

AGENDA

POLICY COMMITTEE

April 25, 2011
7:00 p.m.

JAMES CITY COUNTY GOVERNMENT COMPLEX

Large Conference Room, Building A

1. Roll Call
2. Minutes
 - a) March 16, 2011
 - b) April 13, 2011
3. Old Business
4. New Business
 - a) Traffic Impact Analysis
 - b) Wireless Communications ordinance update
 - c) Administrative Policies discussion
 - d) Urban Development Areas
5. Adjournment

POLICY COMMITTEE MEETING

March 16, 2011

7:00 p.m.

County Complex, Building A

1) Roll Call

Present

Mr. Reese Peck, Chair
Mr. Al Woods
Mr. Jack Fraley
Mr. Tim O'Connor

Staff Present

Mr. Allen Murphy
Ms. Tammy Rosario
Ms. Ellen Cook
Mr. Jason Purse

Mr. Darryl Cook
Ms. Melissa Brown
Ms. Sarah Propst
Mr. Brian Elmore

Mr. Reese Peck called the meeting to order at 7:00 p.m.

2) Minutes –

A. February 9, 2011

Mr. Jack Fraley moved for approval of the minutes.

In a unanimous voice vote, the minutes were approved (4-0).

B. February 23, 2011

Mr. Fraley moved for approval of the minutes.

In a unanimous voice vote, the minutes were approved (4-0).

C. February 24, 2011

Mr. Fraley moved for approval of the minutes.

In a unanimous voice vote, the minutes were approved (4-0).

Mr. Peck moved UDAs to the end of the agenda.

3) New Business

A. Floodplain Overlay Districts Ordinance update

Ms. Sarah Propst stated staff made revisions based on comments from the January 25th Policy Committee meeting. She stated staff defined “substantial,” added language on flood resistant construction methods and materials to Section 24-588, and researched the amount of County land impacted if Stormwater elevation recommendations were implemented. Stormwater staff recommends raising riverine floodplain district building sites 2-feet above the 100-year flood zone and raising tidal

floodplain district building sites 2-feet above the 100-year flood zone, with on-site fill allowed to meet the elevation in tidal floodplain districts.

Mr. Fraley stated he agreed with staff recommendations.

Mr. Darryl Cook stated the ordinance proposal does not address road flooding.

Mr. Al Woods asked if the ordinance could include raised elevation requirements for roads and common areas.

Ms. Propst stated the County would not be able to impact Virginia Department of Transportation (VDOT) practices.

Mr. Allen Murphy stated it was unlikely roads would be extended beyond buildable lots.

Mr. Cook stated the main downside for the proposal would be costs landowners incurred bringing in fill.

Mr. Fraley moved to accept staff recommendations.

In a unanimous voice vote, staff recommendations were approved (4-0).

B. Signs Ordinance Updates

Ms. Melissa Brown stated staff recommends reducing freestanding sign setbacks to the property line if the owner demonstrates the sign does not cause visibility problems. Staff also recommends adding language allowing a maximum of three, 7-foot tall pole-mounted directional signs per property. Finally, staff recommends excluding gas prices from the flashing signs definition for clarification.

Ms. Brown stated that directional signs are intended to be secondary to advertising signage and necessary to locate a business or office that is located off of state primary roads. Currently, there is no limit on the number of directional signs allowed by the ordinance. Currently, Mixed Use districts are the only districts that have specific requirements for multiple directional signs.

Mr. Fraley asked how the Comprehensive Plan's language on sign scale, size, color, and materials complimenting the community character could be translated into the ordinance.

Ms. Brown stated the County cannot regulate sign color unless there is an identifiable impact on health or public safety. She stated the ordinance already regulates size, scale, materials, and lighting.

Mr. Murphy stated the Commission could seek sign proffers during public hearing cases that further limited size and lighting.

Mr. Peck stated he would like a legal memo referencing the case law that prohibits sign color regulation.

Ms. Brown stated the County limits freestanding sign size and numbers to maintain the community character as identified in the Comprehensive Plan. She stated York County allows free-standing signs up

to 50 square feet. The County's 32 square-foot freestanding sign maximum can be increased to 60-square feet by increasing the distance of the sign from the right-of-way.

Mr. Fraley asked Ms. Brown to use Courthouse Commons as a case study.

