

**Policy Committee
Government Center Complex
Large Conference Room, Building A**

February 9, 2011 - 6:00 p.m.

A. Roll Call

B. Minutes

C. Old Business

D. New Business

Residential Districts Zoning Ordinance Updates

- Attachment 2 - VAC (Word)
- Attachment 3 (Word)
- Cluster Attachment 1 (PDF)
- Cluster Memorandum (Word)
- Residential Districts 1 (Word)
- VA Housing Trends VHDA Pub - Attachment 1 (PDF)

E. Adjournment

All agendas are posted on this web site the Friday before each meeting. Copies of DRC minutes and staff reports may be obtained by contacting the Planning office.

ATTACHMENT 2

VIRGINIA CODE

§ 15.2-2305. Affordable dwelling unit ordinances.

A. In furtherance of the purpose of providing affordable shelter for all residents of the Commonwealth, the governing body of any locality, other than localities to which § [15.2-2304](#) applies, may by amendment to the zoning ordinances of such locality provide for an affordable housing dwelling unit program. Such program shall address housing needs, promote a full range of housing choices, and encourage the construction and continued existence of housing affordable to low and moderate income citizens, determined in accordance with the locality's definition of affordable housing, by providing for increases in density to the applicant in exchange for the applicant providing such affordable housing. Any local ordinance providing optional increases in density for provision of low and moderate income housing adopted before December 31, 1988, shall continue in full force and effect. Any local ordinance may authorize the governing body to (i) establish qualifying jurisdiction-wide affordable dwelling unit sales prices based on local market conditions, (ii) establish jurisdiction-wide affordable dwelling unit qualifying income guidelines, and (iii) offer incentives other than density increases, such as reductions or waiver of permit, development, and infrastructure fees, as the governing body deems appropriate to encourage the provision of affordable housing. Counties to which § [15.2-2304](#) applies shall be governed by the provisions of § [15.2-2304](#) for purposes of the adoption of an affordable dwelling unit ordinance.

B. Any zoning ordinance establishing an affordable housing dwelling unit program may include, among other things, reasonable regulations and provisions as to any or all of the following:

1. A definition of affordable housing and affordable dwelling units.
2. For application of the requirements of an affordable housing dwelling unit program to any site, as defined by the locality, or a portion thereof at one location which is the subject of an application for rezoning or special exception or, at the discretion of the local governing body, site plan or subdivision plat which yields, as submitted by the applicant, at an equivalent density greater than one unit per acre and which is located within an approved sewer area.
3. For an increase of up to 30 percent in the developable density of each site subject to the ordinance and for a provision requiring up to 17 percent of the total units approved, including the optional density increase, to be affordable dwelling units, as defined in the ordinance. In the event a 30 percent increase is not achieved, the percentage of affordable dwelling units required shall maintain the same ratio of 30 percent to 17 percent.
4. For increases by up to 30 percent of the density or of the lower and upper end of the density range set forth in the comprehensive plan of such locality applicable to rezoning and special exception applications that request approval of single family detached dwelling units or single family attached dwelling units, when such applications are approved after the effective date of a local affordable housing zoning ordinance amendment.

5. For a requirement that not less than 17 percent of the total number of dwelling units approved pursuant to a zoning ordinance amendment enacted pursuant to subdivision B 4 of this section shall be affordable dwelling units, as defined by the local zoning ordinance unless reduced by the 30 to 17 percent ratio pursuant to subdivision B 3 of this section.

6. For establishment of a local housing fund as part of its affordable housing dwelling unit program to assist in achieving the affordable housing goals of the locality pursuant to this section. The local housing fund may be a dedicated fund within the other funds of the locality, but any funds received pursuant to this section shall be used for achieving the affordable housing goals of the locality.

7. For reasonable regulations requiring the affordable dwelling units to be built and offered for sale or rental concurrently with the construction and certificate of occupancy of a reasonable proportion of the market rate units.

8. For standards of compliance with the provisions of an affordable housing dwelling unit program and for the authority of the local governing body or its designee to enforce compliance with such standards and impose reasonable penalties for noncompliance, provided that a local zoning ordinance provide for an appeal process for any party aggrieved by a decision of the local governing body.

C. For any building which is four stories or above and has an elevator, the applicant may request, and the locality shall consider, the unique ancillary costs associated with living in such a building in determining whether such housing will be affordable under the definition established by the locality in its ordinance adopted pursuant to this section. However, for localities under this section in Planning District Eight, nothing in this section shall apply to any elevator structure four stories or above.

D. Any ordinance adopted hereunder shall provide that the local governing body shall have no more than 280 days in which to process site or subdivision plans proposing the development or construction of affordable housing or affordable dwelling units under such ordinance. The calculation of such period of review shall include only the time that plans are in review by the local governing body and shall not include such time as may be required for revision or modification in order to comply with lawful requirements set forth in applicable ordinances and regulations.

E. A locality establishing an affordable housing dwelling unit program in any ordinance shall establish in its general ordinances, adopted in accordance with the requirements of § [15.2-1427](#) B, reasonable regulations and provisions as to any or all of the following:

1. For administration and regulation by a local housing authority or by the local governing body or its designee of the sale and rental of affordable units.

2. For a local housing authority or local governing body or its designee to have an exclusive right to purchase up to one-third of the for-sale affordable housing dwelling units within a development within ninety days of a dwelling unit being completed and ready for purchase,

provided that the remaining two-thirds of such units be offered for sale exclusively for a ninety-day period to persons who meet the income criteria established by the local housing authority or local governing body or the latter's designee.

3. For a local housing authority or local governing body or its designee to have an exclusive right to lease up to a specified percentage of the rental affordable dwelling units within a development within a controlled period determined by the housing authority or local governing body or its designee, provided that the remaining for-rental affordable dwelling units within a development be offered to persons who meet the income criteria established by the local housing authority or local governing body or its designee.

4. For the establishment of jurisdiction-wide affordable dwelling unit sales prices by the local housing authority or local governing body or the latter's designee, initially and adjusted semiannually, based on a determination of all ordinary, necessary and reasonable costs required to construct the affordable dwelling unit prototype dwellings by private industry after considering written comment by the public, local housing authority or advisory body to the local governing body, and other information such as the area's current general market and economic conditions, provided that sales prices not include the cost of land, on-site sales commissions and marketing expenses, but may include, among other costs, builder-paid permanent mortgage placement costs and buy-down fees and closing costs except prepaid expenses required at settlement.

5. For the establishment of jurisdiction-wide affordable dwelling unit rental prices by a local housing authority or local governing body or its designee, initially and adjusted semiannually, based on a determination of all ordinary, necessary and reasonable costs required to construct and market the required number of affordable dwelling rental units by private industry in the area, after considering written comment by the public, local housing authority, or advisory body to the local governing body, and other information such as the area's current general market and economic conditions.

6. For a requirement that the prices for resales and rerentals be controlled by the local housing authority or local governing body or designee for a period of not less than 15 years nor more than 50 years after the initial sale or rental transaction for each affordable dwelling unit, provided that the ordinance further provide for reasonable rules and regulations to implement a price control provision.

7. For establishment of an affordable dwelling unit advisory board which shall, among other things, advise the jurisdiction on sales and rental prices of affordable dwelling units; advise the housing authority or local governing body or its designees on requests for modifications of the requirements of an affordable dwelling unit program; adopt regulations concerning its recommendations of sales and rental prices of affordable dwelling units; and adopt procedures concerning requests for modifications of an affordable housing dwelling unit program. Members of the board, to be ten in number and to be appointed by the governing body, shall be qualified as follows: two members shall be either civil engineers or architects, each of whom shall be registered or certified with the relevant agency of the Commonwealth, or planners, all of whom shall have extensive experience in practice in the locality; one member shall be a real estate

salesperson or broker, licensed in accordance with Chapter 21 (§ [54.1-2100](#) et seq.) of Title 54.1; one member shall be a representative of a lending institution which finances residential development in the locality; four members shall consist of a representative from a local housing authority or local governing body or its designee, a residential builder with extensive experience in producing single-family detached and attached dwelling units, a residential builder with extensive experience in producing multiple-family dwelling units, and a representative from either the public works or planning department of the locality; one member may be a representative of a nonprofit housing organization which provides services in the locality; and one citizen of the locality. At least four members of the advisory board shall be employed in the locality.

F. A locality establishing an affordable housing dwelling unit program in any ordinance shall establish in its general ordinances, adopted in accordance with the requirements of subsection B of § [15.2-1427](#), reasonable regulations and provisions as to the following:

The sales and rental price for affordable dwelling units within a development shall be established such that the owner/applicant shall not suffer economic loss as a result of providing the required affordable dwelling units. "Economic loss" for sales units means that result when the owner or applicant of a development fails to recoup the cost of construction and certain allowances as may be determined by the designee of the governing body for the affordable dwelling units, exclusive of the cost of land acquisition and cost voluntarily incurred but not authorized by the ordinance, upon the sale of an affordable dwelling unit.

(1990, c. 834, § 15.1-491.9; 1991, c. 599; 1992, c. 244; 1993, c. 437; 1994, cc. [88](#), [679](#); 1996, cc. [233](#), [426](#); 1997, cc. [587](#), [607](#); 2007, cc. [695](#), [713](#); 2008, c. [790](#).)

ATTACHMENT 3

DESIGN ELEMENTS/PUBLIC BENEFITS

The applicant shall demonstrate to the Planning Commission that the proposal provides at least 5 of the following site design elements that could not be attained through a project designed under conventional zoning:

1. Variety of housing types or high percentage of affordable dwelling units;
2. Redevelopment or reuse of brownfield or greyfield sites;
3. Pedestrian-oriented design with buildings oriented to the sidewalk and parking/garages to the side or rear of the site;
4. Pedestrian links to surrounding destinations (such as public facilities or employment opportunities);
5. Provision of bus shelter in reasonable proximity, with approval of WATA;
6. High quality architectural design;
7. Extensive landscaping beyond what is otherwise required
8. Preservation, enhancement, or restoration of natural resources (trees, slopes, non-regulated wetland areas, views);
9. Preservation or restoration of historic resources;
10. Provision of usable open space or public plazas or features;
11. Efficient consolidation of poorly dimensioned parcels or property with difficult site conditions (ie topography, shape, existing non-conforming status for something other than use);
12. Effective transition between higher and lower density uses, and/or between non-residential and residential uses; or allow incompatible adjacent land uses to be developed in a manner that is not possible using a conventional approach;
13. Integration of residential and non-residential uses;
14. Shared vehicular access between properties or uses;
15. Mitigation to offset impacts on public facilities (such as road improvements);
16. Improvements to at least two types of infrastructure (water, sewer, drainage, streets, access);
17. Significant use of sustainable building and site design features such as: water use reduction, water efficient landscaping, innovative wastewater technologies, low impact stormwater management, optimize energy performance, on-site renewable energy, passive solar heating, reuse/recycled/renewable materials, indoor air quality or other elements identified as sustainable by established groups such as the U.S. Green Building Council.

