5 Water Main Extension	R-1/R-2	Public Utility Extension
SUP-0003-2011	Colonial Virginia Council, BSA Property Expansion	A-1	Extend SUP Conditions to Cover BSA Property
SUP-0004-2011	Jones Family Manufactured Home	R-8	Manufactured Home
SUP-0005-2001	Bruce's Super Auto Body Shop	B-1	Commercial SUP; Vehicle Repair & Service
SUP-0006-2001	Cook Family Subdivision	A-1	Family Subdivision
SUP-0007-2001	Jolin Kennels	A-1	Kennels
SUP-0008-2001	Hogan Day Care	R-2	Child Day Care Facility
SUP-0009-2001	Mt. Gilead Baptist Church Day Care	R-2	Child Day Care Facility
SUP-0010-2011	Vickie's Clubhouse Day Care	R-1	Child Day Care Facility
SUP-0011-2001	Carrot Tree at Jamestown Island	R-8	Restaurant
SUP-0012-2001	Haden Manufactured Home	R-1	Manufactured Home
SUP-0013-2001	JCSA, Jolly Pond Rd. Water Main Extension	A-1	Public Utility Extension
SUP-0014-2001	JCSA, Greensprings Plantation, Sewer Force Main Extension	R-4	Public Utility Extension
SUP-0015-2001	Williamsburg Pottery, Building 7 Replacement	M-1	Commercial SUP; Building Size, Replacement (Approx. 20,000 Sq. Ft.)
SUP-0016-2001	JCSA, New Town Water Storage Facility	M-1	Public Utility Storage Facility
SUP-0017-2001	Prestonwood at Williamsburg Crossing	B-1	Amendment of SUP Conditions to Allow > 198 D/U
SUP-0018-2001	Waltrip Wireless Telecommunications Facility	R-8	Wireless Telecommunications Facility
SUP-0019-2001	Williamsburg Landing Expansion	R-5	Expansion of Existing SUP for Greenwood Academy Property
SUP-0020-2001	James City Energy Park Electrical Generation Facility	M-2	Electrical Generation Facility
SUP-0021-2001	Johnston Dental Clinic	A-1	Medical Clinic
SUP-0022-2001	JCSA, Five Forks Water Treatment Facility	R-8	Public Utility Treatment Facility
SUP-0023-2001	Colonial Redi-Mix Concrete Expansion	M-1	Manufacture of Concrete
SUP-0024-2001	Zion Baptist Church	R-8	House of Worship Expansion
SUP-0025-2001	Voice Stream Wireless Tower	A-1	Wireless Telecommunications Facility
SUP-0026-2001	Grace Covenant Presbyterian Church	L B	House of Worship
SUP-0027-2001	Toano Business Centre North Expansion	M-1	Commercial SUP; Building Size, Expansion (Approx. 28,000 Sq. Ft.)
SUP-0028-2001	McKinley Office Building	L B	Building Size in Low Density Residential (Approx 7,500 Sq. Ft.)
SUP-0029-2001	A-Stat Restoration Services	R-8	Business Office and Expand a Nonconforming Use
SUP-0030-2001	Kings Way Church, Greenwood Preschool	R-1	Day Care Center
SUP-0031-2001	New Zion Baptist Church Expansion	R-8	House of Worship Expansion

Applications highlighted in **red** are applications which would continue to trigger a commercial SUP following the adoption of the proposed revisions to the commercial districts.

Applications (or individual triggers such as building size) highlighted in **green** would no longer trigger the need for a commercial SUP following the adoption of the proposed revisions to the commercial districts. In several cases, even though building size would no longer trigger the Commercial SUP, traffic generation or another trigger would still generate the need for a commercial SUP.

Applications highlighted in **blue** are uses which previously required a SUP but would now be permitted by-right following the adopted or the proposed ordinance revisions.



MEMORANDUM COVER

Subject: Case No. ZO-0010-2011. Wireless Communications Ordinance

Action Requested: Shall the Board approve a revised Wireless Communications Facility (WCF) ordinance and revisions to the A-1, General Agricultural district; R-6, Low Density Residential district; R-8 Rural Residential district; and RT, Research and Technology district; to reflect revised wireless communications terminology?

Summary: Per the adopted methodology, staff has reviewed the WCF ordinance to ensure compatibility with new technologies, promote by-right options for hidden antennas, and modernize an ordinance originally adopted in 1998. The proposed notable revisions are as follows:

- Regulations for multi-antenna systems such as DAS
- Regulations for Portable Cellular Transmission Facilities (PCTF)
- Clarification of building mounted/alternatively mounted antennas
- Clarification of the camouflaged tower provision
- Elimination of the by-right camouflaged tower provision in the residential districts

Draft ordinances were presented to the Policy Committee and the Board of Supervisors in September 2011.

The Planning Commission voted 6-0 (Maddocks: Absent) to recommend approval of the ordinance with the addition of illustrations and text to further define monopoles and slicksticks and recommended eliminating tower mounted WCF's from residential sections of R-4 districts.

Recommendations from the Board, Policy Committee, and Planning Commission have been incorporated into the ordinance.

Staff recommends approval of the Wireless Communications ordinance and associated revisions to the four zoning districts.

Fiscal Impact: N/A

FMS Approval, if Applicable: Yes No

Assistant County Administrator

Doug Powell _____

County Administrator

Robert C. Middaugh _____

Attachments:
1. Memorandum
2. Resolution
3. Nine attachments

Agenda Item No.: H-3

Date: January 10, 2012

MEMORANDUM

DATE: January 10, 2012

TO: The Board of Supervisors

FROM: Luke Vinciguerra, Planner

SUBJECT: Case No. ZO-0010-2011. Wireless Communications Ordinance

Attached is final language for the draft Wireless Communications Facility (WCF) Ordinance for Board consideration. To date, the draft ordinance has been reviewed and endorsed by the Policy Committee and the Planning Commission.

At its September 15 meeting, the Policy Committee recommended consideration of the term “replica products” for camouflaged towers utilizing the native vegetation provision. In response, staff suggests the phrase “materials best suited to camouflage...” be added to the Architecturally Compatible and Native Vegetation provision in Sec. 24-122(4). This was discussed at the December 7 Planning Commission meeting and members were receptive to this change.

At its September 27 work session, the Board of Supervisors requested legislative approval for all towers in residential districts and a mechanism to extend the duration of Portable Cellular Transmission Facilities (PCTF) over the 90-day maximum.

At its December 7 meeting, the Planning Commission voted 6-0 recommending approval of the WCF ordinance and performance standards policy with the addition of illustrations and text to further define monopoles and slick-sticks and recommended eliminating tower mounted WCFs from residential sections of R-4 districts.

Per the adopted methodology, staff has reviewed the WCF ordinance to ensure compatibility with new technologies, promote by-right options for hidden antennas, and modernize an ordinance originally adopted in 1998. Over the past decade, the WCF ordinance has served the County well and has protected many viewsheds from the visual aesthetic impacts of towers while providing ample opportunities to deploy new antennas. The County’s wireless consultant applauded the quality of the current ordinance and noted the provisions/restrictions are still germane to the industry. Staff’s primary objectives in this update consisted of how Distributed Antenna Systems (DAS) would be reviewed if submitted and to provide flexibility for alternatively mounted antennas. The proposed notable revisions are as follows:

- Regulations for multi-antenna systems such as DAS. The current ordinance lacks a mechanism to review proposals with multiple antennas designed to provide coverage to small geographic locations. The draft ordinance language provides a by-right and legislative options for this scenario.
- Regulations for Portable Cellular Transmission Facilities (PCTF). These are essentially cell towers on wheels designed to provide service on a temporary basis. Staff is proposing language restricting PCTFs to 90 days unless otherwise approved by the Board.
- Clarification of building mounted/alternatively mounted antennas. Building mounted/alternatively mounted categories have been combined and clarified. This should provide more opportunities for antenna mounting on existing structures.

- Clarification of the camouflaged tower provision. As mentioned previously, staff has proposed changes to the Native Vegetation and Architecturally Compatible provision. To improve readability, additional changes are proposed that further clarify and consolidate the camouflaged tower provisions.
- Elimination of the by-right camouflaged tower provision in the residential districts. The draft ordinance would require camouflaged towers to obtain a Special Use Permit (SUP) in residential districts. Towers that are not camouflaged in residential districts would not be permitted under any circumstance including monopoles such as slicksticks.

Recommendations of the Policy Committee, Planning Commission and Board have been incorporated into this revised draft ordinance. Proposed revisions to the zoning districts are necessary to reflect the new camouflaged SUP requirement in residential districts and to eliminate references to building mounted antennas (which is now combined with the alternatively mounted category). Reference changes to the commercial districts have already been made. The remaining residential and mixed use districts will be presented at later date.

RECOMMENDATION:

At its December 7 meeting, the Planning Commission voted 6-0 recommending approval of the WCF ordinance and performance standards policy with the addition of illustrations and text to further define monopoles and slicksticks and recommended eliminating tower mounted WCFs from residential sections of R-4 districts. Staff recommends that the Board approve the Wireless Communications Ordinance, revisions to the zoning districts, and the revised Performance Standards Policy.

Luke Vinciguerra

CONCUR:

Allen J. Murphy, Jr.

LV/gb

ZO10-11WCOrd_mem

Attachments:

1. WCF ordinance
2. General Agricultural District, A-1 ordinance
3. Low-Density Residential District, R-6 ordinance
4. Rural Residential District, R-8 ordinance
5. Research and Technology District, RT ordinance
6. Performance Standards for Wireless Communications Facilities that require a Special Use Permit Policy
7. Resolution for the Wireless Communications Facilities that require a Special Use Permit Policy
8. Minutes from the September 15 Policy Committee meeting
9. Unapproved minutes from the December 7 Planning Commission meeting

ORDINANCE NO. _____

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 24, ZONING, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE II, SPECIAL REGULATIONS, DIVISION 6, WIRELESS COMMUNICATIONS FACILITIES, BY AMENDING SECTION 24-121, STATEMENT OF INTENT; BY AMENDING AND RENAMING SECTION 24-122, WHERE PERMITTED, TYPES WITH NEW NAME, ANTENNA MOUNTING; BY AMENDING SECTION 24-123, GENERAL REQUIREMENTS; SECTION 24-124, PERFORMANCE STANDARDS; SECTION 24-125, RADIO FREQUENCY STANDARDS; SECTION 24-126, PUBLIC SAFETY CONSIDERATIONS; SECTION 24-127, PERMIT LIMITATIONS; SECTION 24-128, PROCESSING AND SUBMITTAL REQUIREMENTS; BY AMENDING ARTICLE V, DISTRICTS, DIVISION 2, GENERAL AGRICULTURAL DISTRICT, A-1, SECTION 24-212, PERMITTED USES; SECTION 24-218, HEIGHT LIMITS; BY AMENDING DIVISION 7, LOW-DENSITY RESIDENTIAL DISTRICT, R-6, SECTION 24-328, PERMITTED USES; SECTION 24-335, HEIGHT LIMITS; BY AMENDING DIVISION 8, RURAL RESIDENTIAL DISTRICT, R-8, SECTION 24-348, PERMITTED USES; SECTION 24-349, USES PERMITTED BY SPECIAL USE PERMIT ONLY; SECTION 24-354, HEIGHT LIMITS; AND BY AMENDING DIVISION 13, RESEARCH AND TECHNOLOGY DISTRICT, RT, SECTION 24-461, PERMITTED USES.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 24, Zoning, is hereby amended and reordained by amending Article II, Special Regulations, Division 6, Wireless Communications Facilities, Section 24-121, Statement of intent; Section 24-122, Antenna mounting; Section 24-123, General requirements; Section 24-124, Performance standards; Section 24-125, Radio frequency standards; Section 24-126, Public safety considerations; Section 24-127, Permit limitations; and Section 24-128, Processing and submittal requirements; Article V, Districts, Division 2, General Agricultural District, A-1, Section 24-212, Permitted uses; Section 24-218, Height limits; Division 7, Low- Density Residential District, R-6, Section 24-328, Permitted uses; Section 24-335, Height Limits; Division 8, Rural Residential District, R-8, Section 24-348, Permitted uses; Section 24-349, Uses permitted by special use permit only; Section 24-354, Height limits; and Division 13, Research and Technology District, RT, Section 24-461, Permitted uses.

Article II. Special Regulations

Division 6. Wireless Communications Facilities

Sec. 24-121. Statement of intent.

The purpose of this article is to ~~regulate~~ *provide guidance for* ~~personal~~ the *deployment and usage of* wireless communications facilities (WCF) ~~so as to protect the health, safety, and general welfare of the community; to preserve the aesthetic quality of the community and its landscape; to protect property values; to protect the historic, scenic, rural, and natural character of the community; to minimize the presence of structures that depart from existing and future patterns of development, especially in terms of use, scale, height, site design, character, and lighting; to provide for adequate public safety communications; and to allow the providers of wireless communications facilities to implement their facilities in a manner that will fulfill these purposes, encourage their co location; and allow them to fulfill their Federal Communications Commission (FCC) licenses.~~

~~The above objectives will be realized through the implementation of regulatory procedures which seek to:~~

- ~~(a) Keep the number of wireless communication facility sites to a minimum;~~
- ~~(b) Minimize the impacts of newly approved wireless communication facilities;~~
- ~~(c) Expedite the approval process for new wireless communication facility applications which, due to their location or design, aid in the achievement of items (a) and (b) above.~~

(a) The goals for WCFs placement are to:

- 1. Protect viewsheds and the scenic beauty of James City County.*
- 2. Deploy WCFs in a manner that will not adversely impact property values.*

(b) The objectives for the WCFs are to:

- 1. Ensure that the deployment of WCFs will accommodate existing and future technologies by providing sufficient height and facility expansion capabilities to accommodate the needs of the current and future residential, commercial, and industrial marketplace.*
- 2. Ensure all antenna deployments provide significant coverage area.*
- 3. Promote the use of camouflaged, alternatively mounted, and low-rise WCF structures.*
- 4. Ensure that all new technologies accommodate the needs of the current and future residential and commercial marketplace.*

Sec. 24-122. ~~Where permitted, types~~ *Antenna mounting.*

(a) Antenna Mounting Categories.

There are five categories of antenna mounting:

- 1. Tower. Requirements for this mounting category are found in section 24-122(b)(1).*
- 2. Alternative Mounting Structure. Requirements for this mounting category are found in section 24-122(b)(2).*
- 3. Camouflaged WCF. Requirements for this mounting category are found in section 24-122(b)(3).*
- 4. Multi-Antenna System. Requirements for this mounting category are found in section 24-122(b)(4).*

5. *Portable Cellular Transmission Facility (PCTF). Requirements for this mounting category are found in section 24-122(5).*

(b) *Wireless Communications Facility Location Requirements.*

(a) ~~1.~~ *Tower-mounted WCFs wireless communication facilities.* Tower-mounted WCFs shall be allowed as shown on Table 1.