Ms. Brown stated there are two potential issues with the Courthouse Commons signage. She stated the allowed 32-square foot sign has been split onto two brick monuments. The ordinance only permits one freestanding sign per right-of-way. Also, the signs have been placed in VDOT's right-of-way, which extend into the lot more than usual. The County zoning ordinance has no control of state maintained right of way.

Mr. Fraley stated it seemed less intrusive to place two brick monuments rather than a single free-standing sign.

Mr. Murphy stated the ordinance already allowed residential neighborhood signs to split the 32-foot maximum.

Mr. Fraley stated there should be additional flexibility in the sign ordinance.

Mr. Woods stated some communities are disasters due to the sign issue getting away from people.

Mr. Murphy stated the sign ordinance was the most important ordinance for preserving community character. He stated there is a long lasting impact from signs, with many nonconforming signs still across the County. The Comprehensive Plan and legislative decisions can promote sign policies that protect the character of the community and provide visibility for business owners.

Mr. Peck stated he was optimistic colors could be regulated. He stated the Commission should have the authority to regulate that type of issue unless specifically prohibited by law or court decision.

The Committee had a general discussion regarding James City versus York regulations.

C. Urban Development Areas (UDAs)

Ms. Cook stated staff believes several Comprehensive Plan mixed use areas meet UDA requirements. She stated staff believes mixed use areas are a better fit than using the Primary Service Area (PSA) to comply with the law. The state UDA code is still being amended on a regular basis.

Mr. Peck stated UDAs are targeted growth nodules within a jurisdiction. He stated the County's Land Use section does not embody the UDA concept. The County should review the entire UDA process before saying it is in compliance. In the target growth areas, the County should review pedestrian friendly road design, interconnection, mixed use neighborhoods, mixed housing, affordable housing, financial incentives including grants, regional coordination, preserving rural lands through development rights transfer, and timelines for compliance. The planning process should educate and involve the public about UDAs and their placement.

Mr. Peck stated the UDA is more than a designation. He stated the County should avoid trying to fit a square peg into a round whole. More public input is needed on the increased density requirements.

Mr. Jason Purse stated the County already incorporated higher density mixed use areas before being required to do so by legislation. He stated much of the UDA legislation language is already in the Comprehensive Plan. Staff identified areas in the County with the infrastructure or capacity for infrastructure to help keep the community at a manageable scale.

Mr. Peck stated the UDA regulators will want to see the County's water and infrastructure policies. He stated the PSA is too large to accommodate 20 years of growth designated by the UDA rules. The amount of land locked into large master plan development also increases the difficulty in complying with the UDA.

Mr. Peck asked why the County preferred to self-certify UDA designations, rather than take them through the planning process. He stated the UDA should be reviewed during the regional Comprehensive Plan update.

Mr. Murphy stated that the strategic update with York and Williamsburg would not equal a full reexamination of the Comprehensive Plan.

Mr. Fraley stated the proposed UDAs should be identified in a more strategic, comprehensive manner. He stated New Town, the Richmond Road Lightfoot to Croaker corridor, and Stonehouse should serve as the UDAs, rather than selection of mixed use areas proposed. The Five Forks Character Study is inconsistent with the UDA regulations. The public and the Commission should both be better educated about UDAs.

Ms. Tammy Rosario stated the UDAs were discussed at Steering Committee public meetings as part of the 2009 Comprehensive Plan update. The County has a history of thoughtful deliberation and action on growth management. Given that the UDA legislation, mixed use densities, mixed use development standards, and growth management were discussed during the recent Comprehensive Plan process, which contained significant public input opportunities, and that no densities were proposed to be increased through certification and designation of areas as UDAs, staff did not believe a large public input process was necessary.

Mr. Peck stated there has been fallout from competing and not coordinating growth with neighboring localities. He stated other counties are holding public forums to discuss UDAs. With the UDA rules finally in effect and with two years to comply with the regulation, the County should lead a lengthy public discussion on the issue.

Mr. Murphy stated UDAs as proposed in the staff memo would not cause any changes in zoning or Comprehensive Plan designations.

Mr. Fraley stated he thought the mixed use ordinance would have to be rewritten. He cited some UDA legislation language regarding street connectivity, pedestrian friendly streets, mixed housing types, affordable housing, and reduction of side and rear yard setbacks.