PERMITTED MODIFICATIONS

1. Reduced minimum lot area;
2. No minimum lot width, except for required setbacks;
3. Reduced setbacks;
4. Modest increase of density (up to 30% over existing or previously permitted);
5. Minimal or no perimeter buffer; preservation of existing buffers

MEMORANDUM

DATE: February 9, 2011
TO: Policy Committee
FROM: Ellen Cook
SUBJECT: Cluster Overlay District

I. Introduction to Memo

The overall introduction to the Residential Districts can be found in the accompanying Residential Districts memo. This memo specifically discusses a component of the Residential Districts update, the Cluster Overlay District. The Cluster Overlay District has been in the Zoning Ordinance since at least 1985 and was last comprehensively updated in 1999. Development has been proposed and/or approved using the Cluster Overlay District Ordinance many times over the years. Examples of cluster development in the last 10 years include Michelle Point (partially developed), Monticello at Powhatan North (proposed but not approved), The Candle Factory redevelopment (proposed but not approved), Powhatan Terrace (approved but not yet developed), Mason Park (approved but not yet developed), Villas at Five Forks (partially developed), Villages at Whitehall (partially developed), and Walnut Grove (approved but not yet developed).

On September 25, 2007, members of the Better Site Design (BSD) Implementation Committee held a work session with the Board of Supervisors. The work session was to discuss the Committee's recommendations and get feedback. One of the items discussed was BSD Principle #10, Open Space Design, for which the committee had several recommendations for revisions to the current Cluster Overlay District Ordinance (see Attachment #1). Staff received feedback from the Board of Supervisors that these potential revisions to the Cluster Ordinance should be investigated after completion of the Comprehensive Plan.

Near the time of the Better Site Design Implementation Committee's work, consideration of a revised cluster concept for the Rural Lands was discussed and draft language was prepared. Some elements of the Rural Lands cluster language addressed ideas in the BSD Committee's recommendations, and are referenced in the discussion below.

II. Discussion Items

A. More guidance on open space development design and on what is considered "usable and meaningful open space"

1. Description of the Issue & History

As noted in attachment 1, the BSD Committee suggested better identifying the principles of open space design and better defining what is meant as "usable and meaningful open space" in order to ensure proper application of open space development principles. The Cluster Overlay District currently contains a description in the statement of intent, Section 24-538, that includes examples of the benefits expected in exchange for increased density, of which open space development design is one possibility. A short description of open space design elements is also included in this section. Section 24-554, review and approval process, also contains some

information about preservation of environmental integrity and how structures should be situated on the site. Finally, Sections 24-549 contains a description of superior layout and quality design, for which a 0.5 dwelling unit per acre bonus can be obtained.

2. Comprehensive Plan Goals, Strategies and Actions (GSAs), public input, Sustainability Audit, and Board Direction

- *The direction provided by the Board of Supervisors is described in the Introduction above.*
- *LU 1.3 - Use policy and ordinance tools to ensure the provision of open space. In particular, maintain or increase incentives for cluster development in exchange for additional open space that provides significant benefits to the community.*
- *The Sustainability Audit had a number of suggestions that related to the Cluster Overlay District. Specific items have been flagged throughout the memo by listed the Sustainability Audit item number in parentheses.*
- *Several groups spoke at the public forums in relation to the residential districts and/or the cluster ordinance, including the Chamber and Tourism Alliance, J4C, and Peninsula Housing and Builders Association. These remarks can be viewed at <http://www.jccplans.org/what.html>.*

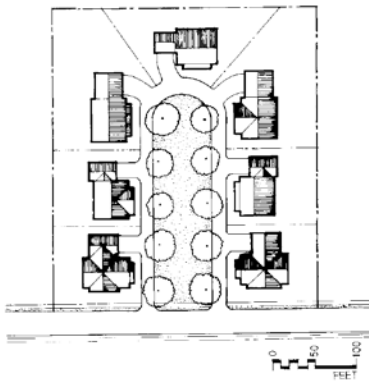
3. Policy Options

Based on the recommendations in the BSD Committee's report, the ordinance could be updated to provide direction on open space development design that is within the text of the district (instead of the statement of intent), is a more prominent element of the district with a more detailed list of values and an appropriate process that demonstrates consideration of these value, and is clearly understood to be a basic requirement of all cluster developments. The following are several specific suggestions for guidance for both the development design and the open space design.

Development Design

The ordinance could be revised to list desired development design items such as:

- *The project takes advantage of compact design through clustering development into a walkable scale neighborhood and preserving significant open space and natural features.*
- *Development that is designed to complement existing topography and minimize the need for alteration of the landscape*
- *Proposing a mixture of unit types and/or unit prices*
- *Creative design layout such as cottage housing (fronting on open space), patio homes (constructed with one side exterior wall along the side property line to allow side or rear yard garages), detached or attached homes on loop lanes (homes on streets surrounding a close – see graphic below), or homes with shared courtyards (Sustainability Audit item 32)*



Example of a Loop Lane Design

- Use of Better Site Design techniques such as group or shared parking, and shared driveways
- Units in the development have access to the conserved area by abutting it, or via sidewalks or trails

Open Space Design (Sustainability Audit items 38-40, 42, 45, 144)

Section 24-552 of the Cluster Overlay District requires that a certain percentage (up to 40%) of the developable area be set aside permanently as open space. It also states that all non-developable areas (see discussion of the non-developable area definition below) must be maintained as open space, if present on the site. (Cluster literature sometimes talks about these non-developable areas as “primary conservation features”.) Staff has identified two possible revisions to this section could help enhance the cluster provisions in accordance with the BSD Committee memo. First, this section could be amended to state that the non-developable area is not permitted to be included in the individual private lots. This is consistent with the principles of open space development.

The second possible revision relates that the fact that there is not much guidance on what is valued to be included in the required developable portion of the required open space. (This guidance would not require more open space, just help developers and staff better evaluate the plan.) Currently, there is basic language about what cannot be included (private yards, for example), and percentage limitations on inclusion of certain areas (golf courses can be counted for up to 30% of the requirement, and right-of-way and perimeter buffers can be counted for up to 50% of the requirement).

Additional guidance could be given that certain areas should be included, to the extent feasible, and consistent with the preservation of significant conservation resources that are identified up front at the master plan level, as “secondary conservation features.” Examples of these might be (some of these are examples drawn from the Rural Lands draft language):

- Existing healthy, native forests of at least two acres contiguous area;
- Other significant natural features and scenic viewsheds such as ponds and views to open water, particularly those that can be seen from public roads;
- Prime or statewide important agricultural lands of at least five acres contiguous area;
- Populations of endangered or threatened plant species, or habitat for such species (natural resource/natural areas inventory policy);
- Archaeological sites, cemeteries and burial grounds (archaeology policy);
- Recreation area – park land, playing field, trails and other features provided that meet the Parks and Recreation Master Plan guidelines (P&R policy);
- Buffers along road rights-of-way and property perimeters;

In terms of the location of the open space, additional guidance could be given, such as the following (as applicable):

- *Proposed open space should adjoin any neighboring areas of open space, other protected areas, and non-protected natural areas that would be candidates for inclusion as part of a future area of protected open space.*
- *Proposed open space should be prominently located and highly visible within the development, such as at the terminus of key views along roads, at the intersection of arterial or collector streets, at topographic high points or centrally located within a residential area. (Sustainability Audit item 61)*
- *Open spaces should be connected to the extent possible (i.e., not located in medians or scattered small pockets), and should be located to as to benefit the maximum number of units.*

In addition, guidance could be given on the open space component meant for recreation, especially for proposed clusters where there are few existing natural features (forest, habitat, etc.) or agriculture. During the last update of the Parks & Recreation Master Plan, more guidance on mini-parks/neighborhood parks was included that significantly addresses this item. The Parks and Recreation neighborhood parks standards (such as standards for contiguous pieces rather than scattered, isolated or remnant lands; width standard; level; minimum % groomed; within certain distance of lots it is intended to serve; recreation areas accessible via paths or sidewalks, etc.) could be adopted to apply to all required open space that is intended for recreational use. (Sustainability Audit item 61)

Finally, it may be worth considering putting a limit on the amount of certain uses that can be counted as open space. As noted above, currently golf courses can be counted for up to 30% of the requirement, and the developable area of right-of-way and perimeter buffers can be counted for up to 50% of the requirement. Staff has no suggestions to change these two items. The Sustainability Audit suggests adding a provision that limits the area of permitted water bodies, stormwater facilities or other required site plan elements to 50% of the open space requirement, to ensure that the open space is truly usable to the residents for active or passive recreation. (Sustainability Audit item 61)

Other elements that address this item are discussed below, particularly the process discussion.

5. Staff recommendation

Staff recommends providing additional guidance on desired open space design, as generally described above. This could take the form of design guidelines in the ordinance, or possibly in the form of a separate document which is referenced in the ordinance.

B. Cluster Approval Process

1. Description of the Issue and History

Literature on cluster development design often emphasizes using conceptual plans to improve outcomes and increase predictability for the developer and the community. The ordinance currently just requires a master plan for cluster development, but does not require a conceptual plan. It sometimes occurs that once a master plan has been drawn up, a significant amount of time and resources have been invested to the point where there is resistance to changes, even if they may be viewed in a positive light by all parties.

2. Comprehensive Plan GSAs, public input, Sustainability Audit, and Board Direction

See item A above.

3. Policy Options

A conceptual plan could help avoid these situations, which is perhaps even more critical for cluster development, where proper information about the site is essential in creating a design that results in meaningful and useful open space.

4. Staff Recommendation

Staff recommends requiring submission of a conceptual plan/sketch plan prior to submission of a master plan which shows the non-developable land and the secondary conservation features, the development and stormwater management conceptual design, and demonstrates that land proposed for recreation is suitable. This concept/sketch plan should be designed in accordance with the graphics and standards in the ordinance and any development design guidebook (see next discussion). The elements of this conceptual plan should also be coordinated with the other submittal requirement sections in the ordinance to avoid duplication. Having a common understanding of the development's goals and design purpose through this process should increase predictability when the master plan and development plans are subsequently submitted.

C. Graphics/Development Design Guidebook

1. Description of the Issue and History

The BSD Committee recommended that the County develop a companion document that describes the open space design process.

2. Comprehensive Plan GSAs, public input, Sustainability Audit, and Board Direction

See item A above.

3. Policy Options

Should the recommendations regarding usable and meaningful open space described above be supported, it appears that some of the goals that such a document would achieve could be accomplished through ordinance text. However, it may still be useful to provide additional guidance to assist developers and increase predictability.

4. Staff Recommendation

Investigate one or more graphics that could be included in the ordinance to help illustrate desired development design characteristics. Should it prove cumbersome to include such graphics in the ordinance, staff could look at developing a separate guidebook that could be referenced in the ordinance.