Table 1: Tower Mounted Wireless Communications Facilities:

Zoning District	Maximum By Right Tower Height	S.U.P. Required
General Agriculture, A-1	≤35'	>35' feet
Rural Residential, R-8	≤35'	>35' feet
Residential R-1, R-2, R-3, R-5, R-6	Not Permitted	Not Permitted
Limited Business, LB	Not Permitted	Not Permitted
General Business, B-1	≤60'	>60' feet
Industrial (M-1, M-2, M-3)	≤60'	>60' feet
Planned Unit Development, PUD	Not Permitted	All Towers
Mixed Use, MU	Not Permitted	All Towers
Economic Opportunity (EO)	≤60'	>60'
Public Lands (PL)	≤60'	>60'
Research and Technology District (RT)	≤60'	>60'
Residential Planned Community, R-4 with a designation other than residential on a Board adopted master plan R-4	Not Permitted	All Towers
Residential Planned Community, R-4 with a residential designation on a Board adopted master plan	Not Permitted	Not Permitted

a. *Towers shall meet the requirements in Table 1 above and the requirements in sections 24-123 through 24-128.*

b. *All towers shall be set back from any off site existing residential structure by no less than 400 feet.*

(b) ~~2.~~ *Wireless communications facilities using alternative mounting structure Alternative Mounting Structure - WCFs.* WCFs determined by the planning director to be utilizing alternative mounting structures as defined by this ordinance shall be permitted in all zoning districts and shall conform to the following requirements criteria except where such WCFs are located in M-2 districts:

(1) a. The principal use of the structure to be used for the placement of the antenna shall be for a use not associated with the wireless communications facility as determined by the planning director.

- (2) b. In addition to the height limitations of the underlying zoning district, the antennas mounted on alternative mounting structures shall conform to the following requirements:
 - a) (1) All panel antenna shall be no more than five feet measured to the outermost point of the panel antenna from any surface of the existing structure at the point of attachment.
 - b) (2) All whip antenna shall be no more than ten feet measured to the tip of the whip antenna above the mounting surface of the existing structure at the point of attachment.
 - e) (3) All parabolic or dish antenna shall be no more than five feet measured to the outermost point of the dish from any surface of the existing structure at the point of attachment.
 - (4) *Antennas shall be mounted in a manner that is architecturally compatible with the structure on which they are located as determined by the planning director. All antennas (excluding whip antennas under five feet in height) shall be completely screened or camouflaged from view from residentially zoned areas or adjacent roadways.*
- (3) (5) Equipment enclosures shall be camouflaged or screened from view by landscaping or a wall or fence.
- (6) *WCFs shall meet the requirements in sections 24-123 through 24-128.*

~~(c) Building mounted wireless communications facilities. WCFs mounted on the exterior of buildings shall be permitted in all zoning districts and, with the exception of such WCFs located in M-2 districts, shall meet the following requirements:~~

- ~~(1) The principal use of the building to be used for the placement of the antenna shall be for a use not associated with the wireless communications facility as determined by the planning director.~~
 - ~~(2) In addition to the height limitations of the underlying zoning district, building mounted antennas shall conform to the following height restrictions:
 - ~~(a) All panel antenna shall be no more than five feet measured to the top of the panel antenna above the roof proper of the existing building at the point of attachment.~~
 - ~~(b) All whip antenna shall be no more than ten feet measured to the tip of the whip antenna above the roof proper of the existing building at the point of attachment.~~
 - ~~(c) All parabolic or dish antenna shall be no more than five feet measured to the top of the dish above the roof proper of the existing building at the point of attachment.~~~~
 - ~~(3) Whip antennas shall be designed and located to minimize views from residences and public rights of way.~~
 - ~~(4) Panel and parabolic dish antennas shall be completely screened or camouflaged from views from residentially zoned areas and public rights of way in a manner that is architecturally compatible with the building in which they are located.~~
 - ~~(5) Equipment enclosures shall be located within the building on which the WCF is placed or located underground if site conditions permit and if technically feasible. Otherwise, equipment enclosures shall be camouflaged or screened from view by landscaping or a wall or fence matching the color, material, and design of the building.~~
- (d) 3. *Camouflaged wireless communications facilities. Camouflaged WCFs determined by the planning director to be camouflaged as defined by this ordinance shall be permitted in all the districts pursuant to Table 1.1 below.*

Table 1.1 Camouflaged Tower Determinations

<i>District</i>	<i>Planning Director</i>	<i>SUP required</i>
<i>General Agriculture, A-1</i>	✓	
<i>Rural Residential, R-8</i>		✓
<i>Residential (R-1, R-2,R-3,R-5, R-6)</i>		✓
<i>Limited Business, LB</i>	✓	
<i>General Business, B-1</i>	✓	
<i>Industrial (M-1, M-2)</i>	✓	
<i>Planned Unit Development Commercial (PUD-C)*</i>	✓	
<i>Planned Unit Development Residential (PUD-R)*</i>		✓
<i>Mixed Use, MU</i>	✓	
<i>Economic Opportunity (EO)</i>	✓	
<i>Public Lands (PL)</i>	✓	
<i>Research and Technology District (RT)</i>	✓	
<i>Residential Planned Community, R-4 with a residential designation on a Board adopted master plan</i>		✓
<i>Residential Planned Community, R-4 with a designation other than residential on a Board adopted master plan</i>	✓	

** or similar use designation on a Board adopted master plan zoned PUD*

Upon application for a special use permit for a camouflaged WCF in a residential district, the board of supervisors shall make a determination pursuant to section 24-122(b)(3) if a proposed tower is camouflaged. Any appeal of a planning director determination this determination shall be made to the development review committee which shall forward a recommendation to the planning commission. and Written notice of the appeal must be received by the planning division within 30 days of the date of the planning director’s determination. Camouflaged WCFs shall meet the following:

- (1) ~~Where a buffer is provided to camouflage the WCFs, the following requirements shall be met:~~
 - a) ~~The buffer shall remain undisturbed until the WCF is removed except for any access drives and utilities necessary for the WCF and other improvements or timbering activities that do not alter the visual effect of the buffer as determined by the planning director; and~~
 - b) ~~The buffer shall be located in an on site or off site area that: 1) the planning director determines is not likely to be altered such that the visual effect of the buffer would be diminished while the WCF would be in existence, such as lands protected by the Chesapeake Bay Ordinance or other environmental regulations or conservation areas or community character corridors or areas depicted on the Comprehensive Plan; or, 2) such areas where the WCF owner has guaranteed the buffer will remain undisturbed while the WCF is in existence by way of ownership, lease agreement, recorded easement or other means acceptable to the planning director. Such leases and easements shall be in effect until such time as the WCF is removed; and~~
 - e) ~~Access drives shall be designed and located in a manner that provides no view of the WCF’s base or related facilities from the road.~~

~~(2) Where the camouflaged WCF is intended to have the appearance of vegetation native to eastern Virginia, the following requirements shall be met:~~

- ~~a) The WCF shall be located and designed so as to appear to be a naturally occurring tree which is not noticeably dissimilar to nearby vegetation in terms of height, scale, texture, or color; and~~
- ~~b) Should the WCF be taller than nearby trees, it shall be buffered with existing mature trees in a manner such that it will not appear out of scale with existing natural vegetation to an off-site viewer. Such buffer shall meet the buffer requirements stated above.~~

4. Applicants may apply for any of the three categories of camouflaged WCFs as defined below:

a. **Architecturally Compatible.** The WCF has the appearance, scale and height of other structures that are generally permitted in the district in which it is to be located.

When an architecturally compatible WCF is proposed the following requirements shall be met:

- (1) The WCF shall use materials best suited to camouflage as determined by the Planning Director to create the appearance, scale and height of other structures that are generally permitted in the district in which it is to be located;
- (2) The architecturally compatible WCF shall be placed in the vicinity of another structure that the proposed WCF intends to replicate and be unnoticeable to the casual observer that the primary use of the structure is for a WCF;
- (3) The architecturally compatible WCF should be no taller than twice the permitted height of the replicated structure up to 70 feet;
- (4) Professional Design Requirements:
 - I. All WCFs shall include a detailed landscaping plan with plan and profile views encompassing native tree buffer, native vegetation, correct ratio to proportion of existing tree buffers or structures, and view of the proposed WCF in profile;
 - II. The landscape architect providing the landscape plan shall be professionally licensed in the Commonwealth of Virginia;
- (5) Meet the requirements in sections 24-123 through 24-128;
- (6) Shall be set back from any off-site existing residential structure no less than 400 feet.

b. **Native Vegetation.** The structure has the appearance of vegetation native to eastern Virginia.

Where a native vegetation WCF is proposed the following requirements shall be met:

- (1) Should the WCF be taller than nearby trees, it shall be buffered with existing mature trees in a manner such that it will not appear out of scale with existing natural vegetation from an off-site view.
- (2) The WCF shall include a detailed landscaping plan with plan and profile views encompassing native tree buffer, native vegetation, correct ratio in proportion to existing tree buffers or structures, and artistic view of the proposed facility in profile.
- (3) The landscape architect providing the landscape plan shall be professionally licensed in the Commonwealth of Virginia.
- (4) The WCF shall use materials best suited to camouflage as determined by the Planning Director to appear as native vegetation and be unnoticeable to the casual observer that the function of structure is for a WCF.
- (5) Access drives shall be designed and located in a manner that obscures views of the WCF's base or related facilities from the road point of ingress.
- (6) Meet the requirements in sections 24-123 through 24-128.
- (7) Shall be set back from any off site existing residential structure no less than 400 feet.
- (8) Shall not exceed 120 feet in height.

c **Buffered.** *The structure is well buffered by tall vegetation and/or other structures.*

Where a buffered WCF is proposed, the following requirements shall be met:

- (1) A minimum of a 100-foot, undisturbed buffer of mature trees, or a buffer consisting of other elements such as evergreen trees, buildings, or topography that provide at least the equivalent visual effect of a 100-foot undisturbed buffer of mature deciduous trees, that in combination with the design and color of the structure, renders the WCF generally unnoticeable to the off-site casual observer as determined by the planning director.*
- (2) Shall be set back from any off site existing residential structure no less than 400 feet.*
- (3) The buffer shall remain undisturbed except for any access drives and utilities necessary for the WCF and other improvements or timbering activities that do not alter the visual effect of the buffer as determined by the planning director. The buffer shall be located in an on-site or off-site area that:
 - i) the planning director determines is not likely to be altered such that the visual effect of the buffer would be diminished while the WCF would be in existence, such as lands protected by the Chesapeake Bay Ordinance or other environmental regulations or conservation areas or community character corridors or property depicted as conservation area on the Comprehensive Plan;*
 - or,*
 - ii) such areas where the WCF owner has guaranteed the buffer will remain undisturbed while the WCF is in existence by way of lease agreement, recorded easement or other means acceptable to the planning director. Such leases and easements shall be in effect until such time as the WCF is removed.**
- (4) Professional Design Requirements:
 - i. WCFs shall include a detailed landscaping plan with plan and profile views encompassing native tree buffer, native vegetation, correct ratio in proportion of existing tree buffers or structures, and artistic view of the proposed facility in profile.*
 - ii. Landscape architect shall be professionally licensed in the Commonwealth of Virginia.*
 - iii. Access drives shall be designed and located in a manner that obscures view of the WCFs base or related facilities from the point of ingress.**
- (5) Meet the requirements in sections 24-123 through 24-128.*
- (6) Shall not exceed 120 feet in height.*

4. Multi-Antenna System. *A multi-antenna system such as Distributed Antenna System (DAS) or others as determined by the zoning administrator shall be permitted as shown on Table 2.*

Table 2: Multi-Antenna System. Antennas shall be mounted no higher than stated below unless approved by the board of supervisors. Multi-antenna systems are permitted in the following zoning districts:

<i>Zoning District</i>	<i>Maximum By Right Antenna Mounting Height</i>	<i>S.U.P. Required</i>
<i>General Agriculture, A-1</i>	<i>≤35'</i>	<i>>35'</i>
<i>Rural Residential, R-8</i>	<i>≤35'</i>	<i>>35'</i>
<i>Residential R-1, R-2, R-3, R-4, R-5, R-6</i>	<i>Not Permitted</i>	<i>All Applications</i>
<i>Limited Business, LB</i>	<i>Not Permitted</i>	<i>All Applications</i>
<i>General Business, B-1</i>	<i>≤60'</i>	<i>>60'</i>
<i>Industrial (M-1, M-2)</i>	<i>≤60'</i>	<i>>60'</i>
<i>Planned Unit Development, PUD</i>	<i>Not Permitted</i>	<i>All Applications</i>
<i>Mixed Use, MU</i>	<i>Not Permitted</i>	<i>All Applications</i>
<i>Public Lands (PL)</i>	<i>≤60'</i>	<i>>60'</i>
<i>Economic Opportunity (EO)</i>	<i>≤60'</i>	<i>>60'</i>
<i>Research and Technology District (RT)</i>	<i>≤60'</i>	<i>>60'</i>

Requirements for antenna mounting of Multi-antenna systems:

- a. To the greatest extent possible, antennas should be mounted on structures not originally associated with the wireless communications facility as determined by the zoning administrator.*
- b. Antennas shall be generally unnoticeable to the casual observer and/or screened from view as determined by the planning director.*
- c. Equipment enclosures shall be camouflaged or screened from view by landscaping, walls or fencing.*
- d. Antenna Support Structures for Multi-Antenna systems shall be designed to appear as native vegetation or other typical features of the zoning district (such as a light/telephone pole).*
- e. Meet the requirements in sections 24-123 through 24-128.*

(5) Portable Cellular Transmission Facility (PCTF)

- a. *A PCTF shall be permitted for a maximum of 90 days in any 365-day period or longer during an emergency as determined by the county administrator or his designee.*
 1. *Any applicant who is aggrieved by the time limitations for a PCTF may petition the board of supervisors for an extension. If additional time is determined to be in the interest of the public, the board of supervisors may grant an extension.*
- b. *The PCTF shall be set back at least two times the height of the PCTF from any residential or public structure.*
- c. *The maximum height of the PCTF shall be 120 feet.*
- d. *The applicant shall submit a conceptual plan of the structure pursuant to section 24-144, RF Report and a noninterference/intermodulation study no fewer than 7 business days prior to deployment stating how long the PCTF will be in use and demonstrate a public health or safety need. Upon review of the application, the zoning administrator may request additional information, deny the application because of an ordinance violation or approve the use of the PCTF at the location and time duration indicated on the conceptual plan.*

Sec. 24-123. General requirements.