Mr. Peck asked if the County land use map would be updated to include the UDAs.

Mr. Murphy stated the UDA certification could be done by Board resolution.

Mr. Fraley stated the legislation required an updated map.

Mr. Woods stated he would like the entire Commission to discuss UDAs before making any decisions.

Mr. Fraley stated the Commission should discuss UDAs at public work session.

Mr. Peck stated he would like for the Commission to agree upon a formal recommendation to present to the Board.

Ms. Cook noted that York County has already self-certified its own mixed use areas as in compliance.

Ms. Rosario stated staff has taken into account, as part of the feasibility study, accommodating mixed use as a Transfer of Development Rights (TDR) receiving area if the County approves the TDR program.

Mr. Peck stated there is no County document discussing how capital improvements will be directed towards UDAs.

Ms. Rosario stated projects within the PSA are given capital improvement program priority.

Mr. Fraley asked Committee members to email available meeting dates for a Commission work session after April 8th.

Mr. Murphy stated the PSA was too large to serve as the UDA. He stated UDAs suggest a minimum four units per acre, while most of the PSA is low density residential, which would create a large change in how the County expects that land to be developed.

4) Adjournment

Mr. Fraley moved to adjourn.

The meeting was adjourned at 9:02 p.m.

Reese Peck, Chair of the Policy Committee

POLICY COMMITTEE MEETING

April 13, 2011

7:00 p.m.

County Complex, Building A

1) Roll Call

Present

Mr. Reese Peck, Chair
Mr. Al Woods
Mr. Jack Fraley
Mr. Tim O'Connor

Staff Present

Mr. Allen Murphy
Mr. Tammy Rosario
Mr. Jason Purse

Mr. Reese Peck called the meeting to order at 7:00 p.m.

2) New Business – Economic Opportunity draft ordinance

Mr. Jason Purse stated the first section of the Economic Opportunity (EO) draft ordinance includes submittal requirements for the master plan. Staff recommends leaving construction phasing language out of the ordinance and including it in as an administrative policy instead. A policy would provide more flexibility than the ordinance for the Board during rezoning applications.

Mr. Jack Fraley stated there are legal differences between the ordinance and policies. He stated the power is in the ordinance. Everything should be clear, predictable, and in the ordinance. The ordinance could be written to allow additional adaptability.

Mr. Peck stated he preferred language allowing flexibility to be written into the ordinance, to make standards and criteria for deviation as clear as possible.

Mr. Purse stated that due to the scope and length of development of the EO zone, a policy would allow staff to better monitor projects as they arrive individually.

Mr. Fraley suggested the referencing the policy in the ordinance, to give it additional weight.

Mr. Purse stated that could be done. He stated staff would feel most comfortable if the ordinance was very specific, with little flexibility. An administrative policy would not set requirements in stone and would allow evaluation of specific projects.

Mr. Allen Murphy stated it was important for the Board to retain flexibility for construction phasing and for choosing between varieties of projects.

Mr. Purse stated the Board has been supportive of construction phasing to avoid an all-residential development. He stated staff will review waiver criteria language.

Mr. Peck stated that if there are not clear standards for deviation, applicants will not have a clear understanding of County requirements.

Mr. Fraley stated in Section 1 of document requirements, at the end of the first paragraph, is language protecting landowners choosing not to participate in EO and gives them the rights to retain or rezone their property.

Mr. Purse stated in Section 1(7)(A) required documents, it references ordinance Section 24-23 to make clear to applicants they must still submit all normally required submittal documents in addition to EO-specific materials.

Mr. Fraley asked staff to think about illustrations for viewshed protection in the ordinance. He stated illustrations may not work, but the viewshed protection language is general in nature.

Mr. Purse stated that it may be difficult to represent the variety of scenarios that might be possible in selected illustrations.

Ms. Tammy Rosario stated the ordinance may be able to show past viewshed examples.

Mr. Purse stated the amount of retail uses in the permitted uses section has caused some community concern. He suggested moving the density section to the top of the use list. The density section language states only 15% of the total EO area can be dedicated to non-primary work place uses, including hotels, retail, convenience and service uses.

Mr. Peck stated the definition of developable area was inconsistent with the Urban Development Area (UDA) language on calculating densities. He stated the County cannot comply with the UDA density requirements unless it uses the UDA's density definition.