D. Open Space Percent Requirements

1. Description of the Issue and History

The BSD Committee suggests examining whether the percentage of open space required is appropriate and states: "most documents reviewed suggest that a properly designed open space development requires a minimum of 50% of land to be set aside as natural open space." The current Cluster ordinance has different requirements for open space amount depending on the land use designation and the percentage of affordable housing (if any) provided. Where affordable housing is not part of the plan, the amount of open space required in low-density residential areas is 40% of the net developable area, and in moderate density residential areas, it is 35% of the net developable area. With affordable housing, these percentages range down to 20% in moderate density residential areas with 55 to 100% affordable housing.

2. Comprehensive Plan GSAs, public input, Sustainability Audit, and Board Direction

See item A above.

3. Policy Options

The minimum open space requirement certainly varies in different communities. There are several factors that should be considered in evaluating whether the current percentage is appropriate for the County. First, the context of the cluster is a factor. Communities may have clusters permitted in their rural/agricultural areas, within their residentially zoned areas inside their service area(s), or both. The amount of expected open space for residentially zoned clusters may appropriately be less than for rural area clusters. A second factor is whether the amount of required open space is based on gross or net land area. Where the percentage is based on gross, the percentage of open space would be the same for all parcels of the same size. However, where the percentage is based on net developable, the total open space ends up being the non-developable area (see non-developable area discussion), plus the percentage of the net developable. For example, using the 40% of net developable open space requirement, a ten acre parcel with 50% non-developable area would actually result in 7 acres of open space (or 70% of the site). In low density residential, a parcel with about 20% non-developable land would result in overall total open space percentage of about 50% (again, using the 40% of net developable open space number).

4. Staff recommendation

The percentage of open space required is generally in line with several model ordinances staff has reviewed. Should there be support for changes, staff recommends looking at linking the open space percentage to development density bonus system, by scaling the required open space amount to the scale of the proposed density (please also see the discussion of item E below).

In addition, while the affordable housing open space reduction was just added to this ordinance during the last update in 1999, should changes in affordable housing policies change (which will be discussed in a separate memo), these provisions may need to be changed accordingly.

E. Density bonus items

1. Description of the Issue and History

The Cluster Ordinance has always been formulated to allow for densities greater than the density permitted with the base R-1 or R-2 density alone. These greater densities are permitted in recognition of the development's cluster design and provision of public benefits as part of the development proposal. Prior to 1999, the public benefit items that a developer needed to provide to achieve a higher density were listed as a menu of possibilities, each with a density bonus value assigned. This system was restructured during the last update to the Cluster Ordinance. In the current Cluster Ordinance, the density section is structured to list the specific items that needed to be done to move up the density increment between 1 and 2 dwelling units per acre (du/ac). Beyond 2 du/ac, the developer can choose another specific list of items to go from 2 to 3 du/ac, or can add density to 2 du/ac through three optional items, each worth 0.5 du/ac.

2. Comprehensive Plan GSAs, public input, Sustainability Audit, and Board Direction

See item A above.

3. Policy Options

Staff has reviewed this structure for density bonuses and the items which are listed in the ordinance as the density bonus items, and has identified several possible issues as follows:

1. *The bonus system doesn't necessarily make clear the fundamental value of cluster: preservation of significant meaningful open space. In addition, it may be that the system might be better served through a different structure.*
2. *That some of the current density bonus items may now be either requirements by law, generally expected of all legislative cases via an adopted Board policy (i.e., be baseline expectations), or be associated with practices for which there are currently newer best practices. One example that staff had noted as perhaps not representing the current best practice thinking is the bonus for provision of curb and gutter design on all streets within the development, since low impact development ideas would suggest the use of swales (where possible). Another example of an item where there is an existing expectation through a Board-adopted Policy that applies to all development is the Archaeological Policy. In these instances, it may be that revised or alternative density bonus items should be investigated.*

To address #1, a possibility is to link the density to percent of open space provided, scaling up density with the open space amount. This could be combined with the requirement to address a specified number of measures, out of a list of possible options (which would also address #2). Examples of such measures could include:

Conserved Area-Related Measures

- *Retention of soils in hydrologic groups A and B*
- *Buffers around isolated wetlands*
- *Buffer from floodplain areas*
- *Wildlife habitat corridors*
- *Stream restoration projects*
- *Preservation of a portion of a waterfront within common open space to allow resident access (Sustainability Audit item 64)*

Developed Area-Related Measures

- *Sidewalk/path/bicycle lane in excess of P&R MP and/or VDOT subdivision streets requirement within the development*
- *Expanded buffers along rights-of-way and property perimeters (Sustainability Audit item 73)*
- *Preservation of structures in the JCC building survey (if different than archaeological item listed above)*
- *Green building measures (over policy expectations)*
- *Affordable housing (over policy or ordinance expectations) or Mixed Cost Housing*
- *Creation of a HOA open space maintenance guide*
- *Commitment to create design guidelines for higher architectural standards (such as rear or side loading garages)*
- *Dedication of a County public use site (Sustainability Audit item 65)*
- *Use of an infill site for the development (Sustainability Audit item 5)*
- *Provision of a community garden area and facilities (Sustainability Audit item 58)*
- *Dedication of easements and/or construction of greenway trails on the Greenway Master Plan or Virginia Outdoors Plan*

4. Staff recommendation

Staff recommends exploring the idea of restructuring the bonus system to emphasize the fundamental elements of cluster design, and revising the items used as the bonus density items.

F. Developable area definition

1. Description of the Issue and History

The BSD Committee report recommends looking at the definition of developable area, as this ordinance language should be made as clear as possible, and more closely coordinated with the terms used elsewhere in County Code, especially the Chesapeake Bay Preservation Ordinance.

2. Comprehensive Plan GSAs, public input, Sustainability Audit, and Board Direction

See item A above.

3. Policy Options

Currently the Cluster Ordinance’s description of non-developable land is as follows:

“Stream beds, areas subject to flooding under the 100-year storm event, wetlands and areas with slopes exceeding 25% gradient.”

Using “Resource Protection Area” instead of the terms stream beds and wetlands would provide clarity and link the terms used to the Chesapeake Bay Preservation Ordinance. It also acknowledges current practice in that these lands are not developable (other than for certain very specific purposes). The addition of the term “FEMA zones A and AE” to the flood area provision would provide additional clarity and definition. Finally, the inclusion of a square footage threshold for the steep slopes component would recognize that very small isolated areas of steep slopes may not be the highest target of preservation efforts. The exact square footage could be adjusted (for example, the draft Rural Lands ordinance cited a higher square footage threshold) and staff can continue to research this issue moving forward.

4. Staff Recommendation

The description could be updated as follows:

“Resource Protection Area (as defined in the Chesapeake Bay Preservation Ordinance¹), areas subject to flooding under the 100 storm event (FEMA zones A and AE), and contiguous areas of 1,000 square feet or greater with slopes exceeding 25% gradient.”

G. Density calculated based on net versus gross

1. Description of the Issue and History

The BSD Committee recommendation was to examine how density is calculated and whether the calculation should start with a net or gross calculation. The manner of calculating density in the cluster ordinance is a formula method that is also used in the R-4, R-5, and Mixed Use districts. The text says that the density is calculated using gross acreage, and then further elaborates that the gross acreage depends on the percentage of nondevelopable area on a site. For parcels with less than 35% nondevelopable land, gross acreage equals the total area of the parcel. For parcels with 35% or greater nondevelopable land, the calculation starts with the

¹ The Chesapeake Bay Preservation Ordinance states that Resource Protection Area shall include: tidal wetlands; nontidal wetlands connected by surface flow and contiguous to tidal wetlands or water bodies with perennial flow; tidal shores; and a buffer area not less than 100 feet in width located adjacent to and landward of the components, and along both sides of any water body with perennial flow.

developable area (net acreage) with an accommodation of adding 35% of the total parcel area to that figure. This approach has been in the ordinance since 1992, prior to which the density calculation had been based on net developable land.

The table below shows the number of permitted units depending on calculation method for a hypothetical 10 acre piece of land, which proposes 2 units per acre. Please note that the numbers in this table are for illustrative purposes only, and do not reflect what the Planning Commission and Board may or may not approve.

Percent Non-Developable	NET		Modified Method (Found in Cluster)		GROSS (Found in R-1, R-2)	
	# of Units	Resulting Density on the Developable Land	# of Units	Resulting Density on the Developable Land	# of Units	Resulting Density on the Developable Land*
0%	20	2	20	2	20	2
10%	18	2	20	2.2	20	2.2
20%	16	2	20	2.5	20	2.5
30%	14	2	20	2.9	20	2.9
40%	12	2	19	3.2	20	3.3
50%	10	2	17	3.4	20	4
60%	8	2	15	3.8	20	5

* Subject to identifying a development design that has a suitable building site for each proposed unit and meets all lot dimensional requirements.

2. Comprehensive Plan GSAs, public input, Sustainability Audit, and Board Direction
See item A above.

3. Policy Options

Concerns have periodically been raised in the past about the density that results on the developable land. Specifying a calculation based on net acreage penalizes a property owner for the land that is deemed undevelopable through regulation. However, using a gross calculation can result in higher densities on the developable land. The Cluster Overlay District calculation method is a compromise approach that was designed to balance property owner interests with community compatibility.

4. Staff Recommendation

Staff does not recommend changes to this method of calculating density at this time. Staff does recommend updating the wording describing non-developable land as noted in the developable area definition discussion above.

H. Incentives to develop as cluster

1. Description of the Issue and History

The BSD memo recommends an examination of whether the current ordinance provides sufficient incentives or represents disincentives to developers, particularly in a by-right scenario.

2. Comprehensive Plan GSAs, public input, Sustainability Audit, and Board Direction

See item A above.

3. Policy Options

In terms of regulatory incentives for developers, the Cluster Overlay District provides the following relaxations of requirements:

- *Relaxation/elimination of lot dimensional requirements, allowing greatest design flexibility*
 - *No minimum lot size (otherwise, smallest possible lot in R-1 is 15,000 square feet and in R-2 is 10,000 square feet)*
 - *No minimum required front, side and rear setbacks (front, side and rear setbacks in R-1 are 35', 15', and 35' respectively, and R-2 are 25', 10', and 35' respectively)*
 - *No minimum lot width*
- *Additional permitted residential unit types in R-2*
 - *Cluster allows attached units up to eight-family dwellings (anything more than two is not permitted otherwise)*
- *Permits a density greater (up to 4 units per acre) than the 2 units per acre allowed in R-1 and R-1 (maximum density is the same as in R-5 which is 12 units per acre).*

Other general incentives for developers to develop as a cluster can include reduced infrastructure costs and increased lot values due to open space proximity.