Except where otherwise noted in this section, the following requirements shall apply to all wireless communications facilities:

(a) *Setbacks.* In addition to meeting the requirements of the underlying zoning district, tower mounted WCFs (*including camouflaged WCFs*) shall conform to the following setback requirements:

1. All towers shall be set back from any off site existing residential structure *by* no less than 400 feet. *All towers shall be located no closer than 400 feet from an occupied school or building used primarily for daycare.*
- ~~2. All WCFs not meeting the structural requirements set forth in EIA 222 F, "Structural Standards for Steel Antenna Towers and Antenna Supporting Structures," or its successors, shall be set back from all property lines and public rights of way a minimum of 110 percent of the tower height. When the above structural standards are met, the setback from any property line or public rights of way shall be no less than 110 percent of the documented collapse radius. All setbacks from a public right of way shall exclude any planned public right of way designated on the Six Year Primary and Secondary Road Plans or the Comprehensive Plan.~~
2. *All towers shall meet the structural requirements set forth in standard of the "Structural Standards for Steel Antenna Towers and Antenna Supporting Structures," or its successors as determined by the building official.*
3. *All towers shall comply with the Virginia Uniform Statewide Building Code.*
4. *All towers shall be set back from all property lines a minimum of 110 percent of the documented collapse radius.*
5. *All setbacks from a public right-of-way shall exclude any planned public right-of-way designated on the Six-Year Primary and Secondary Road Plans or the Comprehensive Plan.*

(b) *Appearance.* Towers, all WCFs equipment enclosures, and security fences shall conform to the following requirements:

1. Lighting installed at all WCFs, other than low-intensity lighting installed for the purpose of site security, shall be only that required to meet the minimum requirements set forth in the Federal Aviation Administration Advisory Circular AC 70/7460-1J, or its successors. If lighting is required, the planning director shall review the available lighting alternatives and approve the lighting design. Such lighting shall minimize impacts on adjacent property and be located and designed to minimize visibility of the light source from the ground.
2. Towers shall be gray in color unless otherwise *approved by the planning director* ~~unless otherwise required by~~ *and in compliance with* the Federal Aviation Administration Advisory Circular AC 70/7460-1J, or its successors.
3. No signage of any kind shall be displayed at or on a tower that advertises a product, service or business activity or institution.
4. All equipment enclosures shall be screened from public view with fencing and landscaping unless the enclosure is of a similar design and material to that used for a single-family residence and approved by the planning director.

(c) *Security.* Except where otherwise noted, the following security requirements shall apply to all WCFs:

1. All towers, WCFs using alternative mounting structures, and camouflaged WCFs shall be equipped with an anti-climbing device, or be designed in a manner that precludes climbing without the use of additional equipment.
2. Security fencing, if used, shall conform to the following:
 - a. Security fencing shall be screened from view with landscaping.
 - b. Chain-link fences shall be of a black or green color.
 - c. No fence shall exceed six feet in height and it shall contain no barb wire or similar barrier.

(d) *Special requirements for certain antenna.* Installation *or replacement* of any antenna on a tower shall require a special use permit if all of the following conditions apply:

1. The tower on which it is to be placed was constructed after the effective date of this ordinance; ~~and~~
2. The tower on which it is to be placed is higher than the thresholds for towers requiring a special use permit identified on Table 1; and
3. A special use permit does not already exist which would permit the construction of that tower or the installation of additional antenna on that tower.

Sec. 24-124. Performance standards.

In considering an application for a special use permit for a WCF, the planning director shall prepare a *composite* report identifying the extent to which the application ~~takes into account~~ *is in compliance with* the Performance Standards for Wireless Communication Facilities ~~dated May 26, 1998~~ *January 10, 2012*, and endorsed by the board of supervisors. Such report shall be submitted to the planning commission and board of supervisors prior to the date of the public hearing on the special use permit application. In general, it is expected that all facilities shall substantially meet the provisions of the above performance standards.

Sec. 24-125. Radio frequency standards.

(a) *Federal communications commission emissions standards.* The WCF shall comply with Federal Communications Commission (FCC) standards for ~~nonionizing~~ *all* electromagnetic emissions.

(b) *Noninterference/intermodulation with local broadcasts.* The applicant shall ensure that the wireless communication facility will not cause localized interference/intermodulation with the transmittance or reception of area television or radio authorized FCC broadcasts. Prior to preliminary site plan approval of the WCF, a noninterference/intermodulation study shall be submitted to and approved by the planning director indicating that no interference with county any communications equipment will take place. If such interference/intermodulation is detected at any time, and is not corrected within 60 days, the special use permit or any other permits may be modified or revoked.

Sec. 24-126. Public safety considerations.

(a) *Noninterference with public safety communications.* The applicant shall ensure that the WCF will not interfere with public safety communications. Should such interference be detected, and is not corrected or ceased within 24 hours, operation of the WCF shall be terminated and the special use permit or any other permits may be modified or revoked.

(b) *Antenna mountings for public safety communications.* Applicants shall be required to negotiate in good faith, and provide evidence of these negotiations acceptable to the planning director prior to preliminary site plan approval, with public safety agencies regarding vacant antenna locations on WCFs prior to making these locations available to other providers. In instances where a potential need for the antenna location is identified by a public safety agency, said agency shall have the right of first refusal for said antenna location for a period of 90 days after the date of final site plan approval.

(c) *All WCF's providing voice service shall be reported to the County dispatch center to ensure that all wireless E-911 calls are placed within the boundaries of the County are routed to the county dispatch center.*

Sec. 24-127. Permit limitations.

(a) *Guarantee of removal.* Prior to final site plan approval, the owner of the property on which a WCF is located shall post a performance bond, cash surety, or letter of credit in an amount sufficient to fund removal of an ~~disused~~ abandoned or unused WCF or any disused portion thereof, and site restoration. This bond or other financial mechanism shall remain in effect throughout the life of the WCF. A wireless communication facility shall be considered ~~disused~~ abandoned or unused if it is not being utilized for the purpose of providing personal wireless communications services for a period of six months. At such time the WCF shall be removed, except where the WCF is used by the county or deemed necessary by the county for placement of its communications equipment.

(b) *Right of access.* The county shall be granted access to the WCF for the purposes of inspection and, in the event a WCF is ~~disused~~ abandoned or unused, removal for the life of the facility.

(c) *Site restoration.* The site of a removed WCF shall be restored to its original state, except that any installed landscaping shall remain in place.

Sec. 24-128. Processing and submittal requirements.

~~(1)~~(a) *The following shall apply to all WCF applications:*

1. *Conceptual plan.* A site plan, drawn to scale, shall be submitted that depicts the location of support structure(s), equipment enclosures, landscaped/vegetative buffer areas, the potential location of additional towers on the site, fences, access, and ownership and use of adjacent properties. This plan should also include elevation or profile views.

~~(1)~~2. *Preapplication meeting.* Prior to formal application for a camouflaged WCF, multi antenna system or a tower submittal, the prospective permittee or its representative shall attend a pre-application meeting with the planning director or his representative. The purpose of this meeting will be to discuss future service plans of the provider, the proposed WCF

location, the configuration of the proposed WCF, the feasibility of col-location, the feasibility of alternative tower locations, and the feasibility of a building mounted WCF, utilizing an alternative mounting structure or a camouflaged WCF. *The planning director may request a tower simulation (balloon test) for a camouflaged determination.*

~~(2)~~3. *Professional certification.* The applicant shall provide certification by a Virginia-registered engineer specifying the following information prior to preliminary site plan approval:

- a. Antenna height, design, structure and capacity, including the number, type, and mounting elevations of antenna that could be accommodated.
- b. Compliance with all structural and safety requirements of the Virginia Uniform Statewide Building Code, including the BOCA Basic Building Code and section 222(F) of the standards adopted by the Electronics Industry Association, and all amendments thereto.
- c. ~~A statement RF report from a registered engineer that the nonionizing electromagnetic radiation emitted from the WCF, including all facilities that may already be attached, does not result in an exposure level on or outside the WCF that exceeds relevant FCC standards.~~
- d. *A noninterference/intermodulation study indicating no potential interference with public safety communications shall be provided in a manner acceptable to the planning director.*

~~(a)~~(b) In addition to meeting all other processing and submittal requirements for site plans, and special use permits for tower mounted WCFs, applicants shall also comply with the following:

~~(3)~~(1) *Col-location efforts.* The applicant shall allow other users to locate on the tower and site and shall provide the County, upon request, verifiable evidence of having made good faith efforts to allow such locations. To this end, the applicant shall execute a letter of intent prior to final site plan approval stating that the applicant will make every reasonable effort to accommodate all future requests to share space and that the applicant will negotiate in good faith with any party requesting space on the tower or site, and copies of said letters shall be sent to all wireless communication facilities service providers licensed to serve the county and a copy of their response, if any, shall be provided to the planning director. The planning director may waive this requirement for camouflaged WCFs where col-location would preclude the wireless communications facility from meeting ordinance requirements for such facilities, and for wireless communications facilities that utilize alternative mounting structures, or are building mounted.

~~(b)~~(2) Any application for a special use permit for the installation of a WCF shall not be deemed complete until accompanied by the following materials, which shall be submitted six weeks prior to the planning commission meeting.

~~(2)~~(3) *Search and service area mapping.* The applicant shall provide mapping, deemed suitable by the planning director, depicting the following:

- a) The search area for the proposed WCF along with underlying property lines and divisions. The map shall be of a clearly indicated scale and municipal boundaries and all primary and secondary highways within the search area shall be delineated.

- b) The intended service area of the proposed WCF with a radio signal propagation ~~plot~~ *map to include information such as building, car, and ambient coverage* or other suitable graphic, depicting the level of signal coverage with and without the proposed WCF. At least one other graphic shall also be provided that shows the relationship of this coverage to that of existing and proposed WCFs operated by the same provider and future service plans, within the county and within five miles of the border thereof.
- ~~(3)~~(4) *Evidence of attempts at co-location and using alternative locations, designs, and operating procedures.* An applicant shall provide a copy of its co-location policy and the following evidence of attempts to co-locate and attempts to utilize alternative locations, designs, and operating procedures in a manner acceptable to the planning director:
- (a) The applicant shall indicate on a map provided by the planning department all existing tower and building mounted WCFs, and alternative mounting structures and buildings more than 60 feet tall within a three-mile radius of the proposed new location. The planning director may reduce the radius of this study area where the intended coverage of the proposed WCF is less than three miles.
- (b) Applicants shall provide evidence acceptable to the planning director, including radio signal propagation plottings, that all existing towers, and alternative mounting structures and buildings more than 60 feet tall within a three-mile radius of the site of a proposed WCF have been evaluated with respect to their ability to provide adequate service coverage and antenna-mounting opportunity, and evidence acceptable to the planning director that adequate service coverage cannot be provided through an increase in transmission power, or through the use of camouflaged wireless communication facilities, alternative mounting structures, building mounted WCFs, or a system that uses lower antenna heights than proposed. The planning director may waive these requirements where documented evidence, satisfactory to the planning director is available that indicates alternative locations and designs are not feasible, and where the intended coverage of the proposed WCF is less than three miles.
- (c) The applicant shall provide evidence deemed suitable by the planning director that good faith negotiations have taken place to use existing WCFs, and existing alternative mounting structures and buildings, including copies of letters sent to other service providers and their response, if any, on a request to co-locate on their facility.
- (d) The applicant shall provide verifiable written evidence, deemed suitable by the planning director, of the feasibility of replacing all existing WCFs within a three mile radius of the site of the proposed WCF in order to accommodate the proposed WCF.
- ~~(4)~~(5) *Public safety communications antenna requirements.* The applicant shall provide written evidence, deemed suitable by the planning director, of consultation with the relevant public safety agencies regarding their need for antenna space at any newly proposed WCF support structure.
- ~~(5) *Intermodulation study.* An intermodulation study indicating no potential interference with public safety communications shall be provided in a manner acceptable to the planning director.~~

(e)(6) *Balloon test.* At least three weeks prior to the planning commission meeting, the applicant shall conduct a balloon test that simulates the height of the proposed WCF. *The balloon test shall be scheduled within the first week following application submittal.* The planning director may also require the balloon to be flown at other altitudes to determine impacts. The planning director shall give notice of the balloon test at least seven days prior to the day of the test in a newspaper having a general circulation in the county. The results of the balloon test, providing representative photographic evidence of the views of a proposed WCF from residential areas, public rights-of-way, and other sensitive areas identified by the planning director or his representative shall be provided to the planning director at least two weeks prior to the planning commission meeting. Other scaled graphical simulations of potential views encompassing a proposed WCF may be substituted for the balloon test results or required in addition to the balloon test results at the discretion of the planning director.

Article V. Districts

Division 2. General Agricultural District, A-1

Sec. 24-212. Permitted uses.

In the General Agricultural District, A-1, structures to be erected or land to be used shall be for the following uses:

Wireless communication facilities that utilize alternative mounting structures, ~~or are building-mounted,~~ or are camouflaged, and comply with division 6, Wireless Communications Facilities.

Sec. 24-218. Height limits.

Structures may be erected up to two stories and shall not exceed 35 feet in height from grade, except that:

- (1) The height limit for buildings may be increased to 45 feet and to three stories; provided, that the two side yards for the building are increased to a minimum of 15 feet plus one foot for each additional foot of the building's height over 35 feet.
- (2) Church spires, belfries, cupolas, monuments, water towers, athletic field lighting, chimneys, flues, flagpoles, home television antennas, home radio aerials, silos and other structures normally associated with and accessory to farming operations and accessory or nonaccessory wireless communications facilities that utilize alternative mounting structures ~~or are building-mounted~~ in accordance with division 6, Wireless Communications Facilities, may be erected to a total height of 60 feet from grade. Camouflaged wireless communications facilities may be erected to a total height of 120 feet from grade.

Upon application for a height limitation waiver, the payment of appropriate fees, notification of adjacent property owners and following a public hearing, the board of supervisors may grant a height limitation waiver for these structures to exceed 60 feet in height but not to exceed 100 feet, from grade to the top of the structure, and for wireless communications facilities that utilize alternative mounting structures ~~or are building-mounted~~ to exceed 60 feet in height but not to exceed the maximum approved height of the structure to which it is mounted, upon finding that:

- a. Such structure will not obstruct light to adjacent property;
- b. Such structure will not impair the enjoyment of historic attractions and areas of significant historic interest and surrounding developments;

- c. Such structure will not impair property values in the surrounding area;
 - d. Such structure is adequately designed and served from the standpoint of safety, and the county fire chief finds that the fire safety equipment to be installed is adequately designed and that the building is reasonably well located in relation to fire stations and equipment, so as to offer adequate protection to life and property; and
 - e. Such structure will not be contrary to the public health, safety and general welfare.
- (3) No accessory building which is within 15 feet of any lot line shall be more than one story high. All accessory buildings shall not be more than 45 feet in height; except that silos, barns and other structures normally associated with and accessory to farming operations are controlled by subsection (2) above and may exceed 45 feet in height.
- (4) Communication towers permitted by a special use permit by the board of supervisors may be in excess of 35 feet in height.

Article V. Districts

Division 7. Low-Density Residential District, R-6

Sec. 24-328. Permitted uses.

In the Low-Density Residential, R-6, structures to be erected or land to be used shall be for the following uses:

Wireless communications facilities that utilize alternative mounting structures, ~~or are building-mounted, or are camouflaged,~~ and comply with division 6, Wireless Communication Facilities.

Sec. 24-329. Uses permitted by special use permit only.

In the Low-Density Residential, R-6, buildings to be erected or land to be used for the following or similar uses shall be permitted only after the issuance of a special use permit by the board of supervisors:

Camouflaged wireless communications facilities that comply with division 6, Wireless Communication Facilities.

Sec. 24-335. Height limits.