Mr. Purse stated that during a meeting with Mr. Fraley and members of the J4C community group, discussion had included consideration of a retail cap to go along with a residential one.

Mr. Purse stated staff initially proposed tiered densities based on transit availability, and adjusted the structure based on the Board's preference for lower densities, possibly tied to a Transfer of Development Rights (TDR) program.

Mr. Fraley asked staff to clarify the table on page 8, section 1.

Mr. Murphy stated staff would review the table.

Mr. Fraley stated the open space definition described open space as not less than 10% of the developable area of the site. He asked everyone to think about that percentage.

Mr. Purse stated the open space is specifically for the residential core area, not the primary industrial areas.

Mr. Peck stated he would like a review of York County's EO ordinance to avoid conflicts along County borders as the EO zones develop. He stated the County should communicate with York in the development of these areas.

Mr. Purse stated the EO ordinance must provide for zones anywhere in the County, not solely the Hill Pleasant Farm area. He stated the regional master plan is included in Section 1 of the ordinance.

Mr. Peck stated the time before EO development, the slow economy, and the surplus of space presents a rare opportunity to discuss EO visions with York.

Mr. Murphy stated the regional planning effort will be a test of whether there will be cooperation in the Lightfoot area.

Mr. Purse stated the suggestions from tonight's meeting will be presented at a June Board work session. Based on feedback from that meeting, staff will present a final draft to the Committee around late summer.

Mr. Fraley stated the ordinance could do a better job with open space requirements, instead of varied or no requirements in different parts of the zone.

Mr. Al Woods stated he shared Mr. Fraley's concern. He stated open space exists in the industrial areas although it may not be specifically defined as open space.

Mr. Purse stated other County industrial areas, including M-1 and M-2 zoning, do not have open space requirements, although it exists through parking and resource protection areas (RPA).

Mr. Woods asked about a unique industrial use, such as a 20,000 square foot industrial building with two employees.

Ms. Rosario stated the new parking revisions would more readily allow a parking requirement reduction in that type of situation.

Mr. Woods stated that problem would create legacy issues.

Mr. Fraley stated he wanted to further research successful EO areas, such as those in New Jersey. He stated he would like more required open space than the 10% in the residential core.

Mr. Purse stated ordinance allows a 60-foot height limit, with criteria for waivers approved by the Board. He stated one of the waiver criteria is a recommendation from Economic Development director stating the project's economic value. The waiver can allow structures of up to 100 feet.

Mr. Peck stated the economic development director is a discretionary position. He stated he would prefer giving that ability to the county administrator.

Mr. Rich Costello, AES, stated if there is a residential cap, there needs to be high-density residential allowed in the EO. He stated the ordinance appeared to be set up for verticality and there should be a density floor and ceiling.

Mr. Fraley asked staff to consider minimum-maximum densities.

Mr. Purse stated the buffer from EO is 25 feet, unless adjacent to a community character area or A-1 or R-8 zoning, in which case the buffer is 100 feet.

Mr. Fraley stated the perimeter buffer language needs to be clarified, including language considering community character corridors.

Mr. Murphy stated the small EO perimeter buffer was intended to help make the area as flexible and as marketable as possible.

Mr. Fraley stated the 25-foot buffer was inconsistent with the ordinance language for the EO to exist in harmony with surrounding areas and protecting the community character corridor. He stated he was comfortable with a 50-foot buffer.

Mr. Tim O'Connor stated he was comfortable with the 50-foot buffer. He stated the viewshed provision should be removed from the ordinance because it creates an expectation it will protect adjoining properties' views.

Mr. Peck stated that instead of viewshed language, there could be language requiring landscape buffering within the perimeter buffer. He stated the Committee was comfortable with the 25-foot perimeter buffer and striking Section 6 on viewsheds.

The Policy Committee discussed the list of permitted, specially permitted, and accessory commercial uses.

Mr. Fraley stated the manufacture of previously prepared products should be permitted up to 40,000 square feet. He stated he would not have helped Rampart Packaging locate in the County if he had to go through the legislative process. A typical manufacturing plant would be 40,000 square feet.

Mr. Peck asked about the lower 2,000 square foot permitted textile manufacture.

Mr. Costello stated manufacturing previously prepared products is much less intense than manufacturing using raw materials.