In terms of disincentives, the need for a legislative approval process and decision could be seen as a deterrent, but the fact is that almost all development has to go through the rezoning process anyway. Staff has examined case records for the last ten years and found that of the nine proposed rezonings to R-1 or R-2 (which were over 5 acres), seven applied to also have a cluster special use permit – this represents about 78%. The other two used provisions in the R-2 ordinance that allow densities to be increased from 1 unit to 2 units per acre. The situation for rezoning to R-5 was the reverse with just one of the five proposed rezonings including a cluster SUP component. (Note that the Cluster Overlay District can only be used in conjunction with R-1, R-2 and R-5.). This indicates that when looking at the higher density ranges associated with moderate density residential development, the Cluster Overlay may not distinguish itself as having greater incentives, but that it has provided sufficient incentives at lower proposed densities. In terms of the by-right scenario, there is minimal pre-zoned existing undeveloped R-1 and R-2 land in the County that is developable. In the past ten years there have been two developments of major subdivisions (9+ lots) of existing R-2 land: McFarlin Park and Marywood. Neither proposed over 1 unit per acre, and neither opted to create a master plan to use cluster development.

4. Staff Recommendation

For the most part, the current incentives seem to be sufficient to attract developer interest. Given the relatively small amount of pre-zoned land, staff would not recommend making changes to the ordinance solely to provide more incentives for those cases, although incentives are proposed in general as discussed in the Density bonus items section. Staff believes that if additional predictability is added to the ordinance through clearer expectations and process, this will help incentivize the use of the ordinance as well.

I. Inside the Primary Service Area

1. Description of the Issue and History

In recent years, the question has surfaced as to whether the Cluster Overlay District could be permitted outside of the Primary Service Area (PSA), in conjunction with a rezoning resulting in R-1, R-2 or R-5 zoned land.

2. Comprehensive Plan GSAs, public input, Sustainability Audit, and Board Direction

See item A above.

3. Policy Options

The Zoning Administrator and County Attorney determined that should such a rezoning be approved, the language of the current ordinance would allow the overlay to be applied to the new zoning. While the language would technically allow this, staff has reviewed the evolution of the Cluster Overlay District language over time and the intent was for the overlay to be used in areas designated Low and Moderate Density Residential by the Comprehensive Plan – all of which are located inside the Primary Service Area. Furthermore, the densities allowed in the Cluster Overlay District exceed those recommended by the Rural Lands land use designation, which is most commonly found on land outside the PSA. A separate “Rural Cluster” provision is currently included in the A-1 District, which is a typical zoning district for land outside of the PSA and which allows densities more appropriate to the Rural Lands land use designation. Any changes to these provisions will be addressed in a separate memo.

4. Staff Recommendation

Include language in Section 24-540, Where Permitted, stating that the Cluster Overlay District is permitted only inside the Primary Service Area. This will provide greater clarity regarding the applicability of the Cluster Overlay District.

III. Conclusion

Staff seeks Policy Committee feedback on the staff recommendations contained in this memo.

Attachments

1. BSD Implementation Committee Appendix
2. Relevant Public Comment Documents

Appendix VI.

The recommendations by the Roundtable raised several points of concern including:

- 1) What constitutes "properly designed open space developments"?
- 2) Does the JCC Cluster Ordinance "as is" and applied in a "by-right" manner encourage and support "properly designed open space developments" in the County?
- 3) Will the current ordinance ensure that the character of existing conventional R-1 subdivisions is protected if open space development is allowed "by-right" in R-1?
- 4) Is the current approval process (because of either time requirements or complexity) a disincentive for "open space development"?
- 5) Does the current approval process/ordinance provide adequate incentives to ensure additional environmental protection is incorporated into proposed development?
- 6) What other incentives will encourage applicants to utilize the open space development techniques and ensure additional environmental protection?

This committee reviewed a number of documents and open space development ordinances from other jurisdictions to determine what constitutes "properly designed open space development" and how to ensure proper application of this development technique to ensure optimum results. Base on this review, the committee has several observations regarding the open space development concept versus the JCC Cluster Ordinance.

- 1) Conceptually, in terms of design hierarchy, clustering is considered one possible open space design option whereas; the JCC Cluster Ordinance establishes "open space development" as a cluster option.
- 2) Unlike conventional subdivision design, the first step in the open space design process is site analysis that identifies critical environmental, historical, and cultural site features and characteristics and guides site design.
- 3) The environmental benefits derived from the open space development techniques are maximized if stormwater management is integrated into the very core of site design rather than an afterthought in the design process.
- 4) Simply making open space development by right either via the cluster option or within the R-1 ordinance is unlikely to provide enough incentive to achieve the goals and objectives of Principle 10.

In conclusion, the committee has determined that the current JCC Cluster Overlay District should be amended to ensure "properly designed" open space developments,

include adequate provisions to protect the character of existing conventional subdivisions, and include adequate incentives to promote the use of open space development techniques (either via by-right or SUP process).

However, this committee determined that Cluster Ordinance revisions are outside the scope of this committee's designated tasks because no such action is contained in the language of the original consensus document. Therefore, the committee recommends that Planning Commission and Board of Supervisors re-examine and evaluate the Cluster Overlay Ordinance and the R-1 Ordinance and revise either or both ordinances.

The following are provided for consideration during the amendment process:

- A) Definitions - In order to ensure proper application of open space development principles, the County should define and provide guidance regarding the following terms utilized in Article VI, Division 1:
- i) Identify the "Principles of open space development design"
 - ii) Define or identify what is considered "usable and meaningful open space"
 - iii) Define what constitutes "unusual or extraordinary environmental protection" - linking these requirements to innovative stormwater management plans, natural resource protection, low impact development techniques, better site design techniques, etc.
 - iv) "Developable area" should not include land that cannot be developed according to state, federal, or county laws. The current definition does not exclude 100-ft RPA buffers that cannot be developed according to the Chesapeake Bay Ordinance.
- B) Cluster/Approval Process - Examine how the process can be expedited; determine whether preliminary conceptual master plans should be required or strongly encouraged in the ordinance; require applicants to conduct site analyses prior to conceptual plan development and incorporate primary conservation features into the preliminary conceptual plan; have applicants demonstrate during the conceptual master plan approval process how open spaces relate to environmental benefits.
- C) Open Space Requirements - Examine whether the percentage of open space required is appropriate. Most documents reviewed suggest that a properly designed open space development requires a minimum of 50% of land to be set aside as undisturbed, natural open space. The open space characteristics are critical factors associated with the effectiveness of stormwater management, habitat preservation, etc.
- D) Density - Examine how density is calculated and whether the calculation should start with a net or gross calculation. This concept is linked to the developable area concept. How to calculate density bonuses, preservation of property development

rights, protecting the character of adjacent conventional subdivisions, and the disincentive to open space development if not handled correctly.

- E) Incentives versus disincentives - Examine whether the current ordinance provides sufficient incentives or represents disincentives to developers, particularly in a by-right scenario.
- F) Open Space Design Guidelines - The Committee recommends that the County develop a companion document that describes the open space design process, provides examples of the different development options such as varying the lot sizes within a development, and provides clear guidance on what features should be considered for conservation in open space areas, as well as examples of how stormwater management can be incorporated into the design process.
- G) Coordination/Compatibility with Rural Conservation Cluster Option - The committee acknowledges that some of the recommendations of the Better Site Design consensus document may be implemented because of the current rural lands initiative. The Committee would recommend that whatever action may be taken with regard to the Cluster Overlay District be coordinated and compatible with any ordinance changes that may result from this initiative.
- H) Education of and Marketing to Stakeholders - Once a design guideline document is developed, the committee recommends that a one-day education workshop should be conducted which is co-sponsored by the County and The Peninsula Home Builders to educate developers, staff and other stakeholders on the Open Space Development benefits and design techniques.

MEMORANDUM

DATE: February 9, 2011
TO: Policy Committee
FROM: Kathryn Sipes, Senior Planner
SUBJECT: Residential Districts

I. Introduction to Memo

A. The current Zoning Ordinance includes the residential districts of R-1, Limited Residential; R-2, General Residential; R-4, Residential Planned Community; R-5, Multi-family Residential; R-6, Low Density Residential, R-8, Rural Residential; and the Residential Cluster Overlay. Residential uses are also permitted in the A-1, General Agricultural, and MU, Mixed Use, Districts. The A-1, R-8, and MU Districts are being discussed under separate covers, due to the unique characteristics and objectives of those districts.

B. This memo discusses affordable housing and redevelopment/infill development, per the adopted methodology. A separate memo discusses the Cluster Overlay District. General recommendations affecting the R-1, R-2, R-4, R-5, and R-6 zoning districts will come before the Policy Committee at a later date. Staff anticipates further discussion with regard to open space and density requirements and calculations, and permitted uses in those districts.

II. Discussion Items

A. Affordable Housing

1. Description of the Issue:

The Housing Needs Assessment for James City County and Williamsburg, Virginia (Housing Needs Assessment), prepared in December 2007 by the Virginia Tech Center for Housing Research concluded the housing gap in James City County represented the need for approximately 1,950 additional homeowner units to meet the affordable housing needs of the population earning 80% or less of Area Median Income (AMI) as defined by the U.S. Department of Housing and Urban Development (HUD). The same study concluded the housing gap for affordable rental housing was approximately 1,485 units for the population earning 80% or less of AMI. HUD AMI figures which apply to James City County are those which HUD calculates for the Virginia Beach-Norfolk-Newport News Metropolitan Statistical Area (MSA).

During the 2009 James City County Comprehensive Plan (Comprehensive Plan) update process, there was much discussion among members of the public, Steering Committee, Planning Commission and Board of Supervisors regarding affordable and workforce housing. The topic is complicated, involving funding streams, financing mechanisms, changing market forces, and shifting demographics. The James City County Office of Housing and Community Development (OHCD) has been the primary County entity involved in meeting

the affordable housing needs of County residents. The list of assistance programs OHCD administers is included in the Comprehensive Plan.

The target population identified in the Comprehensive Plan is comprised of households earning between 30% and 120% of AMI. As discussed in the Comprehensive Plan, housing intended for households earning 30%-80% AMI could be considered “affordable housing” and housing intended for households earning 80%-120% of AMI could be considered “workforce housing.” The Comprehensive Plan noted definitions for “affordable housing” and “workforce housing” should be established. The updated AMI figures for 2010 are listed in Table 1. The AMI for a family of four was \$68,200 in 2010. By comparison, the AMI for a family of four was \$60,300 in 2006, \$64,100 in 2007, \$65,100 in 2008, and \$67,900 in 2009. This represents an average of just over 3% each year for 2006-2010 timeframe.