Buildings may be erected up to two stories and shall not exceed 35 feet in height from grade, except that:

- (1) The height limit for dwellings may be increased to 45 feet and to three stories; provided, that the two side yards for the dwelling are increased to a minimum of 15 feet plus one foot for each additional foot of the building's height over 35 feet.
- (2) Church spires, belfries, cupolas, monuments, water towers, athletic field lighting, chimneys, flues, flagpoles, home television antennas, home radio aerials, silos and other structures normally associated with and accessory to farming operations and accessory and nonaccessory wireless communications facilities that utilize alternative mounting structures ~~or are building-mounted~~ in accordance with division 6, Wireless Communications Facilities, may be erected to a total height of 60 feet from grade. Camouflaged wireless communications facilities may be erected to a total height of 120 feet from grade. Upon application for a height limitation waiver, the payment of appropriate fees, notification of adjacent property owners and following a public hearing, the

board of supervisors may grant a height limitation waiver for these structures to exceed 60 feet in height but not to exceed 100 feet, from grade to the top of the structure, and for wireless communications facilities that utilize alternative mounting structures ~~or are building mounted~~ to exceed 60 feet in height but not to exceed the maximum approved height of the structure to which it is mounted, upon finding that:

- a. Such structure will not obstruct light to adjacent property;
 - b. Such structure will not impair the enjoyment of historic attractions and areas of significant historic interest and surrounding developments;
 - c. Such structure will not impair property values in the surrounding area;
 - d. Such structure is adequately designed and served from the standpoint of safety, and the county fire chief finds that the fire safety equipment to be installed is adequately designed and that the building is reasonably well located in relation to fire stations and equipment, so as to offer adequate protection to life and property; and
 - e. Such structure will not be contrary to the public health, safety and general welfare.
- (3) No accessory building which is within 15 feet of any lot line shall be more than one story high. All accessory buildings shall be less than the main building in height; provided, however, the height of an accessory building may exceed the height of the main building if the grade of the lot is such that the elevation of the main building exceeds the elevation of the accessory building. The elevation of the main building and accessory building shall be measured from the level of the curb or the established curb grade opposite the middle of the main building. In no case shall an accessory building be more than 35 feet in height, except that silos, barns and other structures normally associated with and accessory to farming operations are controlled by subsection (2) above and may exceed the height of the main structure and may exceed 35 feet in height.

Article V. Districts

Division 8. Rural Residential District, R-8

Sec. 24-348. Permitted uses.

In the Rural Residential District, R-8, structures to be erected or land to be used shall be for the following uses:

Wireless communications facilities that utilize alternative mounting structures, ~~or are building mounted, or are camouflaged~~, and comply with division 6, Wireless Communications Facilities.

Sec. 24-349. Uses permitted by special use permit only.

In the Rural Residential District, R-8, structures to be erected or land to be used for the following uses shall be permitted only after the issuance of a special use permit approved by the board of supervisors in accordance with the procedures, guides and standards of sections 24-9 and 24-10 and such other guides and standards as may be contained in this chapter:

Camouflaged wireless communications facilities that comply with division 6, Wireless Communication Facilities.

Sec. 24-354. Height limits.

Structures may be erected up to two stories and shall not exceed 35 feet in height from grade, except that:

- (1) The height limit for buildings may be increased to 45 feet and to three stories; provided, that the two side yards for the building are increased to a minimum of 15 feet plus one foot for each additional foot of the building's height over 35 feet.
- (2) A public or semipublic building such as a school, church or library may be erected to a height of 60 feet from grade, provided that the required front, rear and side yards shall be increased one foot for each foot in height above 35 feet.
- (3) Church spires, belfries, cupolas, monuments, water towers, athletic field lighting, chimneys, flues, flagpoles, home television antennas, home radio aerials, silos and other structures normally associated with and accessory to farming operations and accessory and nonaccessory wireless communications facilities that utilize alternative mounting structures ~~or are building mounted~~ in accordance with division 6, Wireless Communications Facilities, may be erected to a total height of 60 feet from grade and camouflaged wireless communications facilities may be erected to a total height of 120 feet from grade. Upon application for a height limitation waiver, the payment of appropriate fees, notification of adjacent property owners and following a public hearing, the board of supervisors may grant a height limitation waiver for these structures to exceed 60 feet in height but not to exceed 100 feet, from grade to the top of the structure, and for wireless communications facilities that utilize alternative mounting structures or are building mounted to exceed 60 feet in height but not to exceed the maximum approved height of the structure to which it is mounted, upon finding that:
 - a. Such structure will not obstruct light to adjacent property;
 - b. Such structure will not impair the enjoyment of historic attractions and areas of significant historic interest and surrounding developments;
 - c. Such structure will not impair property values in the surrounding area;
 - d. Such structure is adequately designed and served from the standpoint of safety, and the county fire chief finds that the fire safety equipment to be installed is adequately designed and that the building is reasonably well located in relation to fire stations and equipment, so as to offer adequate protection to life and property; and
 - e. Such structure will not be contrary to the public health, safety and general welfare.

Article V. Districts

Division 13. Research and Technology District, RT

Sec. 24-461. Permitted uses.

In the Research and Technology District, RT, buildings to be erected or land to be used shall be for one or more of the following or similar uses:

- Wireless communications facilities that utilize alternative mounting structures, ~~or are building mounted,~~ or are camouflaged, and comply with division 6, Wireless Communications Facilities.

Mary K. Jones
Chair, Board of Supervisors

ATTEST:

Robert C. Middaugh
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 10th day of January,
2012.

ZO10-11WCOrd_ord

**PERFORMANCE STANDARDS FOR WIRELESS COMMUNICATIONS FACILITIES
THAT REQUIRE A SPECIAL USE PERMIT
January 10, 2012**

In order to maintain the integrity of the James City County's significant historic, natural, rural and scenic resources, to preserve its existing aesthetic quality and its landscape, to maintain its quality of life and to protect its health, safety, general welfare, and property values, ~~tower-mounted~~ wireless communications facilities (WCFs) should be located and designed in a manner that minimizes their impacts to the maximum extent possible and minimizes their presence in areas where they would depart from existing and future patterns of development. To implement these goals, the Planning Commission and the Board of Supervisors have adopted these performance standards for use in evaluating special use permit applications *for WCFs*. While all of the standards support these goals, some may be more critical to the County's ability to achieve these goals on a case by case basis. Therefore, some standards may be weighed more heavily in any recommendation or decision on a special use permit, and cases that meet a majority of the standards may or may not be approved. The terms used in these standards shall have the same definition as those same terms in the Zoning Ordinance. In considering an application for a special use permit, the Planning Commission and the Board of Supervisors will consider the extent to which an application meets the following performance standards:

A. Collocation and Alternatives Analysis

1. Applicants should provide verifiable evidence that they have cooperated with others in co-locating additional antenna on both existing and proposed structures and replacing existing towers with ones with greater co-location capabilities. It should be demonstrated by verifiable evidence that such co-locations or existing tower replacements are not feasible, and that proposed new sites contribute to the goal of minimizing new tower sites.
2. Applicants should demonstrate the following:
 - a. That all existing ~~towers~~ *WCFs*, and *potential* alternative mounting structures ~~and buildings~~ more than 60 feet tall within a three-mile radius of the proposed site for a new WCF cannot provide adequate service coverage or ~~an~~ antenna mounting opportunity.
 - b. That adequate service coverage cannot be provided through an increase in transmission power, replacement of an existing WCF within a three mile radius of the site of the proposed WCF, or through the use of a camouflaged WCF, alternative mounting structure, *multi-antenna system* ~~or a building mounted WCF~~, or a system that uses lower antenna heights than proposed.
 - c. The radii of these study areas may be reduced where the intended coverage of the proposed WCF is less than three miles.
3. Towers should be sited in a manner that allows placement of additional WCF facilities. A minimum of two tower locations, each meeting all of the requirements of the Zoning Ordinance and these standards, should be provided at all newly approved tower sites.
4. All newly permitted towers should be capable of accommodating enough antennas for at least three service providers or two service providers and one government agency. Exceptions may be made where shorter heights are used to achieve minimal intrusion of the tower as described in Section B.2. below.

B. Location and Design

1. ~~WCFs Towers and tower sites~~ should be consistent with existing and future surrounding development and the Comprehensive Plan. While the Comprehensive Plan should be consulted to determine all applicable land use principles, goals, objectives, strategies, development standards, and other policies, certain policies in the Plan will frequently apply. Some of these include the following: (1) ~~WCFs Towers~~ should be compatible with the use, scale, height, size, design and character of surrounding existing and future uses, and such uses that are generally located in the land use designation in which the ~~WCF tower~~ would be located; and (2) ~~WCFs towers~~ should be located and designed in a manner that protects the character of the County's ~~scenic resource~~ Community Character Corridors and historic and scenic resource areas and their view sheds.

2. ~~WCFs Towers~~ should be located and designed consistent with the following criteria:

<i>Proposed Location of Tower WCF</i>	<i>Impact Criteria</i>
<i>a. Within a residential zone or residential designation in the Comprehensive Plan</i>	<i>Use a camouflage design, Multi-Antenna system, or have a minimal intrusion on to residential areas, historic and scenic resources areas or roads in such areas, or scenic resource <u>community character</u> corridors.</i>
<i>b. Within <u>Near</u> a historic or scenic resource area or within a scenic resource corridor on a <u>Community Character Corridor</u></i>	<i>Use a camouflaged design or slicksticks that have minimal intrusion on to residential areas, historic and scenic resources areas or roads in such areas, or scenic resource <u>on community character corridors.</u></i>
<i>c. Within a rural lands designation in the Comprehensive Plan</i>	<i>For areas designated rural lands in the Comprehensive Plan that are within 1,500 feet from the tower, use a well buffered monopole, use a to the camouflaged design, or other design that has <u>have</u> minimal intrusion on to residential areas, or scenic resource corridors <u>community character corridors.</u></i> <i>For rural lands more than 1,500 feet from the tower, no more than the upper 25% of the tower should be visible.</i>
<i>d. Within a commercial or in an industrial designation in the Comprehensive Plan</i>	<i>Use a camouflage design, or <u>well buffered monopole, or other design that has</u> have minimal intrusion on to residential areas, historic and scenic resources areas or roads in such areas, or scenic resource <u>community character corridors.</u></i>

Notes for the above table:

1. Exceptions to these criteria may be made on a case by case basis where the impact of the proposed ~~tower~~ WCF is only on the following areas: (1) An area designated residential on the Comprehensive Plan or zoning map which is not a logical extension of a residential subdivision or which is a transitional area between residential and nonresidential uses, (2) a golf course or a golf course and

some combination of commercial areas, industrial areas, or utility easements, provided the tower is located on the golf course property, or (3) a scenic easement.

2. A **WCF tower** will meet the minimal intrusion criteria if it is not visible off site above the tree line. Such **WCF tower** should only be visible off-site when viewed through surrounding trees that have shed their leaves.
3. Camouflaged towers having the design of a tree should be compatible in scale and species with surrounding natural trees or trees native to Eastern Virginia.
4. **WCFs Towers** should be less than 200 feet in height in order to avoid the need for lighting. Taller heights may be acceptable where views of the **WCF tower** from residential areas and public roads are very limited. At a minimum, towers **WCFs** 200 feet or more in height should exceed the location standards listed above.
5. Towers should be freestanding and not supported with guy wires.

C. Buffering

1. Towers **WCFs** should be placed on a site in a manner that takes maximum advantage of existing trees, vegetation and structures so as to screen as much of the entire WCF as possible from view from adjacent properties and public roads. Access drives should be designed in a manner that provides no view of the tower **WCFs** base or related facilities.



Figure 1: Example of a well buffered slickstick with minimal intrusion

2. Towers should be buffered from adjacent land uses and public roads as much as possible. Following buffer widths and standards should be met:
 - a. In or adjacent to residential or agricultural zoning districts, areas designated residential or rural lands on the Comprehensive Plan, historic or scenic resource areas, or scenic resource **community character** corridors, an undisturbed, completely wooded buffer consisting of existing mature trees at least 100 feet wide should be provided around the tower **WCF**.
 - b. In or adjacent to all other areas, at least a 50 foot wide vegetative buffer consisting of a mix of deciduous and evergreen trees native to Eastern Virginia should be provided.

RESOLUTION

PERFORMANCE STANDARDS FOR WIRELESS COMMUNICATIONS FACILITIES

THAT REQUIRE A SPECIAL USE PERMIT

WHEREAS, the Performance Standards for Wireless Communications Facilities That Require a Special Use Permit (“Policy”) is designed to assist the Board in determining the acceptability of a proposed wireless facility; and

WHEREAS, the Policy has been revised due to changes in technology and to reflect new terminology in the Zoning Ordinance; and

WHEREAS, the James City County Planning Commission’s Policy Committee endorsed the Policy on September 15, 2011; and

WHEREAS, the James City County Planning Commission, after a public hearing, endorsed the Policy on December 7, 2011 by a vote of 6-0.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve the Performance Standards for Wireless Communications Facilities That Require a Special Use Permit policy dated January 10, 2011.

Mary K. Jones
Chairman, Board of Supervisors

ATTEST:

Robert C. Middaugh
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 10th day of January, 2012.

ZO10-11WCOrd_res_att7

POLICY COMMITTEE MEETING

September 15, 2011

1:30 p.m.

County Complex, Building A

1) Roll Call

Present

Mr. Jack Fraley
Mr. Al Woods
Mr. Rich Krapf
Mr. Mike Maddocks

Absent

Mr. Tim O'Connor

Staff Present

Mr. Allen Murphy
Ms. Tammy Rosario
Ms. Jennifer VanDyke
Mr. Christopher Johnson
Ms. Kate Sipes
Mr. Luke Vinciguerra

Mr. Vaughn Poller
Ms. Marion Paine
Mr. Brian Elmore
Ms. Ellen Cook
Mr. Jose Ribeiro
Ms. Melissa Brown

Mr. Jack Fraley called the meeting to order at 1:30 p.m.

2) Old Business

3) New Business

a) Wireless Communications Facilities

Mr. Luke Vinciguerra reviewed the changes made to the draft Ordinance.

Mr. Al Woods asked what changes had been made since the last Policy Committee meeting.

Mr. Vinciguerra stated that at the last meeting there had been a discussion on the consultant's proposed additional setbacks and Mr. Fraley's tiered approach. He stated that several of Mr. Fraley's recommendations have been applied. Mr. Fraley had recommended an administrative application for low-visibility towers, a process to review Portable Cellular Transmission Facilities and a Special Use Permit (SUP) provision for high visibility towers. He stated that the consultant had made setback recommendations that were not included.

Mr. Fraley asked if it was appropriate to say that most of the recommendations made by the consultant were rejected.

Mr. Vinciguerra stated that it was not the majority.

Mr. Fraley asked staff to point out in the text the requirements for camouflaged towers.

Mr. Fraley stated that the language in Sec. 24-122 (3)(b)(4) is too vague. He stated that he would prefer to see pictures offering a visual aide to accompany the text. He stated that his research into cell towers has informed him of the qualities exhibited by the more visibly appealing towers. He stated that he had spoken with an individual working in the industry and that there should be more descriptors in the Ordinance that speak to the specific qualities desired for camouflage towers.

Mr. Allen Murphy stated that staff will endeavor to provide objective descriptors within the text to achieve low profile towers. He stated that ultimately the goal is to have a tower that blends in harmoniously with the natural landscape.

Mr. Woods asked Mr. Fraley if there was specific language that he could recommend.

Mr. Fraley stated that adding definitions for “preserve” and “replica products” would be useful. He stated that both definitions discuss materials of construction and would provide a better understanding of how best to replicate vegetation.

Mr. Woods asked if this terminology is common to the industry.

Mr. Fraley stated that it is.

Mr. Christopher Johnson asked Mr. Fraley if the individual he had spoken with would be willing to submit descriptions of building materials that are common or more visibly appealing towers.

Mr. Fraley stated, yes.