Mr. Woods suggested permitting manufacturing up to 30,000 square feet, to make it consistent with Development Review Committee (DRC) review criteria.

Mr. Fraley stated that was fine.

Ms. Rosario stated the next Policy Committee meeting was April 25th at 7 p.m, with additional upcoming meetings on May 5th and May 11th.

Mr. Peck stated he would like to discuss the policy book at the next meeting. He stated he wants to discuss whether the policies should be codified in the ordinance.

3) Adjournment

Mr. Fraley moved to adjourn.

The meeting was adjourned at 9:07 p.m.

Reese Peck, Chair of the Policy Committee

MEMORANDUM

DATE: April 25, 2011
TO: Policy Committee
FROM: Luke Vinciguerra
SUBJECT: Submittal Requirements – Traffic Impact Analysis

I. Traffic Impact Analysis

A Traffic Impact Analysis (TIA) is a study which assesses the effects of a particular development's projected traffic on the transportation network. Submission of a TIA is required by the zoning ordinance during any legislative case that is expected to generate 100 or more weekday peak hour trips or be located on a road with a Level of Service (LOS) "D" or lower.

The ordinance does not currently define or provide any guidance to an applicant regarding the scope of work or expected results of a TIA. To increase predictability, staff recommends the creation of a policy document to define the required elements of a traffic study for legislative cases. Staff's recommendations regarding such a policy and its relationship to VDOT's TIA guidelines are outlined below.

II. Discussion Items

A. VDOT Chapter 527's applicability and proposed TIA policy

1. Description of Issue

- VDOT has adopted detailed guidelines stating how and when to submit a TIA independent of any local requirements. In general, VDOT requires submission of a TIA when a proposal is expected to generate 100 or more *residential* peak hour trips or 250 or more peak hour trips for any other use. This is not entirely consistent with the County's blanket 100 or more peak hour trip requirement. Additionally, the County requires submission of a TIA for proposals located on a road operating at a LOS "D" or lower.
- Chapter 527 guidelines includes scope of work requirements that do not necessarily require analyses often considered useful by staff in evaluating the impacts of a proposed development. More importantly, in many circumstances, Chapter 527 study areas are determined by preset distances from a proposed project. Preset study limits may cause the exclusion of intersections from a traffic study that are germane to a proposed project.
- Historically, the County has been generally supportive of projects that do not degrade surrounding streets and intersections below a LOS "C." Chapter 527 regulations require TIA's include recommended improvements to help mitigate the effects of the proposed development but lack clear thresholds detailing what the recommended improvements accomplish. A 527 compliant TIA's improvement recommendations may not be sufficient to mitigate new traffic generation to the County's satisfaction.

2. History

- As the zoning ordinance does not explicitly define a TIA, the Planning Director has historically determined the minimum scope of work for a proposed project where the applicant, VDOT and County staff agree on a study area. This has been of value as the Planning Director could require a scope of work that is specifically tailored to the road network in the study area (rather than having a specific standard such as analyzing all intersections within 1,000 feet of the project area).
- As stated in the Comprehensive Plan and demonstrated in the ordinance by the LOS "D"

trigger for a TIA, the County generally expects developments to maintain a LOS “C” along surrounding road segments at build out. However, in certain urban corridors the County has accepted traffic movements operating at less than a LOS “C” (i.e. Monticello, Richmond Road).

3. Comprehensive Plan GSAs, Public Input, Sustainability Audit, and PC and BOS Direction

- ED1.5-Continue to analyze County regulations, policies, and procedures to ensure that they do not unnecessarily inhibit commercial and industrial development.
- “Among other issues weighed in previous development proposals, the County is generally supportive of projects that do not degrade surrounding streets and intersections below a LOS “C.” (pg114)

4. Solutions and Policy Options

- Staff does not recommend changing the current zoning ordinance TIA trigger requirements to be consistent with Chapter 527 for the following reasons:
 - a) Developments that produce 100 or more trips as determined by the Institute of Transportation Engineers (ITE) but less than 250 vehicle trips would go through the SUP process without the benefit of a TIA. This would negate the point of having the 100 or more trigger as the County wouldn’t know the full effects of a proposed development; thus, the County would be unable to require conditions to mitigate any negative externalities.
 - b) Raising the commercial trigger to 250 or more peak hour trips may cause the Board to lose the ability to review traffic impacts and recommended improvements in certain cases and ultimately not be able to require a developer to mitigate the impacts of the new development. In the last ten years, three cases triggered legislative review based only on peak hour traffic generation (TGI Fridays – 122vph, Bay Lands Credit Union – 278vph and Chesapeake Bank at Lightfoot – 190vph).