Table 1: 2010 HUD Income Limits by household size

	1 person	2 person	3 person	4 person	5 person	6 person	7 person	8 person
30% of median	\$14,350	\$16,400	\$18,450	\$20,450	\$22,100	\$23,750	\$25,400	\$27,000
50% of median	\$23,900	\$27,300	\$30,700	\$34,100	\$36,850	\$39,600	\$42,300	\$45,050
60% of median	\$28,650	\$32,750	\$38,850	\$40,920	\$44,200	\$47,500	\$50,750	\$54,050
80% of median	\$38,200	\$43,650	\$49,100	\$54,550	\$58,950	\$63,300	\$67,650	\$72,050
Median (AMI)	\$47,750	\$54,550	\$61,400	\$68,200	\$73,700	\$79,150	\$84,550	\$90,050
120% median	\$57,300	\$65,450	\$73,700	\$81,850	\$88,450	\$95,000	\$101,450	\$108,050

Source: HUD 2010 Income Limits

A report published by the Virginia Housing Development Authority (VHDA) in October 2008 entitled Virginia Housing Trends (Attachment 1) provides some insight into trends and forecasts regarding the age, mobility and financial means of the population relative to the existing housing stock. As housing needs change with age, the report contends more attention should be “...paid to the critical role shifting demographics play in shaping the magnitude and nature of housing demand.” Given the aging of the Baby Boomer generation, the coming housing cycle will look different from the cycle just ending, where demand was dominated by affluent, middle age Boomers who “traded up” to larger homes. The report claims the “trade up” era is over and the new housing cycle will raise demand for first time homebuyers and empty nesters (i.e. smaller homes). The report concludes today’s housing stock in Virginia is not adequate to meet the emerging needs of the population. Except in the fastest growing regions, existing apartments and starter homes that were vacated by Baby Boomers “trading up” to newly built larger homes, served much of the needs of

Generation X. Now, as Generation X replaces Baby Boomers in the “trade up” market, and Generation Y forms independent households, Virginia faces an over-supply of larger “trade up” homes and a shortage of smaller affordable units. This is attributed to the fact that in the past, housing demand was concentrated in the age group with the highest income. Now the demand is shifting to age groups with more limited means. James City County already had a shortage of homes meeting the definition of “affordable” or “starter homes” so the situation may be exacerbated locally.

2. History:

In the absence of an official policy or mandatory measures, voluntary proffers have been offered for rezoning cases where residential units were included in the development. This proffer system yielded 661 units at prices lower than market rate between November 2000 and March 2008; at least 400 of the 661 have been constructed or are currently under construction. However, the proffers from project to project have been inconsistent. For example, the proffered units have been referred to as “affordable”, “workforce,” “restricted,” or “mixed cost” depending upon the specific project; have been single family attached, townhouses, apartments or single family detached depending upon the project; have been targeted to households with 50%, 60%, or 80% of AMI depending upon the project; and have included sales prices of \$95,000 to \$250,000, depending upon the project. The two apartment projects (The Station at Norge and Longhill Grove Apartments) included a provision to set aside units for families with incomes not exceeding 60% of AMI for a period of 50 years and 15 years respectively. Please see table on page 4 for additional facts regarding proffered units.

Using the same calculation for housing prices based on income as used in the Comprehensive Plan, Table 3 shows how AMI translates into household income and possible purchase prices in 2010 dollars. By way of comparison, proffered sales prices for the cases listed above are converted to 2010 dollars in the last column of Table 2, using the Marshall & Swift Index.

Table 3: 2010 Affordable House Prices for James City County

% AMI	FAMILY INCOME	TARGET HOUSE PRICE*
30%	\$20,450	\$61,400
50%	\$34,100	\$102,300
60%**	\$40,920	\$122,760
80%	\$54,550	\$163,650
100%	\$68,200	\$204,600
120%**	\$81,840	\$245,520

Source: HUD 2010 Income Limits

**A multiplier of three was applied to arrive at the target house price. Prices are also applicable to the entire Norfolk-Virginia Beach-Newport News MSA.*

***Calculated by Planning Staff by multiplying the 100% figure provided by HUD by appropriate % and rounding to the nearest \$50, per HUD’s methodology; not provided in HUD data.*

Case Number	Case Title	Affordable Units*	Workforce Units*	Restricted Units*	Mixed Cost Units*	Unit Type	Total Units	% of Total Units	Price at or below	Converted to 2010 \$
Z-0002-2007	Chestnut Grove**	8	0	0	0	Townhouse	40	20%	\$135,000	\$138,780
		0	0	8	0	Townhouse		20%	\$165,000	\$169,620
Z-0004-2007	Stonehouse	0	125	0	0	Residential	3646	3%	\$250,000	\$257,000
Z-0007-2007	Powhatan Terrace	0	0	3	0	Townhouse	36	8%	\$195,000	\$195,000
Z-0005-2006	New Town Sec. 7 & 8**	0	0	12	0	Residential	400	3%	\$154,000	\$160,622
Z-0009-2006	Ironbound Square 2	20	0	0	0	Single Family	39	51%	80% AMI	
Z-0002-2005	Ironbound Square 1	67	0	0	0	Senior	67	100%	50% AMI	
		3	0	0	0	Single Family	5	60%	80% AMI	
Z-0010-2005	The Villages @ White Hall (La Grange)	0	0	0	26	Single Family Attached	79	33%	\$185,000	\$219,225
Z-0016-2005	New Town Sec. 9 (Settler's Market)	0	0	0	8	Residential	279	3%	\$154,000	\$160,622
Z-0019-2005	Jennings Way**	5	0	0	0	Townhouse	85	6%	\$135,000	\$140,805
		0	0	5	0	Townhouse		6%	\$160,000	\$166,880
Z-0006-2004	Lightfoot Mixed Use***	12	0	0	0	Residential	244	5%	\$110,000	\$130,350
		12	0	0	0	Residential		5%	\$135,000	\$159,975
Z-0014-2004	Pocahontas Square**	34	0	0	0	Townhouse	96	35%	\$110,000	\$130,350
		38	0	0	0	Townhouse		40%	\$155,000	\$183,675
Z-0013-2003	Michelle's Point**	11	0	0	0	Single Family	110	10%	\$110,000	\$139,920
		11	0	0	0	Townhouse		10%	\$99,300	\$126,310
Z-0015-2003	The Station at Norge	104	0	0	0	Apartments	104	100%	60% AMI	
Z-0005-2002	Longhill Grove Apartments	170	0	0	0	Apartments	170	100%	60% AMI	
Z-0003-2001	New Town Sec. 2 & 4***	15	0	0	0	Residential	803	2%	\$105,000	\$133,560
		25	0	0	0	Residential		3%	\$140,500	\$178,716
Z-0003-2000	Ironbound Village	5	0	0	0	Townhouse or SFD	30	17%	\$95,000	\$133,665
		10	0	0	0	Townhouse or SFD		33%	\$110,000	\$154,770
TOTALS	16 cases	550	125	28	34		6233			
		Total of 661 units								
	*terms assigned by applicant for each specific project									
	**soft second mortgages included in the proffers									
	***soft second mortgages offered, but not dictated by proffers									

3. Comprehensive Plan, Sustainability Audit, Public Input:
- *Strategy H3, Increase the availability of affordable and workforce housing, targeting households earning 30%-120% area median income as established by the U.S. department of Housing and Urban Development (HUD). Fifteen actions follow, including:*
 - *H 3.1, Review all existing residential districts in the Zoning Ordinance to consider additional bonuses and incentives for the provision of affordable and workforce housing, as appropriate.*
 - *H 3.7, Develop and adopt an affordable housing policy or affordable dwelling unit policy which states the County’s definitions, goals, and expectations for providing affordable and workforce housing in developments requiring legislative approval.*
 - *H 3.10, Accept cash contributions or land from developers of residential and non-residential projects, including by-right development, into a County housing fund or create a housing trust fund for this purpose.*
 - *H 3.11, Consider ordinance amendments that provide both mandatory and voluntary provisions for affordable and workforce units, such as an affordable housing overlay district, and/or inclusionary zoning.*
 - *H 3.12, Develop a fast-track subdivision, site plan, and building permit process for qualified affordable and workforce housing developments.*
 - *H 3.13, Consider a program to waive, reduce and/or rebate development fees for qualified affordable and workforce housing developments.*
 - *H 3.14, Consider a shared equity or right of first refusal policy and/or lengthen the term of soft second mortgages for affordable and workforce units.*
 - *H 3.15, Promote the full integration of affordable and workforce housing units with market rate units within residential developments and throughout the Primary Service Area.*
 - *Sustainability Audit (SA), Adopt universal access standards for people of all races, all incomes, handicapped persons, the elderly, and families with children.*
 - *SA, Adopt standards for new development to be affordable to low-moderate income persons, including affordable for-sale and rental housing. Provide a portion of total housing units as rental units.*
 - *SA, Provide housing near jobs at a price the employees can afford.*
 - *At a Planning Commission Public Forum in September 2010, the Greater Williamsburg Chamber & Tourism Alliance offered support for the provision of workforce housing in James City County, citing research that 40% of James City County workers did not live in the Historic Triangle, due in part to housing prices being out of reach for many workers in the retail and hospitality industries.*
4. Policy Options:
- State Code permits localities, including James City County, to adopt an Affordable Dwelling Unit Ordinance. Section 15.2-2305 of the Code of Virginia (Attachment 2) prescribes the requirements and options for localities. Specifically, State code permits up to a 30% density increase in exchange for affordable units comprising up to 17% of the total number of units in the development.*

Alternatively, James City County could adopt an Affordable Housing Policy (or Workforce Housing Policy) and apply it to legislative cases. Currently the County has the Cash Proffer Policy for Schools and the Streetscape Guidelines Policy, among others. The Affordable Housing Policy would be similarly applied, while allowing flexibility when deemed appropriate by the Planning Commission and Board of Supervisors.

Staff acknowledges the changes in the economy in recent years, most notably the declining housing values. Coupled with the projected shifts in population due to aging and mobility forecasts, it remains the case that additional housing opportunities for the target population will be needed locally at the same time it remains difficult to quantify the specific amount of affordable and/or workforce housing needed in the community. As the County does not currently have an official policy guiding expectations for affordable and/or workforce housing, staff finds it most appropriate to develop a policy at this time to provide more predictability for all parties involved and to encourage continued additions to the affordable and/or workforce housing stock. Should the policy not produce the desired results, the County could explore a more rigid ordinance in the future.

5. Staff Recommendation:

Staff proposes a policy that addresses the following:

- a) Distinction between or definitions for affordable versus workforce units- As introduced in the Comprehensive Plan, housing targeting households earning 30%-80% AMI could be defined as "affordable" and housing targeting households earning 81%-120% AMI could be defined as "workforce." As a side note, it is the experience of OHCD that households earning 30%-60% AMI are typically in the rental market. Therefore, for homeownership opportunities "affordable housing" could be households earning 60%-80% AMI.*
- b) Desired percentage (or range) of affordable and/or workforce units to total residential units. Staff research concludes a range of 10%-30% is most common. See item c) below.*
- c) Stated desire for mixed cost neighborhoods. Per the Comprehensive Plan, the desired outcome should be neighborhoods with market rate, workforce AND affordable units, as well as neighborhoods that contain a variety of unit types. Staff seeks guidance on the desired mix for each as well as whether it will be acceptable for proposed developments to include only workforce OR affordable units, rather than a mix of both.*
- d) The integration of affordable and/or workforce units with market rate units. Affordable and/or workforce units should be fully integrated in the development with regard to location, architectural detailing, quality of materials, and general appearance.*
- e) Provision for reduced cash contribution for schools for affordable and/or workforce units. The adopted Cash Proffer Policy for Schools contains no exemption for affordable or workforce units. However, the Board has often*

accepted proposals from developers to proffer such cash contributions for the market rate units only. A formal policy could allow for a reduction of any amount (30%? 50%? 75%? 100%?) in the contribution for affordable and/or workforce and/or universally designed units.