Mr. Murphy stated that staff has looked at samples in past applications.

Mr. Fraley stated that by adding more to the text the County can ask for a better quality product. He stated that he does not want to continue with assigning to the Planning Director the authority and responsibility to make the highly-charged decision that elected officials should be making. He stated that it should be up to the Board of Supervisors (BOS) to determine if a tower is camouflaged. He stated that the Policy Committee and the consultant both felt that this requirement should change. He stated that the consultant had stated that there is no jurisdiction anywhere that permits 120 foot towers by-right within a residential area.

Mr. Woods questioned Mr. Fraley’s assertion.

Mr. Johnson stated that if it has been determined that the tower is not camouflaged then it would require an SUP.

Mr. Fraley stated that towers need to go into legislative review for residential districts.

Mr. Woods stated that the chart and text in Sec. 24-122 does not clearly convey the information. He stated that the chart should cover the requirements for all towers, camouflaged included.

Mr. Murphy stated that he, as the Planning Director, has turned down more towers than the County has ever approved.

Mr. Fraley stated that the previous Planning Director did approve the proposed Kingsmill towers. He stated that this is not a decision that should be put in the hands of the Planning Director. He stated that this is the only jurisdiction that places this responsibility on the Planning Director.

Mr. Krapf asked staff to explain their position.

Mr. Johnson stated that knowing that a camouflaged tower is permitted by-right up to 120 feet in staff's mind, there was no need for a chart. He stated that staff can change the text and the chart to achieve greater clarity. He stated that the charts were intended to speak to anything above 35 feet in any district where it needed to be specially permitted or permitted by-right. He stated that staff tried to categorize the information to add additional clarity and definition to the different types of towers. He stated that staff determined that there were certain towers that should not be required to go through a legislative review, exhausting several months prior to approval. He stated, for those towers that are more highly visible proposals should go before the BOS for approval. He stated that his experience with balloon tests illustrate that the Planning Director's standard for camouflage is very high. He stated that he can only think of one tower where Mr. Murphy, Planning Director, determined it was camouflaged. He stated that this location was zoned R-8. He stated that you would be hard pressed to find any property in R-1 and R-2 where one could meet the 400 foot buffer requirements. He stated that this standard has proven to be affective by the fact that a relatively low number of applications that have been submitted.

Mr. Fraley stated that he spoke with Adam Kinsman, the Deputy County Attorney, regarding the language. Mr. Kinsman stated that the text is open to interpretation, leaving the Planning Director vulnerable to being sued.

Mr. Murphy stated that if the Policy Committee and Planning Commission want to change the Planning Director's authority to determine camouflaged towers, then staff will forward their request accordingly. He stated that if the change is made cell tower companies will be subjected to a lengthy process for a greater number of applications. The buffer requirements in R-1, R-2 and R-4 limit the applicable properties within the districts. He stated with this arrangement there is a great deal of authority that rests on the shoulders of the Planning Director. He stated that he is comfortable with the current process. He stated that staff had previously been asked by the BOS and Business Climate Taskforce to generally avoid the SUP process. He stated that with one exception the Ordinance has proven to be useful and judicial in permitting towers. He stated that the Kingsmill towers were the only controversial applications.

Mr. Fraley asked staff why this locality is the only one that grants the Planning Director the authority.

Mr. Woods asked if staff had been working in this mode for a great length of time.

Mr. Murphy stated that this has been in place with the R-4 district for six years.

Mr. Woods stated that within the six year time frame only one controversial case has developed.

Mr. Krapf stated that Mr. Fraley's recommendation is to require an SUP for R-1 through R-6 residential districts.

Mr. Fraley stated that within residential districts, towers of a certain height need to go to the BOS.

Mr. Murphy stated that towers that are attached to a camouflaged part of a building would not require an SUP.

Mr. Krapf stated that it is the free standing towers that Mr. Fraley is referring to.

Mr. Fraley stated that he has heard from many people in the community that they would prefer a slick stick over a tower constructed to look like a tree.

Mr. Murphy stated that slick sticks can be considered camouflaged if it is buffered to the point that they are virtually unnoticeable, which is difficult to achieve.

Mr. Fraley stated that he would like to hear from some of the industry representatives present today.

Ms. Lisa Murphy of LeClairRyan stated that there does seem to be a preference for slick sticks yet, the requirements for slick sticks are greater than other types of towers.

Mr. Fraley stated that his preference would be to have an 80 foot slick stick at the resort center in Kingsmill. He asked how tall the portable cellular transmission facilities are.

Mr. Stephen Romine of LeClairRyan stated that the facilities are 60-80 feet.

Mr. Fraley stated that he does not have a problem with an 80 foot slick stick in a residential area.

Mr. Romine stated that if you compare administrative approval and lengthy litigation to going through the legislative process it may be preferred to go through the legislative process. He stated that whatever the community accepts and feels most comfortable with is most suitable.

Mr. David Neiman of 105 Broomfield Circle stated that the community wants to have camouflaged towers within residential areas go through the legislative process. He stated that by having the towers reviewed legislatively the community will have the benefit of having public hearings. He stated that elected officials that feel responsible to their constituents should make those decisions. He stated that camouflaged towers in residential areas could be given an expedited review status.

Mr. Fraley stated that if the Kingsmill towers were brought forward legislatively then they may have opted to apply for slick sticks or a regular tower.

Ms. Murphy stated that the majority of the towers in James City County (JCC) have been camouflaged because the Ordinance has encouraged it. She stated that if you eliminate the administrative review of camouflage towers than the benefit to the industry would be lost. She stated that the community benefits from this arrangement from a planning standpoint. She stated that from a technology standpoint, camouflaged towers do not accommodate the most useful technology.

Mr. Fraley stated that the proposals he has reviewed going through the legislative process have included camouflaged elements.

Mr. Romine stated that slick sticks do not propagate as well because the antennas used are not the most powerful. He stated that this may be an unintended consequence of such a modification.

Ms. Murphy stated that at this time the industry is going back and upgrading the technology by adding more antennas to existing towers. She stated that the increased demand for data usage capacity is placing a heavy burden on existing infrastructure.

Mr. Fraley stated that he is fine with the Ordinance but, he would like staff to go back and add more descriptors to the text in an attempt to improve the quality of the product. He stated that cell towers should require an SUP in residential districts, unless the industry would find it useful to make a lower threshold for administrative review.

Mr. Romine stated that it would be useful to hold onto some flexibility for administrative reviews for residential areas.

Mr. Fraley stated that he is aware of two or three jurisdictions that do allow by-right towers in residential districts at lower heights. He stated that 80 feet seems to be a minimum height for towers before you eliminate the utility of the tower.

Mr. Krapf stated that he would like to recommend requiring an SUP for freestanding wireless communication facilities in residential districts that exceed 80 feet in height.

Mr. Murphy stated that if that is the Policy Committee's wish staff can forward the recommendation.

Mr. Romine asked if this would include changes to the definitions for camouflage and buffers requirements. He asked, if not when would you apply those definitions.

Mr. Johnson stated that they would still be used for nonresidential districts.

Ms. Murphy asked if the buffering and camouflage requirements would still be applied to those towers 80 feet or less in height.

Mr. Murphy stated that they would still apply.

Ms. Murphy stated that that would make it less useful.

Mr. Fraley stated that he would feel comfortable with relaxing the requirements for those towers 80 feet or less in height.

Mr. Murphy suggested that the Policy Committee think further on this point before making any decisions.

Mr. Woods stated that he agreed.

b) Affordable Housing Policy

Mr. Jose Ribeiro presented the materials.

Mr. Fraley asked if the funds contributed in lieu of building will be identified separately so that there is certainty that the funds would be used to build affordable housing.

Mr. Vaughn Poller stated that it will only be used towards the construction of affordable housing.

Mr. Fraley stated that he would like to have a more concrete understanding of what those funds would be used for.

Mr. Krapf asked about the cash proffer reduction at the 30% to 60% Area Median Income (AMI). He asked why staff elected to apply a 100% reduction in cash proffers to this category.

Mr. Ribeiro stated that staff wanted to provide the maximum incentive to developers, to build the most affordable housing.

Mr. Woods asked if staff is aware of any evidence that this type of incentive would achieve the intended goal.

Mr. Poller stated that he cannot provide specific examples of success. He stated that staff recognizes that attempting to serve the population at the 30% to 60% AMI represents the biggest challenge. He stated that when staff has spoken to builders they have been told that providing units at that level eliminates any room for profitability. He stated that he does not have any examples of this within the Commonwealth. He stated that he would look into Fairfax and Alexandria to find examples.

Mr. Murphy stated that proffers have been waived with the BOS's discretion by practice. He stated that with this policy staff attempted to write down what has been commonly practiced by the BOS. He stated that there may not be other examples out there. He stated that the County has a lack of affordable housing.

Mr. Woods asked what is the cost associated with proffers.

Mr. Ribeiro stated that a single, detached unit would be \$17,015. He stated that the proffer for a multifamily unit would be \$15,000 and \$4,807 for a single family attached unit.

Mr. Woods asked if those proffers can be adjusted or waived legislatively. He asked if the County waives or adjusts frequently, and if so, what the average proffer received was.

Ms. Tammy Rosario stated that staff does not have that data.

Mr. Johnson stated that it varies by product.

Mr. Murphy stated that \$17,015 represents the maximum fee, but it is typically waived or adjusted for affordable units.

Mr. Fraley asked how many residents are living in Ironbound Square that work in JCC.

Ms. Ellen Cook stated that staff has data, but it is not specific to Ironbound Square.

Mr. Fraley stated that this is a nice project that seems all around successful.

Ms. Marion Paine stated that she was looking at these numbers recently. She recalls that each inhabitant either lived in JCC when they purchased, or lived or worked in the City of Williamsburg.

Mr. Poller stated that you need to also include in that catchment basin those persons who work here.

Mr. Fraley stated that his overriding concern is that it attracts people that do not live or work in JCC.

Mr. Poller stated that he would be surprised if residents currently living in Newport News could not find affordable housing in Newport News. He stated that most of the people that would have interest in living here are attempting to cut down their living costs by not having to commute to work. He stated that our marketing has always been to those persons who either live or work in JCC.

Mr. Woods asked for clarification on 5(b) of the draft policy. He asked how the "soft second" mortgage works.

Mr. Poller stated that the soft second represents the effort to maintain the public's money so that people do not purchase these houses with the idea of flipping them. He stated that when you compare the houses at a market rate there tends to be a difference of \$50,000. He stated that the intention is to eliminate the possibility of someone buying the property, living in it for some short period time and then selling it for profit. He stated that the money (that was the public's) used to purchase the property will return to JCC.

Mr. Woods asked for clarification on the Housing Fund.

Mr. Poller stated that the money is for the particular purpose of affordable housing and the development of affordable housing in JCC. He stated the money cannot be used for administrative costs. He stated that the money will be used as down payment in closing costs. He stated that when you look at the median cost for rental properties, for those affording houses in this price range they are paying \$950-\$1,100/per month. He stated what they cannot afford is the down payment and the closing costs. He stated that these monies are loaned out to individuals who are credit worthy and who either live or work in JCC. The Office of Community Housing and Development then secures the individual with an FHA or VHDA mortgage. If the individual later elects to move, the money will go back into the fund for the next applicant.

Mr. Woods asked if there is a policy document that describes the housing fund and its fullest uses.

Ms. Paine stated that a document could be created for this purpose.

Mr. Woods stated that this would help protect the County's interests.

Mr. Fraley stated that the proposed policy is not in Ordinance therefore, there is no requirement to do it.

Ms. Rosario stated that there are references to the policy in the Ordinance in the form of density bonuses.

Mr. Fraley stated that he thought this would be more inclusionary zoning and incentives.

Ms. Rosario stated that this is a baseline expectation in the form of a policy which establishes 20% figure, but then there are density bonuses in cluster and mixed use that encourage developments to go higher than that. She stated that they get greater density by exceeding the figure.

Mr. Fraley stated that there are incentives in the Ordinance to do build affordable housing, but there is no requirement to do it under this policy.

Ms. Rosario stated that in order to meet the density bonus you do at minimum have to meet the baseline. She stated that one would have to exceed the baseline to realize the maximum benefit of the density bonus.

Mr. Woods stated that if one were to aggregate all the different incentives it could become significant.

Ms. Susan Gaston, representing the Association of Realtors, asked what the timeline is on this policy.

Ms. Rosario stated that it will go to BOS for preliminary feedback at the end of September. She stated that it will then go into a period of refinement and then to the Planning Commission in December and the BOS in January.

Ms. Gaston stated that she is pleased to hear that the policy is incentive driven. She stated that from a realtor's perspective, the real gap in the market is not low income housing but workforce. She stated that honing in on that sector would be most helpful.

Ms. Kate Sipes stated that the difference in language between workforce housing and affordable housing was introduced as a part of a Comprehensive Plan conversation. She stated that in recent conversations there has been discussion of whether or not that distinction is necessary. She stated there may be a stigma associated with affordable housing. She stated that she would be interested in hearing whether or not the Policy Committee would prefer to call all of this workforce housing but keep the stratification within the policy.

Mr. Woods stated that he appreciates this sensitivity.

c) Sign Ordinance

Ms. Melissa Brown explained the changes made to the draft ordinance.

Mr. Krapf asked a question regarding Sec. 24-80. He stated that the text now indicates that only the property owner would receive written notification of violation. He stated that it may be in the County's best interest to still notify the tenant or lessee as well as the owner.

Ms. Brown stated that the County has been making a move to more penalties and fines because there has been a real problem. She stated that if the fines are not paid they want to be able to attach the fine to the property. She stated that in practice you get a quicker response when a letter is sent to the property owner rather than notifying the tenant or lessee.

Ms. Rosario suggested that the lessee or tenant could still be copied for any written notification.

Mr. Krapf stated that he would prefer an arrangement that includes the lessee or tenant be copied.

Mr. Fraley asked what provisions are in place for those businesses that have road construction/repairs in progress in front of their store. He asked can they put up directional signs during this occasion.

Ms. Brown stated that Virginia Department of Transportation (VDOT) has provisions for directional signage. She stated that if VDOT is working in the right-of-way then the signage needs to be placed in the right-of-way. The County does not have the authority to permit signs in the right-of-way.

Mr. Fraley stated that the County should be able to help the local businesses in this situation.

Mr. Rich Costello of AES asked for clarification on signage within those shopping centers with multiple outparcels.

Ms. Brown stated that if there are two entrances then they can have a freestanding sign on each side.

Mr. Costello stated that the way he reads the text the outparcels that before could put a freestanding sign along the exterior of the shopping center can now only place that sign on the interior of the shopping center.

Ms. Brown stated that they are allowed freestanding signs. She stated that if they have access to the main road then they can place a sign along the exterior. She stated that the intent of the Ordinance is to use the sign to indicate an entrance.

Mr. Costello pointed out that most of the free standing signs for those outparcels will not be visible from the right-of-way.

Ms. Brown stated that it is not just visible from the right-of-way it is also visible from adjacent properties.

Mr. Costello stated that future businesses will have less ability to put up signage visible from the right-of way.

Ms. Brown stated that in practice this is what they have guided people to do, which is why staff elected to make the change. She stated that we could have further discussions regarding this point.

Mr. Fraley stated that this should be discussed further.