There are many uses which generate less than 250 peak hour trips but more than 100 which can have significant impact on the road system. For example, a typical 2,000 square foot fast food restaurant with drive thru would have a substantial impact on adjoining roadways. Such facilities; however, may only generate 120 peak hour trips. In 1999, the Board reduced the trigger requirement from 150 peak hour trips to 100 trips as it was recognized that uses generating 100 or more peak hour trips can have a significant impact on the roadway network.

- To provide staff with the ability to require higher quality TIAs and provide applicants with clear and predictable submittal requirements, staff proposes a TIA policy document outlining general submittal requirements and expectations. This policy document would identify the following:
 - when a TIA is required
 - minimum expected scope of work
 - additional studies that may be requested by the Planning Director
 - improvements necessary to maintain a LOS “C” on roadways and/or intersections

The policy would be a County supplement to Chapter 527 regulations. Minimum scope of work would be the studies required in Chapter 527. Additional studies requested by the Planning Director could include corridor studies, queuing analyses, accident/safety analysis, an examination of transit etc. Most importantly, the policy would require an analysis of what improvements would be necessary to maintain a LOS “C” along the adjacent road segments.

The policy would require all TIA’s analyze the overall reduction in LOS the proposed

development would have on the adjacent road segments and intersections and clearly identify what road improvements (if any) would be needed to maintain a LOS “C”.

Recommendation

Staff recommends the Policy Committee endorse the concept of County specific TIA guidelines for legislative cases and maintaining the current TIA triggers in the Zoning Ordinance.

III. Conclusion

The ordinance does not define or provide any guidance to an applicant regarding the scope of work or expectations of a TIA. To increase predictability for applicants, staff recommends the creation of a policy document defining a traffic study for legislative cases. Staff recommends the Policy Committee endorse the concept a of policy document detailing the expectations of a TIA for legislative cases as described herein.

MEMORANDUM

DATE: April 25, 2011
TO: Policy Committee
FROM: Luke Vinciguerra, Scott Whyte, Sarah Propst
SUBJECT: Communications Towers Ordinance

I. Communications Towers

Communication tower standards and regulations are found in Sections 24-121 through 24-128 of the Zoning Ordinance, establishing among other items, height restrictions, design standards and submittal requirements. Additionally, there are Performance Standards for Wireless Communication Facilities adopted by the Board in May 1998 that apply to Special Use Permit applications. These standards are the essential component of a Wireless Communications Facilities (WCF) ordinance as they help minimize the visual and aesthetic impact of new towers.

The current WCF ordinance was created in 1998 when wireless communication technology was in its infancy and tower visibility was the predominant regulatory issue. In today's economy, adequate wireless communications capabilities are an essential part of commerce and expected by businesses, residents and visitors alike. Per Board directive, staff was asked to review the existing WCF ordinance to ensure it was up to date and does not exclude any newer forms of wireless technology.

A. Review of a multi-antenna or nontraditional antenna network

Staff has found the ordinance does not exclude newer forms of wireless technology; however, there are instances where clearer standards could be provided for certain unique deployment circumstances such as a multi-antenna network. Newer technologies are often deployed by replacing older antennas. To date, an antenna with a newer technology can easily be switched with an older antenna inside any of the County's numerous slickstick towers. The ordinance does have size limitations for visible antennas; however, neither the consultant nor any industry professional that staff has been in conversation with have had any concerns with these restrictions.

1. Description of Issue

- Should a wireless carrier propose a set of networked antennas (such as DAS) designed to replace (or prevent) the deployment of one or more towers for a geographic location, applicants may feel the ordinance lacks a clear procedure or performance criteria by which the application would be reviewed.

2. History

- Planning staff has yet to review this type of application but is aware of said networks being deployed in cities such as Hilton Head and Savannah. Systems such as DAS are often best suited for metropolitan areas and campus settings.