- f) Guidelines for terms with regard to soft second mortgages, as well as provisions for resale or rerental of units, including establishing right of first refusal to OHCD. Soft second mortgages have been included in proffers for time periods as low as 10 years and as high as 25 years. An acceptable range should be established. Additionally, upon resale or rerenting of a unit to a non-qualifying household, that unit falls out of the inventory of affordable/workforce units in the County. Currently the only mechanism to retain units past the initial occupant is if the resale is to another qualifying household. Soft second mortgages provide an incentive for sellers to sell to another qualified household, but only if the term of the soft second mortgage has not yet expired.*
- g) Provision for cash contribution to a JCC Housing Fund to be used to increase the supply of affordable and/or workforce units in the County. Should the County choose to accept cash contributions in lieu of affordable/workforce units being constructed, the payments should go into the Housing Fund.*
- h) Establishment of OHCD as JCC designee for affordable and/or workforce housing. OHCD currently acts as the County contact and primary housing resource. Identifying them as such formalizes and clarifies the process.*

B. Redevelopment/Infill Development

1. Description of the Issue:

The current zoning districts contain language more easily applied to new development (with regard to open space, perimeter buffers, and lot configuration, for example) than to redevelopment. For parcels that have been previously developed it is often difficult for the site to be re-designed in a manner that satisfies all current ordinance requirements and meets the developers' proposed use(s). For older neighborhoods, improvements to infrastructure such as public water and sewer, roads, and stormwater drainage are often needed. Additionally, improvements are also often needed for the existing structures, either for adaptive reuse or to simply improve the function of the existing use(s). This can include the need to resubdivide the parcels. For projects involving existing residential units, the existing properties can be legally nonconforming relative to size and configuration, making it difficult to undertake a project that aims to a) preserve and/or rehabilitate existing residential units; b) improve public infrastructure such as roads, drainage, and public utilities; and/or c) create additional affordable housing units or uses compatible to the existing neighborhood. In these cases, any redesign of the site initiates the need to meet all current code requirements, including lot area, lot width and setbacks. If, due to the revised site layout, lots become less conforming than they were previously, the property owners must request variances from the Board of Zoning Appeals (BZA). Multiple properties can request variances as a related group of requests; however, the BZA may find it

difficult to approve the requested variances if the associated hardship was created consciously, as in the case of redesigning/redeveloping the neighborhood. Even if the BZA supported the project and approved the requests, the extra step in the process can complicate the project and schedule.

In order to obtain the necessary flexibility, projects often attempt to rezone to MU, Mixed Use, or to apply the Residential Cluster Overlay. However, the intent of the project does not always meet either the intent or the expectations of those districts. Despite the benefits being proposed, these cases can present complicated and valid debate at the scheduled public hearings. For projects pursuing Mixed Use zoning, the expectation is that there will be a mix of uses in the resulting development, with a possible reduction in commuter traffic generated as compared to more typical single use development. For projects pursuing a Residential Cluster Overlay, the expectation is that the resulting development will be a primarily residential neighborhood that incorporates higher standards of open space, minimizes environmental impacts, and/or provides mixed cost or affordable dwelling units. In both cases the County allows more flexibility with regard to lot size and configuration, unit types permitted, density, and setback requirements in exchange for the benefits proposed.

Both the MU and Residential Cluster Overlay sections of the ordinance tend to favor new development and are written to imply that a greenfield site is the subject parcel. While there is no language in the ordinance precluding these districts from being applied to previously developed parcels, there are practical limitations to applying these districts to redevelopment sites. For example, the Residential Cluster Overlay requires a perimeter buffer of at least 35' along the perimeter property lines of the development. Waiver provisions in the ordinance do not allow for the consideration of existing structures. Open space requirements can also be difficult to meet, assuming an undeveloped parcel can be designed from scratch in a way that accommodates the desired amount and utility of open space.

Regarding the perimeter buffer in a Residential Cluster Overlay, current waiver provisions could prove beneficial for an infill development with a project area of less than five (5) acres AND a majority of units dedicated to affordable housing. Any proposal including more than five (5) acres, however, could have difficulty under the current ordinance language.

There are various definitions of "redevelopment" and "infill development." "Redevelopment" often applies to the replacement or reuse of existing structures or previously developed sites to accommodate new development. "Infill development" often refers to new development on previously undeveloped property inside the community core, where public infrastructure is already in place. While distinctly different, for the purposes of this discussion, the two present similar benefits and similar challenges and can be used and applied

interchangeably. In either case, the current zoning ordinance language presents challenges that serve as a disincentive to proceed. Revised ordinance language could distinguish between the two if necessary or appropriate.

2. History:

One example is the Ironbound Square Redevelopment Project across from New Town. In this case, the JCC Office of Housing and Community Development (OHCD) served as the developer on the project, proposing replacement and rehabilitation of existing homes in the existing neighborhood, widening and extension of public streets, improved drainage, improved playground and recreation facilities, and re-subdivision of parcels. New amenities proposed included a walking trail, office buildings, senior apartments, and additional affordable dwelling units (both attached and detached units). Due to property acquisition challenges and logistics, and in part due to a construction schedule driven by state and federal funds being used for the project, the project was broken into phases and rezoned in those phases rather than as one large project area. As a result, certain phases of the project contained a mix of uses, raising no debate for a rezoning to the MU district, while subsequent phases containing only residential units were challenged during the rezoning process. Other issues were also involved, but the fact remains that no alternative tools are available in the Zoning Ordinance to accomplish the desired product.

6. Comprehensive Plan, Sustainability Audit, Public Input:

H 1.6: Promote infill residential development by creating provisions in the Zoning Ordinance that allow for appropriate alternative lot sizes, setbacks, and densities. Other actions are also related to this effort:

- H 1.2, Promote residential development that provides a balance of unit types and price ranges, open space preservation, and recreational amenities, and supports walkability and bicycle travel both internally and to nearby destinations.*
- H 1.7, Promote a scale and density of residential development compatible with adjacent and surrounding land uses, supporting infrastructure, and environmental conditions.*
- H1.8, Locate moderate density residential development, including those within areas of appropriate Mixed Use designations, in proximity to employment centers and service destinations.*
- H 2.1, Support the efforts of private and non-profit entities to improve the condition of the County's housing stock.*
- SA, Promote proximity of new development to existing development by prioritizing infill development, including brownfields, greyfields, underutilized, and vacant urban land over Greenfield development. Infill is the development of vacant, outdated or under-used land that is surrounded around a majority of the site perimeter by developed areas. Utilities should be available to the site or if utilities need to be brought to the site, the site is within or contiguous with existing service areas.*

- SA, Development concurrent with available and sufficient roads, utilities, and services.
- SA, Use existing, underutilized, infrastructure prior to extending utilities to serve new areas.
- SA, Encourage building reuse and adaptive reuse.
- SA, Preserve and/or reuse historic structures, schools, vacant commercial buildings or existing housing.
- SA, Encourage brownfield redevelopment.
- SA, Encourage redevelopment or infill development to transform greyfield sites into mixed-use pedestrian-oriented development.
- SA, Encourage development in areas currently served by public utilities.
- SA, Ensure residential setbacks and garage orientation are designed to a human scale.
- SA, Housing should be in close proximity to jobs.
- SA, Compact development with smaller lot sizes and setbacks to facilitate preservation of common open space on a community level.
- SA, Infill development should respect the established built form of historic neighborhoods through compatible scale and building form.
- On behalf of the Peninsula Housing & Builders Association, Robert Duckett spoke at a public forum in support of zoning changes that allow more efficient use of the land inside the PSA to promote Smart Growth principles, mixed use development, and mixed cost residential development.

3. Policy Options:

The ordinance can be revised to provide flexibility with regard to specific requirements in exchange for specific public benefits being incorporated into the design proposal. The amount of flexibility and specific benefits sought should be discussed during the zoning and subdivision ordinance update process and be clearly defined; at this point in the process staff provides the attached list (Attachment 3) for discussion.

Staff research finds two approaches are most often used by other localities. One is to identify specific redevelopment areas targeted for redevelopment activity. These redevelopment areas get defined by distinct boundaries and redevelopment plans specific to each get adopted by the local elected officials. The zoning ordinance is then amended to include language specific to each redevelopment area. This approach is most often used in urban settings where abandoned structures and/or older industrial sites can be readily identified. This approach is often tied to the availability and requirements for federal and/or state funding that necessitates identification of sites that meet the definition of blight, as an example.

The other approach commonly used is rezoning the property involved in the specific proposal. This would result in a new redevelopment/infill/neighborhood preservation district that would likely be similar to our existing Mixed Use or

Planned Unit Development districts but with provisions tailored to the particular needs of these types of development, including reduced requirements in specific areas (such as the amount of required open space and/or perimeter buffers) to accommodate smaller sites and the ability to design the site around existing structures or uses that are intended to be preserved.

The notion of identifying specific redevelopment areas does not seem to meet the County's needs at this time. While certain parcels have been highlighted in the recent past, either through the comprehensive planning process or as a result of conceptual plans received, the County has not begun the process of formally identifying sites for redevelopment or infill. Pursuing this approach would likely prove to be lengthy and cumbersome, unnecessarily delaying the desired outcome of creating flexibility in the ordinance language.

4. Staff Recommendation:

Staff recommends creating a new district in the Zoning Ordinance to accommodate and encourage redevelopment proposals. The existing Planned Unit Development (PUD) district in the Zoning Ordinance can be used as a model, with modifications to achieve the desired outcomes. While the topic of this memo is residential districts, the new district can accommodate both residential and commercial redevelopment and infill, and staff recommends that it does so. Staff seeks input regarding potential objectives and provisions of the new ordinance based on material presented herein.

III. Conclusion

Staff recommends the creation and adoption of an affordable housing policy that clearly states the County's expectations with regard to including affordable and workforce units in residential development proposals. Staff also recommends the creation of a new district in the Zoning Ordinance with the intent of facilitating and encouraging redevelopment and infill development. Staff requests input on matters presented in this memo before moving forward with drafts of legislative language.