Mr. Murphy agreed that signage for the outparcels would be discussed further by staff.

d) Procedural Descriptions, Submittal Requirements, and Administrative Items

Mr. Ribeiro reviewed some of the changes to the ordinance text.

Mr. Fraley asked of Sec. 24-8; who is the building official?

Mr. Johnson stated that the building official is appointed by the BOS and is a title called out in the state code. He stated that Mr. Tom Coghill, Building Safety and Permits Director is the County's building official.

Mr. Ribeiro pointed out the text in Sec. 24-144 (b) that reduces the number of days from 21 calendar to 10 working days in which the planning division will transmit comments to applicants for conceptual plans.

Mr. Mike Maddocks responded positively.

i) Environmental Impact Constraints Analysis

Mr. Ribeiro reviewed changes made to the environmental checklist.

ii) Fiscal Impact Study Guidelines

Mr. Ribeiro reviewed the Fiscal Impact Study Guidelines.

Mr. Fraley asked if applicants will be required to use this template for their fiscal impact studies. He stated that it is frustrating to get multiple estimates from different groups regarding impacts.

Mr. Ribeiro stated that applicants will be required to submit the outlined information at minimum. The applicant may choose to submit additional materials.

Mr. Brian Elmore stated that for residential developments applicants will provide four or five modifiers. Mr. Elmore stated that for new businesses coming in the process is more complex.

iii) Traffic Impact Analysis Guidelines

Mr. Fraley asked how this traffic impact analysis would compare to the VDOT 527 review.

Mr. Vinciguerra stated that this is very similar to the VDOT 527 review. He stated that applicants would be required to indicate how to mitigate the impacts of traffic to a service level of "C" rather than a "D".

Mr. Murphy stated that the County would continue to have greater discretion than VDOT. He stated that one hundred peak hour trips would be the threshold; VDOT's is higher for commercial areas.

Mr. Johnson stated that many County roads have a unique character and citizens have the expectation to maintain that character.

Mr. Costello stated that VDOT is now moving to multiple access points. He stated that Sec. 24-23 speaks of "no more than one access point on each abutting public street shall be permitted unless".

Mr. Murphy stated that staff will adjust it dependent upon what VDOT requires.

Mr. Costello made a recommendation to change the text in Sec. 24-145 (7). He recommended changing five foot contours to two foot contours. He stated that this level information is more beneficial for site plans.

Mr. Costello asked if it was necessary to submit a new site plan amendment for decreased parking.

Mr. Johnson stated that there are valid reasons to require a site plan amendment for increased or decreased parking.

Mr. Costello stated that there are no licensed traffic engineers in the state of Virginia, just licensed engineers or certified land planners. Mr. Costello asked if it necessary to have plans including ten (or greater) multi-family units go to the Development Review Committee (DRC) for review.

Mr. Johnson stated that there will be a trend for more in-fill development on challenging topography. He stated that there will be a greater demand to maximize a limited amount of developable area. Staff and the Planning Commission determined that those cases should be reviewed by the DRC.

Mr. Costello stated that this would mean that all R-5 developments will be seen by the DRC.

2) Adjournment

Mr. Maddocks moved to adjourn. The meeting was adjourned at 3:32 p.m.

Jack Fraley, Chair of the Policy Committee

UNAPPROVED MINUTES OF THE

DECEMBER 7, 2011 PLANNING COMMISSION MEETING

C. ZO-0010-2011, Wireless Communication Facilities

Mr. Luke Vinciguerra reviewed highlights of the proposed revisions to the Ordinances related to Wireless Communication Facilities (WCF) such as: regulations for multi-antenna systems such as Distributed Antenna Systems (DAS), regulations for Portable Cellular Transmission Facilities (PCTF), clarification of building mounted/alternatively mounted antennas, clarification of the camouflaged tower provision and the elimination of the by-right camouflaged tower provision in the residential districts. He stated that at the September 15, 2011 Policy Committee meeting the committee endorsed the draft Ordinance. He stated that following the discussion the Policy Committee recommended requiring issuance of an SUP for camouflaged towers over 80 feet in residential districts and consideration of stronger language for camouflaged towers utilizing native vegetation provision. He stated that at the September 27, 2011 work session the BOS requested legislative approval for all towers in residential districts and a mechanism to extend the duration of portable cellular transmission facilities over the 90 day maximum. He stated that recommendations made by the Policy Committee and the BOS have been incorporated into the draft Ordinance. He stated that staff recommends the Planning Commission recommend approval of the ordinance revisions and the Performance Standards Policy to the BOS.

Mr. Fraley stated that he was very pleased with the draft Ordinance. He stated that monopoles (including slick-sticks) can qualify for the camouflage provisions under the buffer provision but, it will not be obvious to the public. He stated that there is a lot of discussion that has surfaced as a result of the Kingsmill cell towers that indicates that the majority of Kingsmill residents would have preferred that the towers be slick-sticks. He stated that he had asked if staff would be willing to put some language in the buffering camouflage section that would make it apparent that a monopole would qualify for this provision.

Mr. Johnson stated that staff would be more than happy to find a way to incorporate that term at least once within the provision and also within the recommended BOS policy to make it more specific. He stated that there are differences to note regarding slick-sticks and monopoles. He stated that not all monopoles qualify as slick-sticks this distinction will have to be evident in the text.

Mr. Fraley recommended that staff look at the Albemarle County policy.

Mr. Johnson stated that it may be beneficial to replicate what Albemarle County has done by providing a picture of the tower.

Mr. Fraley stated that on the chart found on page 96, "Table 1: Tower Mounted Wireless Communication Facilities" under R-4 unlike the other residential districts all towers are permitted with an SUP. He stated that he was under the impression that the tower mounted WCF's would not be permitted in any residential district.

Mr. Johnson stated that the R-4 districts require a minimum of 400 acres. He stated that Kingsmill, Ford's Colony, Governor's Land are all well in excess of 400 acres and all three have non-residential components to them. He stated because of these differences there may be an acceptable location for taller, non-camouflaged towers in R-4.

Mr. O'Connor stated that one concern that came up during the cell tower discussion with the Kingsmill residents was the noise generated by the towers. He asked if there would be regulations put in place regarding acceptable noise levels generated from any tower.

Mr. Adam Kinsman stated that the County recently adopted a new Noise Ordinance; it does apply in residential areas.

Mr. Fraley asked if it would apply to R-4.

Mr. Kinsman stated that the Noise Ordinance is not quite as precise as the WCF Ordinance.

Mr. Basic asked what Stonehouse is zoned.

Mr. Johnson stated that it is a Planning Unit Development (PUD) which has areas on its master plan designated for Planning Unit Development Residential (PUD-R) and Planning Unit Development Commercial (PUD-C). He stated that language could be added to R-4 which references areas designated on adopted master plans in R-4 communities that are designated for non-residential activity. He stated that one way of adding additional clarity would be to state that placement would be suitable in areas that are designated for non-residential activity and consistent with BOS policy.

Mr. Fraley stated that providing more guidance in the Ordinance would be preferred. He stated that applicants would prefer greater predictability.

Mr. Johnson stated that it may be inappropriate to go so far as to identify properties that are suitable for WCF's. He stated that it is not suitable to tell a private property owner that their property has been identified as a location for a future tower.

Mr. Fraley stated that the County imposes zoning on property owners. He stated that the property owner would not be forced to place a WCF on their property. He stated that they would only be informed that it is an appropriate location for a WCF.

Mr. Johnson stated that there have been discussions in the past centered on finding appropriate areas. He stated that cell tower companies will determine that they have a need for a tower with a specific rating based upon coverage demands. He stated that when the proposed location was not acceptable the County has assisted the provider in finding appropriate alternative locations.

Mr. O'Connor stated that on pages 99-100 there are three categories of architectural compatibility. He asked if there is a better way to define casual observer. He stated that the concept of the casual observer was debated during the Kingsmill cell tower discussions.

Mr. Johnson stated that it is a subjective standard. He stated that the formulated opinions of staff, our governing bodies, and the public will debate this point during the legislative process for a proposed location. He stated that it has been made clear in the past that “to the casual observer” does not mean that the tower would not be completely hidden. He stated that the question that needs to be asked is, is this a distracting feature.

Mr. Fraley stated that Mr. Johnson’s response is vague. He asked if it would be better to remove the phrase from the text.

Mr. Johnson stated that staff has seldom approved camouflaged towers. He stated that by default the case is taken to a public hearing. He stated that the standard has intentionally been set high.

Mr. Basic asked what is the maximum height in R-4.

Mr. Johnson stated, 120 feet, with a 400 foot buffer.

Mr. Fraley stated that it is 120 feet, but the applicant can apply for an extension with an SUP.

Mr. Basic asked what the absolute maximum height is.

Mr. Johnson stated that there is one existing tower that is 199 feet.

Mr. Fraley opened the public hearing.

Mr. David Neiman of 105 Broomfield Circle spoke. He stated that the revised, draft Ordinance is a big improvement. He stated that towers with internally mounted antennas, or slick sticks are an improvement to many other types of towers. He stated that tower mounted antennas should not be permitted in R-4 districts; these towers make a significant visual impact. He stated that there should be a WCF Master Plan.

Ms. Dorothea Neiman of 105 Broomfield Circle spoke. She stated that more work should be done with a WCF consultant to get a high level of expertise. She stated she had reviewed some very thorough and thoughtful reports completed by different localities with the assistance of different independent consultants.

Mr. Fraley stated that with this Ordinance there are Performance Standards which is meant to be the BOS Policy. He stated that in those Performance Standards there are additional requirements beyond the 400 foot buffer. He stated that as a policy it is not in the Ordinance, making it easier to change. He stated that the policy would not have the same legal standing as the Ordinance.

Mr. Krapf asked; what is the advantage of having a second policy statement as opposed to having everything in the Ordinance. He asked if it was staff’s intension to make it easier to change with technological changes.

Mr. Murphy stated that there are many aspects of the policy as written; it is subjective, allowing for some flexibility. He stated that staff does anticipate there being changes to technology. He stated that the Performance Standards Policy will go before the BOS for their adoption, hand-in-hand with the Ordinance.

Mr. Kinsman stated that adding a policy that applies to an SUP case discourages carriers from bringing in sub-standard applications to the BOS and Planning Commission. He stated that this informs applicants what the County is looking for.

Mr. Fraley stated that he sees some inconsistencies between the Performance Standards and the Ordinance.

Mr. Basic stated that he understands Mr. Fraley's concern; language like "minimal intrusion" is very vague.

Mr. Fraley stated that making it as objective as possible is most helpful for all parties.

Mr. Poole stated that he concurs. He stated that the SUP process allows the governing body to thoroughly review the application. He stated that the generalizations spelled out in the Performance Standards are helpful. He stated that he supports the Ordinance and the Performance Standards.

Mr. Fraley asked Mr. Basic if he was comfortable with having all towers permitted in R-4 (with an SUP).

Mr. Basic stated he is comfortable with the text as proposed. He stated that due to the nature of the district and the required 400 foot buffer, he sees R-4 differently.

Mr. O'Connor asked if the phrase "casual observer" will be stricken.

Mr. Fraley stated he would support it being removed.

Mr. Woods asked, if the phrase were left in would it not provide additional elements of consideration while under legislative review.

Mr. Murphy stated that the language is helpful. He stated that this phrase has been used in the past to substantiate an argument against qualifying as a camouflaged tower. He stated that in his estimation a "casual observer" is a higher test than someone that is intentionally looking.

Mr. Fraley stated that he would still like to have some illustrations and additional text to further define monopoles and slick-sticks.

Mr. O'Connor stated that he would want language added to further clarify the location of a tower within R-4.

Mr. Johnson stated that it would limit the location of a tower to an area in R-4, that is designated as something other than residential on the master plan.

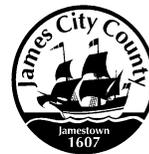
Mr. Murphy stated that it would still require an SUP.

Mr. Woods made a motion to approve the draft Ordinance and Performance Standards with the addition of illustrations and text to further define monopoles and slick-sticks as well as defining placement of tower mounted WCF's to those areas designated as something other than residential within the R-4 districts.

Mr. Fraley asked Mr. Kinsman if he had any issue with the suggestion to limit placement within R-4 to those areas designated as something other than residential.

Mr. Kinsman stated that he is okay with the language.

In a roll call vote, the Commission recommended approval (6-0; absent, Maddocks).



MEMORANDUM COVER

Subject: Creation of a James City County Tourism Zone

Action Requested: Shall the Board approve the creation of a Tourism Zone?

Summary: Virginia Code authorizes localities to establish tourism zones for the purpose of granting tax incentives and for providing regulatory flexibility to qualified businesses. The State allows for tax incentives to be provided for a period of up to 20 years and other incentives for a period of up to 10 years. Qualifications and incentives for the program are set by the locality following the guidelines established by State Code.

Staff recommends that the Board consider the creation of a James City County Tourism Zone as presented. Applications will be submitted to the Office of Economic Development (OED) for initial review. The application will be forwarded to the EDA for a final decision and will be administered in a format similar to the County’s Enterprise Zone program.

Fiscal Impact: N/A

FMS Approval, if Applicable: Yes No

Assistant County Administrator

Doug Powell _____

County Administrator

Robert C. Middaugh _____

Attachments:
1. Memorandum
2. Resolution
3. Draft Ordinance
4. Virginia Acts of Assembly - 2008 Session, 58.1-3851

Agenda Item No.: H-4

Date: January 10, 2012

MEMORANDUM

DATE: January 10, 2012

TO: The Board of Supervisors

FROM: Russell C. Seymour, Director, Office of Economic Development

SUBJECT: Creation of a James City County Tourism Zone

The tourism industry continues to be a significant part of James City County's overall economic prosperity. Many of our local existing businesses rely heavily upon the tourism industry for their business's success. As part of James City County's continued commitment to the economic stability of our local economy and to our existing businesses, staff is recommending that the Board of Supervisors (BOS) consider the creation of a James City County Tourism Zone.

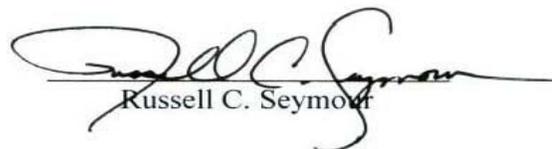
Virginia Code authorizes localities to establish tourism zones for the purpose of granting tax incentives and for providing regulatory flexibility to qualified businesses. The State allows for tax incentives to be provided for a period of up to 20 years and other incentives for a period of up to 10 years. Qualifications and incentives for the program are set by the locality following the guidelines established by State Code.

The proposed Tourism Zone boundaries include all of James City County. Incentives would be available for both new and existing tourism-based businesses that meet the required qualifications, including a new Capital Investment of at least \$350,000. Benefits of the program would be provided over a five-year period with the opportunity for a second five-year incentive period with an additional capital investment of \$350,000.

Currently, only a small number of jurisdictions in the State have established Tourism Zones, including the City of Fredericksburg, Spotsylvania County, and the Town of Pocahontas. However, with the recent addition of the state's new tourism development financing program as a potential incentive tied to established tourism zones, other jurisdictions are beginning to look into the possible use of this program.

This proposal was presented to the Economic Development Authority (EDA) on December 15, 2011. The EDA offered its support contingent upon the establishment a Memorandum of Understanding between the EDA and the BOS regarding the disbursement of incentives.