Accommodating the Housing Needs of Generation Y

IN THE COMING HOUSING RECOVERY, shifting demographics will fundamentally change housing market dynamics. The needs of middle-aged “trade-up” homebuyers, who dominated the market during the recent housing boom, will fade as the main driver of market demand. Instead, the needs of the maturing Generation Y—the children of the Baby Boom—will become a key factor in the marketplace. In recent years, this large demographic group, born between 1977 and 1997, has had a substantial impact on college enrollments and student housing needs. Soon, their entry as young adults into the broader housing market will generate substantial need for new affordable rental housing and starter homes that will reshape residential development patterns in both urban and suburban markets.

Demographic change shapes housing demand

AS A RESULT OF THE RECENT housing boom and bust, much attention has been focused on the impact mortgage lending has had on new home construction and overall conditions in the housing market. Certainly, access to mortgage capital under favorable terms and conditions has a profound effect on housing costs and housing demand for owners and renters alike. However, too little attention has been paid to the critical role demographics

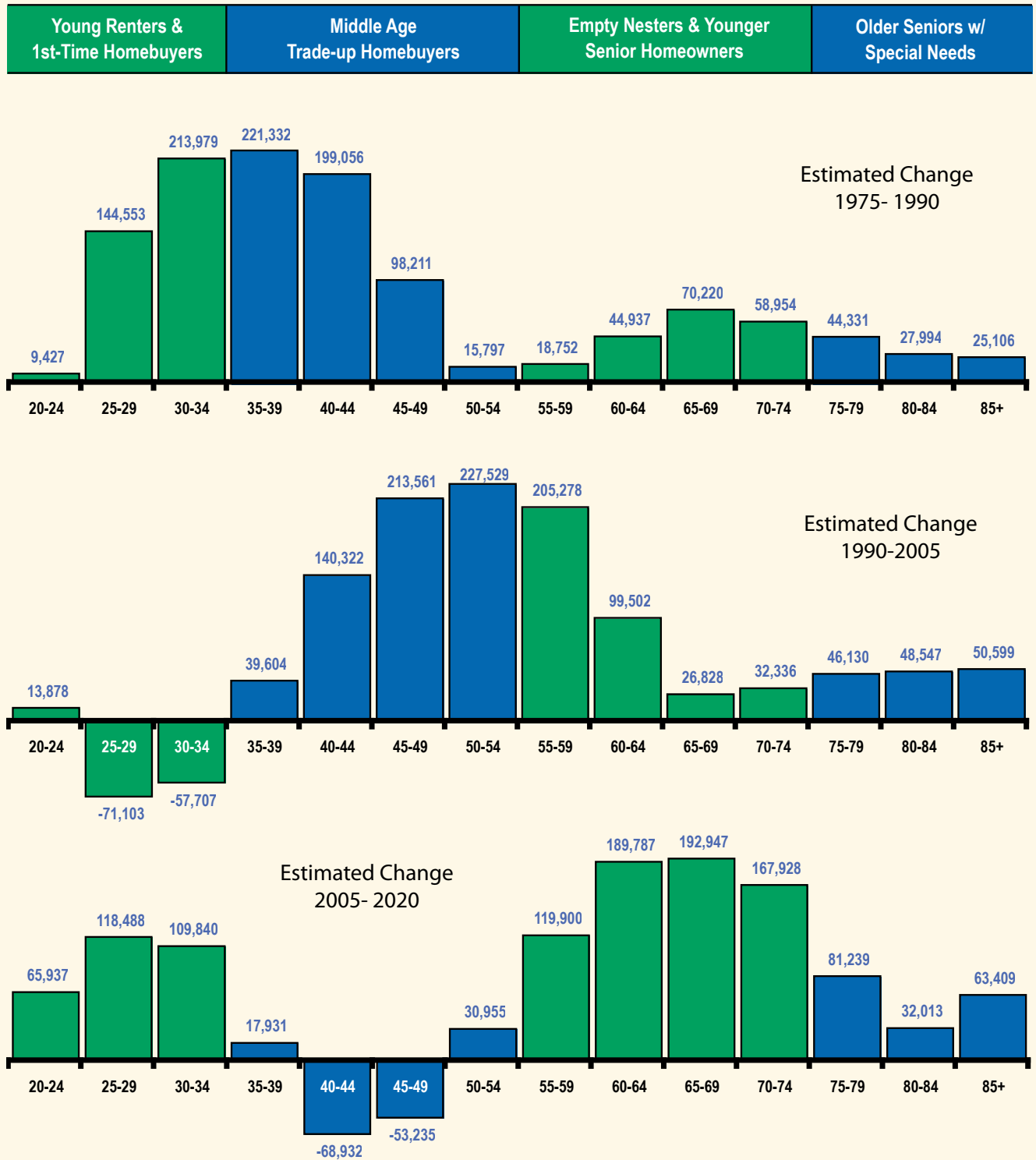
play in shaping the magnitude and nature of housing demand.

Housing demand results from both new household formation, as well as shifts in residence that occur as households age through stages of life in which housing needs and available resources change. In a somewhat simplified way, these life stages can be categorized into four broad age groups each with different housing needs.

Housing Needs by Age Group

- **Young households** (under age 35). Most of this age group has moderate income, and are predominately renters or first-time homebuyers in need of affordable starter homes.
- **Middle age households** (ages 35 to 54). This age group is mainly made up of larger households that need more space. Many have gained sufficient income to “trade up” to larger homes.
- **“Empty nesters” and early retirees** (ages 55 to 74). This age group is predominately homeowners who mostly choose to age in place in their current homes.
- **Older seniors** (age 75 and older). For this age group, maintaining their existing homes may become burdensome and, if so, they may seek alternative senior housing options.

Virginia's Adult Population by Age



Source: U.S. Census and estimates based on Census Bureau and VEC Virginia population projections

Chart 1

The coming housing cycle will look very different from the one now ending

HISTORICALLY, THE HOUSING MARKET has expanded and contracted in long-term cycles. In the post-WWII era, these market cycles have been accentuated by

the substantial difference in size of successive generations. This has caused housing demand to be disproportionately concentrated among particular age cohorts, for example Baby Boomers born between 1945 and 1964, and now their children — the “echo boomers” (Generation Y). As these large cohorts move through the life cycle, they stimulate substantial demand for certain types of housing. In contrast, smaller age cohorts—e.g., the “baby bust” (Generation X) born from 1965 through 1976 — cause demand for certain types of housing to wane. Awareness of the ebb and flow of households in different age groups is essential to understanding and responding to changing housing demand. (See Chart #1.)

The recent boom in the construction of “Mc Mansions” was driven as much by the concentration of housing demand among middle age Baby Boomers with older children, who had both the income and the need to “trade up” to larger homes, as it was by the easy credit available in the mortgage market. The peak of that demand coincided with the peak in new home sales. That demand will now steadily diminish for the next decade, as a much smaller group of Generation X middle agers replaces the Baby Boom generation — which is now aging into retirement.

Just as the 1990 housing recession left behind, in some markets, a glut of starter homes, the current downturn is now leaving behind a surplus of larger houses. The 15-year housing market trade-up cycle that lasted from 1990 through 2005 looked very different from the previous starter-home cycle that ran from the mid 1970’s through the 1980’s. In all likelihood, the new housing market cycle that will emerge with a housing market recovery will look very different from the trade-up market we have recently experienced.

BY AND LARGE, Baby Boomers have now completed the purchase of their “trade up” homes, and have entered a phase of life marked by very low rates of household mobility. Mobility is high among young households, but

Baby Boomers are now entering a stage of life marked by low mobility

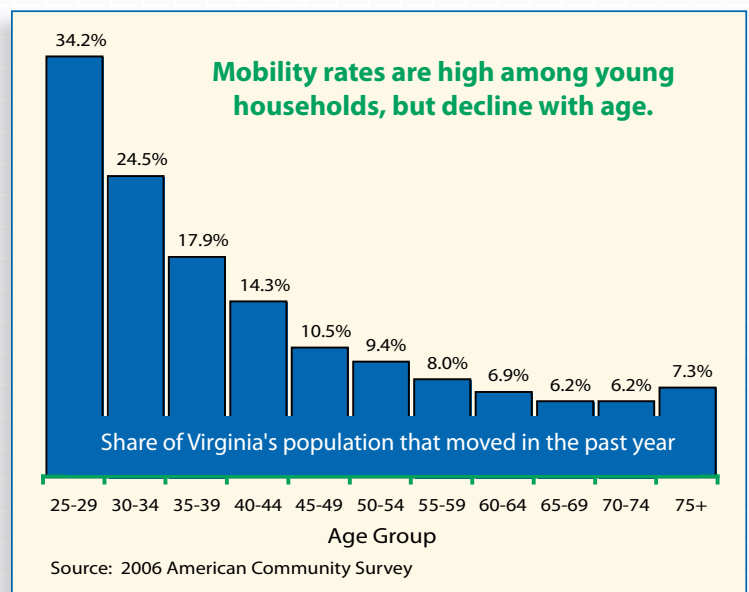


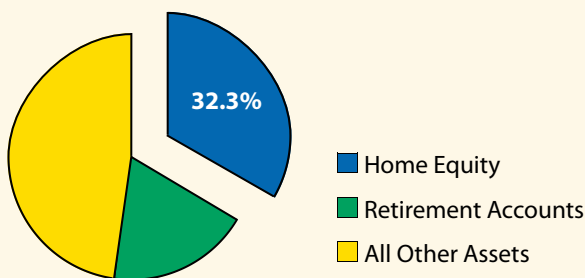
Chart 2

declines steadily with age, reaching a low point among households age 55 to 75, before rising moderately among older seniors as increasing frailty leads to consideration of alternative housing choices. (See Chart #2.)

There has been great anticipation of the increased housing demand to be generated by the large cohort of retiring Baby Boomers. It was assumed that they would be financially able to actualize their desire to “trade down” to new homes with less upkeep and/or to purchase second homes for future retirement living, due to their relatively high incomes and substantial built-up home equity.

The severity of the current housing downturn and its negative impact on home equity, now calls these assumptions into question. In the near term, with a substantial oversupply of larger homes in the market, will large numbers of Baby Boomers make these housing choices? Or, will they instead do as their parents did and age in place in order to rebuild the equity they counted on to help fund their retirement years? (See Chart #3.)

Home Equity Makes up the Largest Single Share of Household Net Worth.



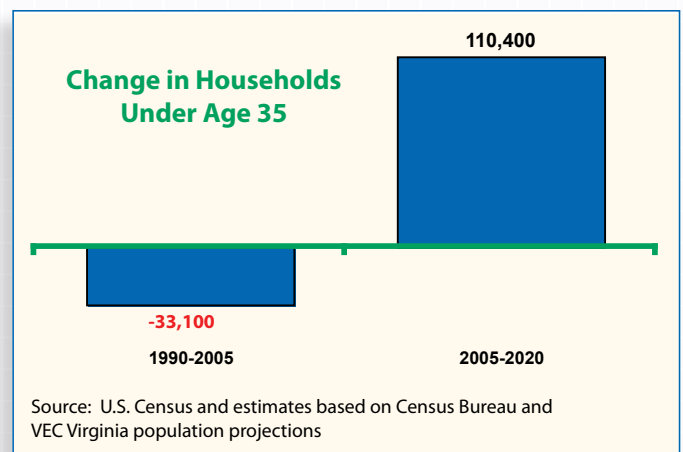
Source: U.S. Census Bureau, Survey of Income and Program Participation, 2000

Chart 3

BETWEEN 2005 AND 2020, the 402,200 projected increase in

households age 55 to 74 is more than three and a half times the 110,400 projected increase in households under age 35. Nonetheless, when differential mobility rates are factored in, and consideration given to the fact that the Baby Boomers are already adequately housed to meet their current needs, then the likely largest net increase in housing demand will come from young households. While less numerous than

In the coming housing cycle, demand for new housing will be driven by younger households



Source: U.S. Census and estimates based on Census Bureau and VEC Virginia population projections

Chart 4

their parents’ generation, Generation Y is far larger than Generation X which preceded it. This will result in a substantial increase in new household formation as Generation Y completes college, enters the workforce and forms new independent households. Whereas households under age 35 declined by 33,100 in the 1990 to 2005 housing cycle, they are expected to increase by 110,400 between 2005 and 2020. (See Chart #4.)

The number of households headed by people age 75 and older will also continue to increase rapidly. The growth in older senior households is projected to increase from 82,700 in the 1990 to 2005 housing cycle to 106,700 between 2005 and 2020. However, as with empty nesters and early retirees, the mobility rate for this group is far lower than for younger households, and so their net demand for new housing will be much smaller than for younger households.

The current housing stock is inadequate to meet the needs of younger households

RELATIVELY LITTLE STARTER HOME AND NEW APARTMENT CONSTRUCTION OCCURRED in the

recent housing cycle. Generation X, because it was smaller than the preceding Baby Boom generation, created a fairly limited impact on new housing construction except in rapidly growing regions. Existing starter homes and apartments vacated by Baby Boomers as they moved up the housing ladder were generally adequate to meet Generation Xers' needs. Instead, new housing construction primarily focused on the substantial increased demand among Baby Boomers for new, large trade-up homes. Consequently, there is now an undersupply of apartments and starter homes, and an oversupply of expensive trade-up homes relative to the increased demand among young households that will be experienced in the coming housing cycle.

As Generation Y enters the housing market, the existing stock of apartments and starter homes will not be adequate to meet their needs. The number of homes and apartments freed

up by Generation Xers will not be sufficient to meet the demand generated by the larger generation following them. Except in very slow growing regions with net out-migration of young households, new affordable starter home and apartment construction will be required. In rapidly growing regions such as Northern Virginia, with high rates of natural increase and in-migration, considerable new affordable housing construction will be required to prevent substantial housing shortages.

WHEREAS MIDDLE AGE HOUSEHOLDS are overwhelmingly homeowners, young households remain predominately renters. Increased production of quality, affordable rental housing will be needed over the next decade to satisfy the needs of new Generation Y households entering the housing market. (See Chart #5.)

Quality, affordable rental housing will be especially needed

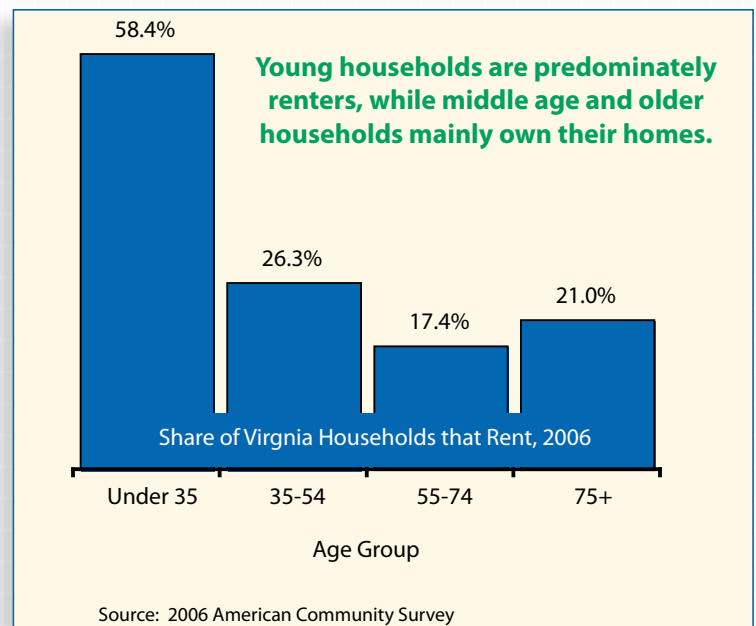


Chart 5

This need will be accentuated by the greater difficulty Generation Y may face in becoming homeowners in contrast to Generation X or their Baby Boom parents. Today, young households are economically stressed compared to older households. Their earnings are lower, and they carry high levels of debt. (See *Chart #6*.) The significant tightening of credit standards and down payment requirements that has resulted from the subprime lending bust, may delay home purchase by Generation Y households. That, in turn, will increase the magnitude and duration of Generation Y's impact on rental housing demand.

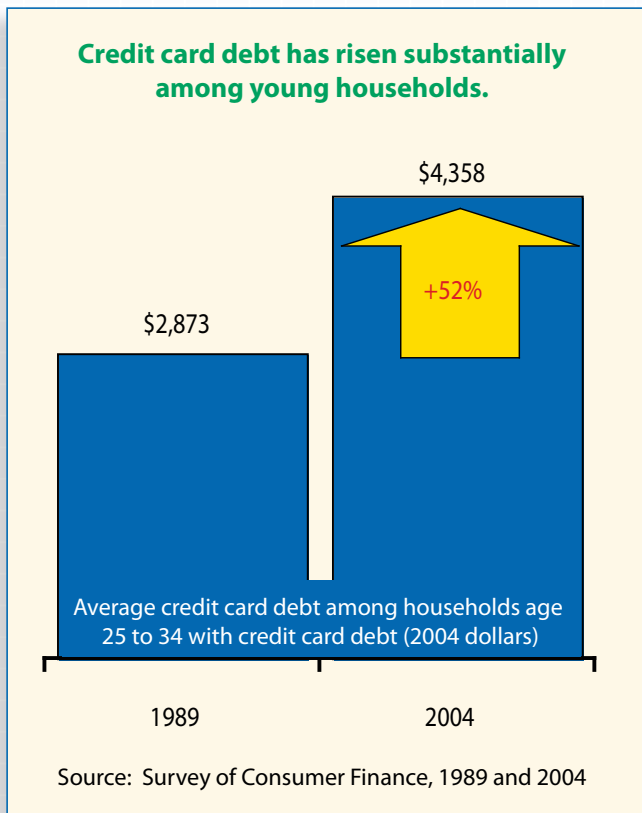


Chart 6

HOUSING AFFORDABILITY WILL BECOME A KEY issue for local communities in attracting

Housing affordability for young workers will challenge local economic development

and retaining an adequate workforce. In the most recent housing cycle, increased housing demand was heavily concentrated among age groups with the highest household income. However, in the coming cycle, the opposite will be true. A far higher share of net household growth, and a large share of the net increase in housing demand, will be among younger and older households whose incomes are less than the overall median. Localities that fail to address the affordable housing needs of young households will see their workforce stagnate as Baby Boomers retire and young workers seek more attractive living environments elsewhere.

For a generation, suburban land use planning has accommodated new household growth through low density large lot zoning. It also has helped pay for the infrastructure costs created by sprawl through significant proffers and other residential development fees. This land development management system was able to function due to the substantial construction of large, high-value, trade-up homes for which demand is now waning.

For the next generation, net household growth will be focused on age groups of more limited means — especially new young households seeking more

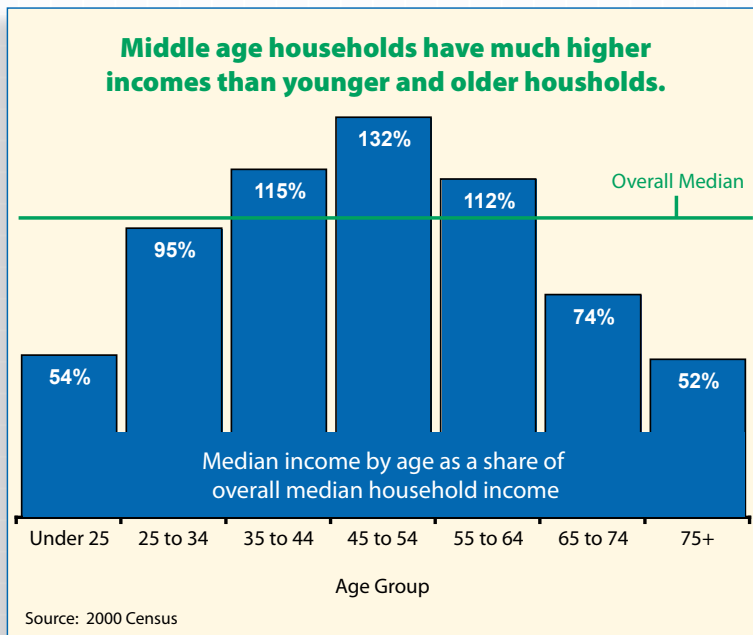


Chart 7

affordable rental and home purchase opportunities. (See Chart #7.)

This transition in housing needs will be made more difficult by the recent run-up in energy costs and shortage of funding for new road-building projects. Traffic congestion and the high cost of commuting are now making distant exurban home construction a poor alternative for young urban and suburban workers seeking housing they can afford.

New local strategies are needed to meet the needs of Generation Y

MEETING THE NEEDS OF GENERATION Y WILL REQUIRE local governments to again focus

on the development of affordable housing opportunities. In particular, metropolitan localities will need to rethink their land use

planning paradigms in order to create new opportunities for higher density housing construction. Likewise, as the net increase in housing demand shifts from middle age to younger households with more limited incomes, local governments must partner with the home building industry to reduce development costs while maintaining the long-term quality of the housing stock and the vitality of local communities. In the near term, the large inventory of foreclosed homes will help make home purchases more affordable in high-cost areas. However, as the housing market begins to recover and prices stabilize, then production of additional new affordable units will be required.

There are positive signs that Generation Y is embracing more urban lifestyles and housing preferences that will support the changes in land development and housing construction required to meet their needs. There is growing public support for more vibrant mixed-income and mixed-use communities that can accommodate a wider array of housing options.

Working together, local governments, community groups and developers can come to consensus on new models of housing development that will enable urban and suburban communities to continue to grow and thrive in the coming cycle of demographic and housing market change.

For more information:

VHDA Main Number	877-VHDA-123
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Español	877-843-2123
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TDD/TTY	804-783-6705 / 888-451-4810
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