Staff recommends that the Board consider the creation of a James City County Tourism Zone as presented.



Russell C. Seymour

RCS/gb
TourZone_mem

Attachments:

1. Resolution
2. Draft Ordinance
3. Virginia Acts of Assembly - 2008 Session, 58.1-3851

RESOLUTION

CREATION OF A JAMES CITY COUNTY TOURISM ZONE

WHEREAS, the tourism industry continues to be an important part of James City County's overall economic and employment base; and

WHEREAS, many of the County's existing businesses rely heavily upon the tourism industry for their business's success; and

WHEREAS, the Commonwealth of Virginia allows for the establishment of Tourism Zones for the purpose of granting tax incentives and for providing regulatory flexibility.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the creation of a James City County Tourism Zone that encompasses the entire County.

Mary K. Jones
Chairman, Board of Supervisors

ATTEST:

Robert C. Middaugh
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 10th day of
January, 2012.

TourZone_res

ORDINANCE NO. _____

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 7, ENTERPRISE ZONE, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY RENAMING THE CHAPTER FROM ENTERPRISE ZONE TO ECONOMIC INCENTIVE ZONES; BY CREATING ARTICLE I WITH EXISTING SECTIONS 7-1 THROUGH 7-10, AS ENTERPRISE ZONE; BY ADDING ARTICLE II, TOURISM ZONE, BY ADDING SECTION 7-20, STATEMENT OF PURPOSE; SECTION 7-21, BOUNDARIES OF THE JAMES CITY COUNTY TOURISM ZONE; SECTION 7-22, DEFINITIONS; SECTION 7-23, QUALIFICATION FOR INCENTIVES; SECTION 7-24, INCENTIVE PERIOD; SECTION 7-25, LOCAL TOURISM ZONE INCENTIVES; SECTION 7-26, APPLICATION; AND SECTION 7-27, CONSTRUCTION AND SEVERABILITY.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 7, Economic Incentive Zones, is hereby amended by creating Article I, Enterprise Zone, with existing Sections 7-1 through 7-10; by adding Article II, Tourism Zone, Section 7-20, Statement of purpose; Section 7-21, Boundaries of the James City County tourism zone; Section 7-22, Definitions; Section 7-23, Qualification for incentives; Section 7-24, Incentive period; Section 7-25, Local tourism zone incentives; Section 7-26, Application; and Section 7-27, Construction and severability.

Chapter 7. ~~Enterprise~~ *Economic Incentive Zones*

Article I. Enterprise Zone

Section 7-1. Statement of purpose.

Section 7-2. Boundaries of the James River Enterprise Zone.

Section 7-3. Definitions.

Section 7-4. Qualification for incentives.

Section 7-5. Local enterprise zone incentives.

Section 7-6. Application.

Section 7-7. Appeals.

Section 7-8. Enterprise zone administrator.

Section 7-9. Administrative regulations.

Section 7-10. Construction and serviceability.

Sections 7-11 – 7-19. Reserved.

Article II. Tourism Zone

Section 7-20. Statement of purpose.

The Virginia Code authorizes Virginia localities to establish, by ordinance, one or more tourism zones for the purpose of granting tax incentives and providing regulatory flexibility to qualified businesses.

The purpose of the Tourism Zone is to promote James City County's tourism industry by providing incentives to eligible business entities that will attract visitors, create new employment opportunities and/or promote educational opportunities while increasing travel-related revenue within the County.

Section 7-21. Boundaries of the James City County Tourism Zone.

The entire county shall be designated as a Tourism Zone.

Section 7-22. Definitions.

For the purpose of this Chapter, the following words and phrases shall have the meanings ascribed to them by this section, unless clearly indicated to the contrary:

Base year. The calendar year preceding the calendar year in which the applicant submits the Tourism Zone Program Application to Office of Economic Development.

Business. Any corporation, partnership, electing small business (subchapter S) corporation, limited-liability company or sole proprietorship authorized to conduct business in the Commonwealth and subject to the state income tax on net corporate rate income (section 58.1-400, et seq. of the Virginia Code). A business does not include organizations which are exempt from state income tax on all income except unrelated business taxable income as defined in the Federal Internal Revenue Code, Section 512, nor does it include homeowners associations as defined in Federal Internal Revenue Code, Section 528.

Capital investment. Money used by a tourism business to purchased fixed assets and not money used for day-to-day operating expenses.

Development review fees. Fees assessed by the county divisions of engineering and resource protection and planning.

Existing tourism business. A tourism business that actively engaged in the conduct of trade or business in the county before being included within a tourism zone pursuant to this chapter.

Fixed asset. A long-lived tangible piece of property owned by a tourism business used by the tourism business in the production of income including real estate and plant, machinery and tools which triggers the payment of taxes to the county.

Incentive period. A five year period during which a qualified tourism business receives the benefit of tourism zone incentives.

New tourism business. A tourism business not already in existence within the county prior to an area being designated as a tourism zone pursuant to this chapter.

Office of economic development (OED). The James City County office of economic development.

Qualified tourism business. A tourism business that has met the qualifications set forth in Section 7-23 and continues to meet such qualifications as required by this chapter.

Tourism business. A business whose primary purpose is to provide tourism products, processes or related services and establish a desirable destination to attract tourists from outside of the community and create an environment for those visitors that will deliver a memorable experience or promote educational opportunities and increase travel-related revenue in James City County.

Tourism products, processes or related services. Activities which promote and provide an experience for visitors to the county including, but not limited to: cultural or historical sites; recreation or athletic facilities; areas of scenic beauty or distinctive natural phenomena; family oriented destinations; tours; special events within the county; museums; wineries or related activities; and lodging that involves restoration or rehabilitation of an existing structure or includes new construction of a facility supporting rooms for overnight stay and conference space.

Tourism zone. A specific geographic area or areas created pursuant to Chapter 38, Title 58.1 of the Code of Virginia, 1950, as amended, to foster the development and expansion of tourism businesses in the county.

Tourism zone administrator. The tourism zone administrator shall be the county's director of economic development.

Section 7-23. Qualification for incentives.

For a tourism business to be a qualified tourism business eligible to receive the benefit of tourism zone incentives, it must be located within the boundaries of the tourism zone and meet the following criteria:

- a) Provide new capital Investment of at least \$350,000.*
 - i) Tourism businesses must meet and maintain the minimum qualifying investment levels through year five of the incentive period.*
- b) Submit a tourism zone application as required in section 7-26.*

The qualified tourism business must commit to a performance based agreement guaranteeing certain investments, sales revenues, or other criteria as determined by the county. In those areas designated by multiple incentive zones, a business may receive local incentives from only one.

The following limitations apply:

- a) *An existing tourism business shall not qualify for tourism zone incentives by reorganizing or changing its form in a manner that does not alter the basis of the tourism business assets or result in a taxable event.*
- b) *If a qualified tourism business fails to pay in full any taxes imposed by the county by the due date, this may result in the forfeiture of the tourism zone incentives for that year.*
- c) *If a qualified tourism business files for bankruptcy during any five-year incentive period, this will result in disqualification and the business will be ineligible to receive tourism zone incentives for the remainder of the incentive period.*
- d) *In the event that a qualified tourism business ceases to meet the minimum capital investment criteria or removes itself from operation from within the county at any time within any five-year incentive period, it shall be required to repay the total amount of the tourism zone incentives received.*
- e) *If a qualified tourism business leaves the county to conduct business in another location within five years of completing any five-year incentive period, it will be required to repay the county the total amount of tourism zone incentives received.*

Section 7 -24. Incentive period.

Qualified tourism businesses shall receive the benefits of the tourism zone incentives for a five year incentive period. Qualified tourism businesses that have completed one five-year incentive period may seek qualification for one additional incentive period of five years and will be required to provide a new capital investment of \$350,000.

Section 7-25. Local tourism zone incentives.

Qualified tourism businesses located within the boundaries of the tourism zone shall be eligible for the following:

- a) *Reduction of selected development review fees. The county shall reduce by 50%, development review fees (as defined in Section 7-22) associated with the qualifying project.*
- b) *Business professional and occupancy license (BPOL) grant. - Qualified businesses located within a tourism zone may be eligible to receive from the economic development authority a five year declining grant to compensate the qualified business for the increase in BPOL based upon the increased capital investment.*
- c) *Business tangible personal property grant. Qualified businesses located within the tourism zone may be eligible to receive from the economic development authority a five year declining grant to compensate the qualified business for the increase in business tangible personal property tax triggered by the increased capital investment.*

The percentage for a five-year declining grant in shall be determined by the following schedule:

Year 1 – 90%

Year 2 – 70%

Year 3 – 50%

Year 4 – 40%

Year 5 – 30%

For existing tourism businesses, grants shall be based only on the taxes assessed on the portion of gross receipts directly attributable to the increased capital investment.

d) Expedited review process. The qualified business may be eligible for the county's expedited review process. The standard expedited review process fee will be waived.

Nothing herein shall be construed as limiting the county or the economic development authority from granting any additional incentives as may be permitted by law to tourism businesses on a case-by-case basis including, but not limited to, incentives granted pursuant to performance agreements and individualized arrangements with or without the involvement of the James City County economic development authority.

Section 7-26. Application.

Prior to submitting an application, a tourism business will schedule a preliminary meeting with the OED, prior to any investment. Once an application is submitted, the OED will perform an initial review to determine if the applicant is a qualified tourism business and that the proposed project meets the required criteria and is in compliance with the tourism zone qualifications.

Once the review is completed, the application and recommendation will be forwarded to the economic development authority for a decision.

Section 7-27. Construction and Severability.

This chapter shall be liberally construed so as to effectuate the purposes hereof. If any clause, sentence, paragraph, section or subsection of this chapter shall be adjudged by any court of competent jurisdiction to be invalid for any reason, including a declaration that is contrary to

the constitution of the Commonwealth or of the United States, or if the application thereof to any government agency, person or circumstance is held invalid, such judgment or holding shall be confined in its operation to the clause, sentence, paragraph, section or subsection hereof, or the specific application hereof, directly involved in the controversy in which the judgment or holding shall be rendered or made and shall not in any way affect the validity of any other clause, sentence, paragraph, section or subsection hereof, or affect the validity of the application thereof to any other government agency, person or circumstance.

Mary K. Jones
Chairman, Board of Supervisors

ATTEST:

Robert C. Middaugh
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 10th day of January, 2012.

TourismZone_ord

VIRGINIA ACTS OF ASSEMBLY -- 2008 SESSION

CHAPTER 462

An Act to amend and reenact § 58.1-3851 of the Code of Virginia, relating to local tourism zones.

[S 591]

Approved March 7, 2008

Be it enacted by the General Assembly of Virginia:

1. That § 58.1-3851 of the Code of Virginia is amended and reenacted as follows:

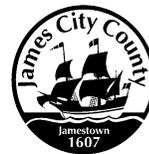
§ 58.1-3851. Creation of local tourism zones.

A. Any city, county, or town may establish, by ordinance, one or more tourism zones. Each locality may grant tax incentives and provide certain regulatory flexibility in a tourism zone.

B. The tax incentives may be provided for up to ~~10~~ 20 years and may include, but not be limited to (i) reduction of permit fees, (ii) reduction of user fees, and (iii) reduction of any type of gross receipts tax. The extent and duration of such incentive proposals shall conform to the requirements of the Constitutions of Virginia and of the United States.

C. The governing body may also provide for regulatory flexibility in such zone that may include, but not be limited to (i) special zoning for the district, (ii) permit process reform, (iii) exemption from ordinances, excluding ordinances or provisions of ordinances adopted pursuant to the requirements of the Chesapeake Bay Preservation Act (§ 10.1-2100 et seq.), the Erosion and Sediment Control Law (§ 10.1-560 et seq.), or the Virginia Stormwater Management Act (§ 10.1-603.1 et seq.), and (iv) any other incentive adopted by ordinance, which shall be binding upon the locality for a period of up to 10 years.

D. The establishment of a tourism zone shall not preclude the area from also being designated as an enterprise zone.



MEMORANDUM COVER

Subject: Ordinance to Amend Chapter 2, Administration to Adjust Election District Boundaries

Action Requested: Shall the Board adopt an ordinance adjusting election district boundaries to coincide with the General Assembly’s district lines?

Summary: In review of the James City County Election Boundary Map that was recently adopted, it was discovered that three very small census blocks needed to change precincts in order to follow the General Assembly’s district lines. These changes do not affect the County’s election districts in any way and the total population in each block is zero.

Staff recommends adoption of the ordinance.

Fiscal Impact: N/A

FMS Approval, if Applicable: Yes No

Assistant County Administrator

Doug Powell _____

County Administrator

Robert C. Middaugh _____

- Attachments:**
- 1. Memorandum
 - 2. Ordinance
 - 3. Resolution
 - 4. James City County Redistricting Map, as Amended January 10, 2012
 - 5. Map – Roberts District Census Block Changes
 - 6. Map – Jamestown District Census Block Changes

Agenda Item No.: H-5

Date: January 10, 2012

MEMORANDUM

DATE: January 10, 2012

TO: The Board of Supervisors

FROM: Leo P. Rogers, County Attorney

SUBJECT: Ordinance to Amend Chapter 2, Administration to Adjust Election District Boundaries and Resolution Adopting Amended Map

Staff compared the James City County Election Boundary Map adopted by the Board on April 26, 2011, with the redistricting map adopted by the General Assembly. Due to the use of different software programs by the County and the State, there are three census blocks which need to be moved that will affect four precinct boundaries. A census block in Jamestown A is being moved to Jamestown B and two census blocks in Roberts A are being moved to Roberts B. No voters are affected by these minor adjustments to precinct boundaries. Adoption of the attached ordinance and resolution will make James City County's precinct boundaries consistent with the district boundaries drawn by the State.

I recommend adoption of the attached ordinance and resolution.

Leo P. Rogers

LPR/nb
ElectDistBound_mem

Attachments

ORDINANCE NO.

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 2, ADMINISTRATION, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE II, MAGISTERIAL DISTRICT, ELECTION DISTRICTS AND ELECTION PRECINCTS, BY AMENDING SECTION 2-5, ELECTION DISTRICT BOUNDARIES.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 2, Administration, is hereby amended and reordained by amending Section 2-5, Election district boundaries.

Chapter 2. Administration

Article II. Magisterial District, Election Districts and Election Precincts

Sec. 2-5. Election district boundaries.

Jamestown Election District 02:

Precinct 0201. Beginning at the intersection of State Route 5 and State Route 199; thence southeasterly following the centerline of State Route 5 to its intersection with the James City County-City of Williamsburg boundary line; thence northerly along the James City County-City of Williamsburg boundary line to its intersection with the ~~northeast corner of Parcel 3842300003; thence southwesterly following the Parcel 3842300003 property line to its intersection with the easterly line of Parcel 3842300004; thence southerly following the Parcel 3842300004 property line to its intersection with Ironbound Road~~ **centerline of Ironbound Road and Parcel 3842300001**; thence westerly following the centerline of Ironbound Road to its intersection with the line extending from the centerline of Ironbound Road; thence westerly following the extended line to its intersection with State Route 199; thence southeasterly following the centerline of State Route 199 to its intersection with Mill Creek; thence southerly following Mill Creek to its intersection with State Route 5; thence northeasterly following the centerline of State Route 5 to the point of beginning.

Precinct 0202. Beginning at the intersection of Monticello Avenue and the James City County-City of Williamsburg boundary line; thence northerly following the James City County-City of Williamsburg boundary line to its intersection with State Route 645; thence easterly following the centerline of State Route 645 to its intersection with U.S. Route 60; thence northerly following the centerline of U.S. Route 60 to its intersection with Olde Towne Road; thence southwesterly following the centerline of Olde Towne Road to its intersection with State Route 612; thence southeasterly following the centerline of State Route 612 to its intersection with State Route 199; thence southerly to its intersection with a line extending easterly from the centerline of Ironbound Road; thence southwesterly following the centerline of Ironbound Road to its intersection with State Route 5; thence easterly following the centerline of State Route 5 to its intersection with Mill Creek; thence northerly following the centerline of Mill Creek to its intersection with State Route 199; thence northwesterly following the centerline of State Route 199 to its intersection with the line extending from the centerline of Ironbound Road; thence easterly following the extended line and the centerline of Ironbound Road to its intersection with the southeast corner of Parcel 3842300004 *and the James City County-City of Williamsburg boundary line*; thence northerly following the property line of Parcel 3842300004 to its intersection with the property line of Parcel 3842300003; thence northeasterly following the property line of Parcel 3842300003 to its intersection with the James City County-City of Williamsburg boundary line; thence northeasterly following the James City County-City of Williamsburg boundary line to the point of beginning.

Roberts Election District 05:

Precinct 0501. Starting at the intersection of the centerline of the James River and a line extending from the Grove Creek; thence northerly following the centerline of Grove Creek and a line extending to the Busch Service Road at a point 1,200 feet from U.S. Route 60; thence northeasterly following the centerline of the Busch Service Road to a point 640 feet from U.S. Route 60; thence northwesterly on a line intersecting with the eastern border of Parcel 5140010009 542 feet from its northeast corner; thence on a line due north to its intersection with U.S. Route 60; thence southeasterly following the centerline of U.S. Route 60 to its intersection with a line extending from the eastern line of Parcel 5230100002 and the James City County-York County boundary line; thence northeasterly following the James City County-York County boundary line to its intersection with W. Boundary Road; thence southerly following the James City County-York County boundary line to its intersection with the James City County-City of Newport News boundary line and the centerline of Skiffes Creek Reservoir; thence southerly following the centerline of Skiffes Creek Reservoir and

~~the James City County-City of Newport News boundary line until Skiffes Creek Reservoir changes to Skiffes Creek; thence southerly following the centerline of Skiffes Creek and the James City County-City of Newport News boundary line to the centerline of the James River; thence northerly following the centerline of the James River to the point of beginning.~~ *Starting at the intersection of the centerline of the James River and a line extending from the Grove Creek; thence northerly following the centerline of Grove Creek to its intersection with the Dominion Virginia Power easement; thence northwesterly following the centerline of the Dominion Virginia Power easement to the intersection with the James City County-York County border; thence easterly following the James City County-York County boundary line; then southerly following the James City County-York County boundary line to its intersection with the James City County-Newport News boundary line; thence southerly following the James City County-Newport News boundary to the centerline of the James River; thence northerly following the centerline of the James River to the point of beginning.*

~~Precinct 0502. Starting at the intersection of the centerline of the James River and a line extending from the unnamed creek at the southeast corner of Kingsmill; thence northerly following the unnamed creek and a line extending to the Busch Service Road at a point 1,200 feet from U.S. Route 60; thence northeasterly following the centerline of the Busch Service Road to a point 640 feet from U.S. Route 60; thence northwesterly on a line intersecting with the eastern border of Parcel 5140010009 542 feet from its northeast corner; thence on a line due north to its intersection with the James City County-York County boundary line;~~ *Starting at the intersection of the centerline of the James River and a line extending from the Grove Creek; thence northerly following the centerline of Grove Creek to its intersection with the Dominion Virginia Power easement; thence northwesterly following the centerline of the Dominion Virginia Power easement to the intersection with the James City County-York County border;* thence northwesterly following the James City County-York County boundary line to the point where it intersects with State Route 199; thence westerly following the centerline of State Route 199 to its intersection with the Colonial National Historical Parkway; thence southerly following the centerline of the Colonial National Historical Parkway to the intersection of an extended line with the centerline of the James River; thence easterly following the centerline of the James River to the point of beginning.

Mary K. Jones
Chairman, Board of Supervisors

ATTEST:

Robert C. Middaugh
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 10th day of January, 2012.

ElectDistBound_ord

RESOLUTION

ADOPTING THE AMENDED JAMES CITY COUNTY REDISTRICTING MAP

WHEREAS, on April 26, 2011, the Board adopted the redistricting map identified as “James City County Redistricting Option 1, submitted by Jeff Ryer” and establishing new boundaries for election districts in James City County; and

WHEREAS, in order to be consistent with the redistricting map approved by the General Assembly, three census blocks need to be changed, affecting four precinct boundaries; and

WHEREAS, making these minor changes to the County’s redistricting map will affect no voters and will not change the size or population of any of the County’s four election districts.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby adopts the James City County Redistricting Map as Amended on January 10, 2012.

Mary K. Jones
Chairman, Board of Supervisors

ATTEST:

Robert C. Middaugh
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 10th day of
January, 2012.

ElectDistBound_res

York
County

State Senate
District Lines



Census Block
510950801011031
Total Population = 0
move to Roberts B

Pocahontas Trl

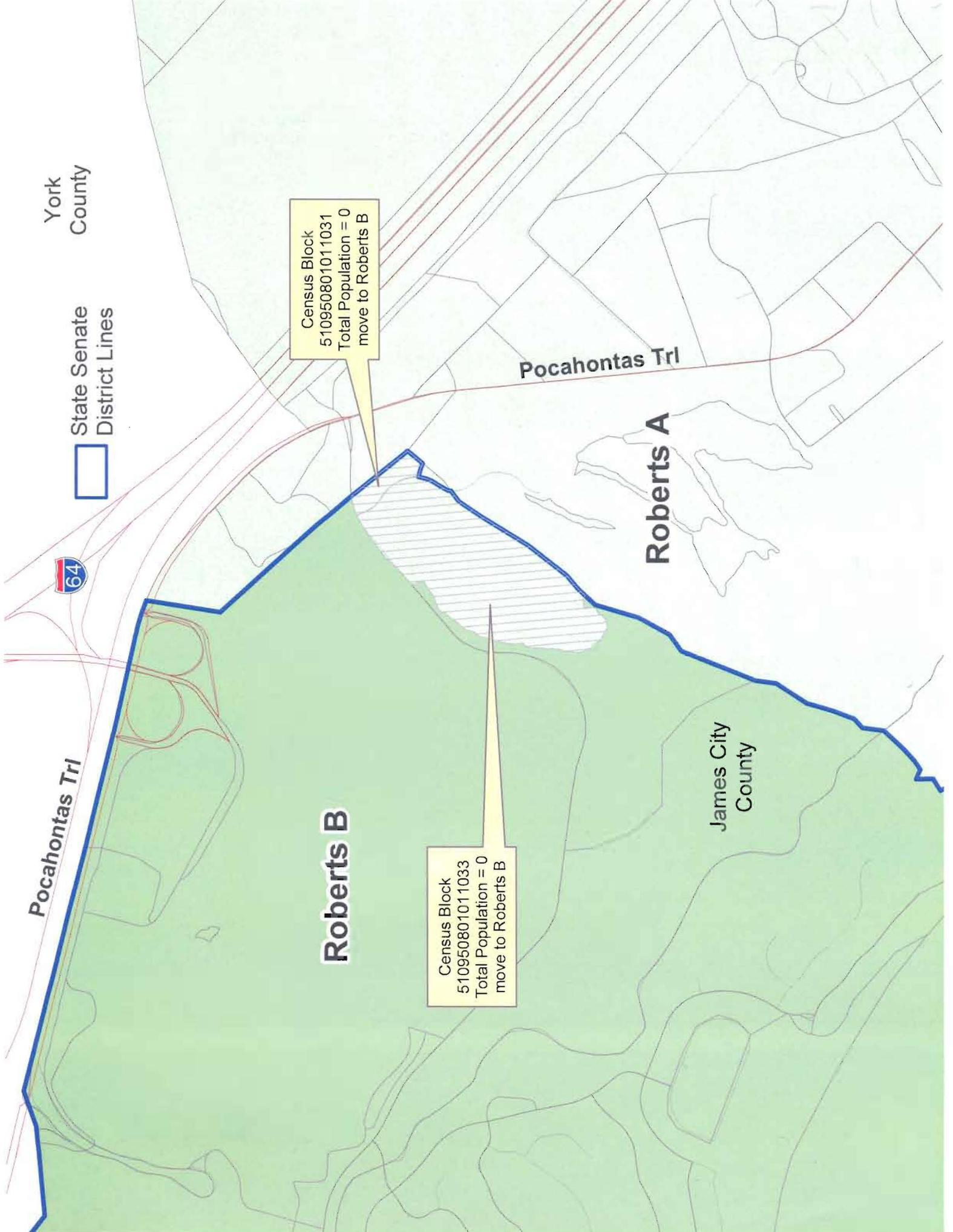
Roberts A

Pocahontas Trl

Roberts B

Census Block
510950801011033
Total Population = 0
move to Roberts B

James City
County





Monticello Ave

City of Williamsburg

Census Block
510950802052066
Total Population = 0
move to Jamestown B

State House District Line

Ironbound Rd

Monticello Ave

Jamestown B

James City County

Ironbound Rd

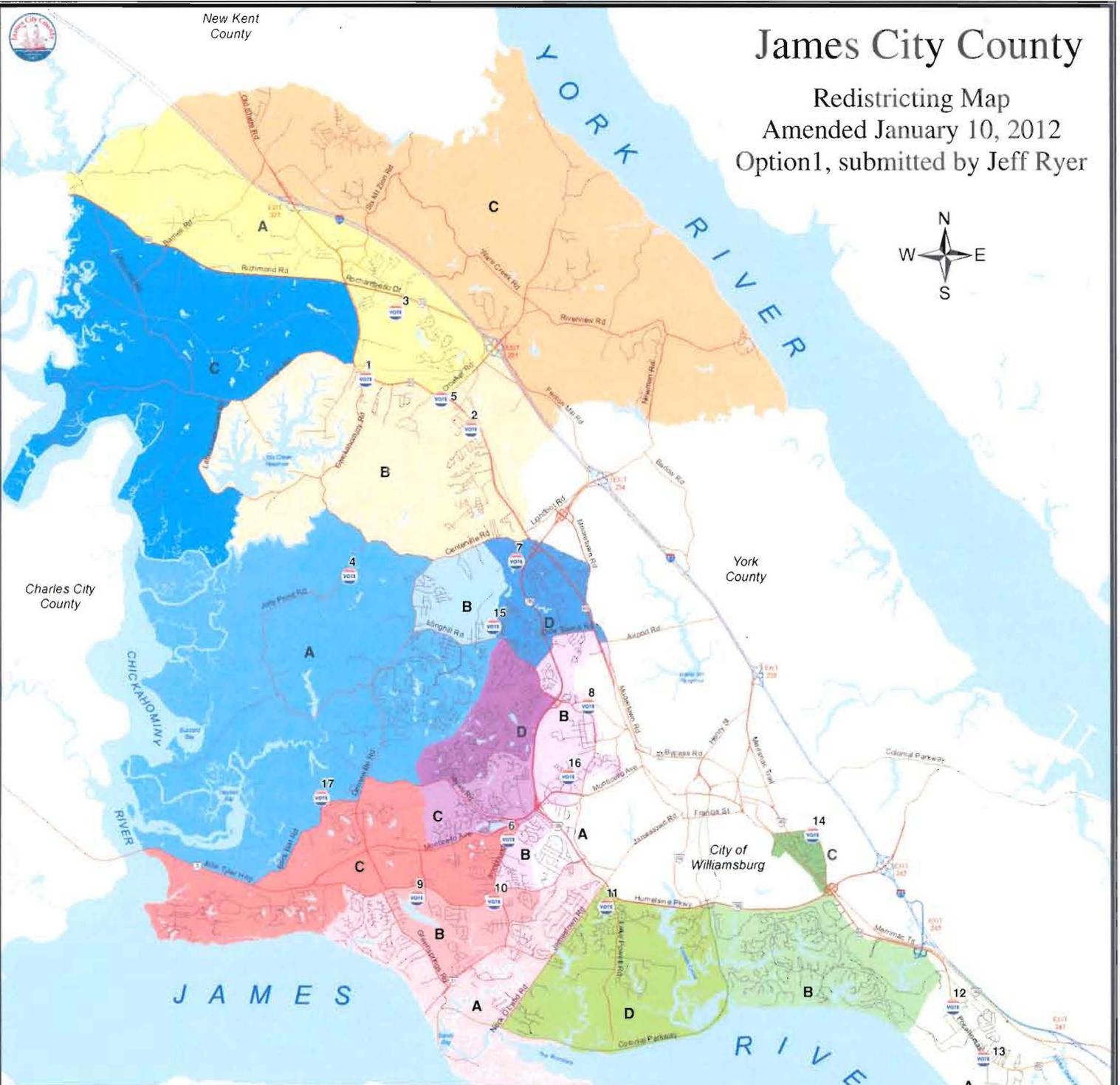
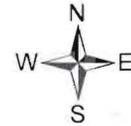
Jamestown A



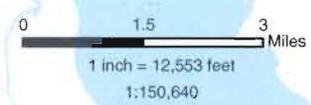
New Kent
County

James City County

Redistricting Map
Amended January 10, 2012
Option 1, submitted by Jeff Ryer



Election District	Voting Precinct	State House District	State Senate District	Polling Place
Stonehouse	Stonehouse A	96th	3rd	Cross Walk Community Church (5)
	Stonehouse B	96th	3rd	Norge Elementary School (2)
	Stonehouse C	96th	3rd	Stonehouse Elementary School (3)
Powhatan	Powhatan A	96th	3rd	Hornsby Middle School (4)
	Powhatan B	96th	1st	Lafayette High School (15)
	Powhatan C	96th	3rd	Toano Middle School (1)
	Powhatan D	96th	1st	Warhill High School (7)
Jamestown	Jamestown A	93rd	1st	Legacy Hall (16)
	Jamestown B	96th	1st	JCC/Wmsbg Community Center (8)
	Jamestown C	96th	3rd	Greensprings Chapel (6)
	Jamestown D	96th	3rd	JCC/Wmsbg Community Center (8)
Berkeley	Berkeley A	93rd	3rd	Jamestown High School (9)
	Berkeley B	96th	3rd	Clara Byrd Baker Elementary School (10)
	Berkeley C	96th	3rd	Matoaka Elementary School (17)
Roberts	Roberts A	93rd	1st	James River Elementary School (13)
	Roberts B	93rd	3rd	Mount Gilead Baptist Church (12)
	Roberts C	93rd	1st	Grace Baptist Church (14)
	Roberts D	93rd	3rd	Rawls Byrd Elementary (11)



This drawing is neither a legally recorded map nor a survey and is not intended to be used as such. The information displayed is a compilation of records, information, and data obtained from various sources, and James City County is not responsible for its accuracy or how current it may be. If discrepancies are found, please contact the Real Estate Assessment Division of James City County, Mapping/GIS Section.

Isle of Wight
County