3. Comprehensive Plan GSAs, public input, Sustainability Audit, and PC and BOS Direction

- The Comprehensive Plan recognizes the need to ensure that the Wireless Communications Ordinance includes provisions for new technology, protects the aesthetics of the County, and encourages coverage throughout the County. GSA CC 7 states that the County should,

“Keep pace with the changes in wireless communication technology to better enable providers to preserve existing community character while providing quality service.” GSA CC 7.1. recommends a way to accomplish this is to “Update the Wireless Communications Division of the Zoning Ordinance to accommodate the use of new and emerging wireless communication services.” Coverage is also considered in PN 5.1. “Facilitate extension or improvement of communications coverage in under-served areas of the county.”

- *Required 400’ residential setback.* Industry representatives have expressed concern that the requirement restricts locations for new towers and limits carriers’ ability to provide service to their customers; specifically, a system like DAS would be difficult or impossible to deploy if a 400 foot setback were maintained for this type of system.

4. Solutions and Policy Options

- Staff recommends a new ordinance section that clarifies the approval process for non-traditional antenna applications. For purposes of this section, nontraditional antenna system means a ‘set of antenna nodes networked with each other and connected to a wireless service source such that one or more high-power antennae on a tower that serve a given area are replaced (or prevented) by a group of lower power antennas to serve the same geographic area.’ From a staff prospective, any antenna (or group of antennas) is approvable as long as setback, size and height restrictions are not breached. This proposed new section would reiterate these standards, state the districts permitted, and list common new(er) networked-antenna technologies that are applicable. Staff foresees the ordinance section containing the following: a) Administrative approval - this could be used if the proposal utilizes existing structures (e.g. building mounted, alternatively mounted) or other *camouflaged support structures* to deploy the proposed antennas. If all the elements of the network are under the height limitations for the district, the plan could be approved administratively by the submission of a single site plan, RF Report and intermodulation study. b) Legislative Approval - should any of the proposed antennas be deployed above the maximum height limit of the district (or not be permitted by-right) an SUP would be required (and subsequent submission of a site plan, RF Study and intermodulation report).

The 400’ residential tower setback requirement would likely not be suitable for this deployment option. For example, should an applicant propose a fake light pole to deploy an antenna as a component of the networked system, staff would likely consider it a ‘tower;’ thus, it would be subject to the 400’ residential setback requirement. For this deployment option only, staff proposes waiving the 400’ residential setback requirement for low *camouflaged support structures* (antenna deployment on a structure that does not look like WCF tower). Note if a support structure is over the maximum height permitted in a district the proposal would require an SUP (See attachment 4).

It is important to note the difference between a tower and an antenna. The majority of citizen concerns expressed are regarding the visibility of a proposed tower. This proposed new section would require support structures to be below the height limits of the district (usually 35’) unless otherwise approved by the Board. This new section of the ordinance should facilitate in the deployment of wireless technologies that do not require large towers.

Should the Board support this option, staff recommends an addition to the WCF Performance Standards Policy to provide staff with an updated policy to review a network of small antennas that requires a SUP.

Recommendation

Staff recommends the Committee endorse a new ordinance section describing the procedure, visibility, height, and setback requirements as shown in attachment 4 for nontraditional antenna systems.

B. Personal Communications

1. Description of Issue

-Staff has researched new technologies that may possibly require antennas on individual homes beyond typical VHF/UHF/AM/FM, and satellite dish antennas. One technology that was identified is what is sometimes termed a 'microcell.' These are essentially amplifiers (antennas) placed in (or on) homes to boost carriers signals. Staff has also found that some internet carriers (though rare) offer service for residents through line of site antennas. Similar to microwave antennas, the individual homes antenna must be pointed and in view of the service providers antenna. The purpose of this exercise was to ensure that home based antennas necessary for these services were permitted under the ordinance. The current ordinance generally permits home antennas as long as they meet the height limitations for the district; staff, the industry, nor the consultant have identified any necessary changes to home based antenna requirements. Staff notes that the large satellite dish antennas popular in '90s are now obsolete and may not need to be permitted in the zoning ordinance.

2. History

- Not applicable to this section

3. Comprehensive Plan GSAs, public input, Sustainability Audit, and PC and BOS Direction

- See Sec. 'A' above

4. Solutions and Policy Options

- No changes to policy recommended

C. Tower setbacks

1. Description of Issue

- The consultant has recommended additional setbacks for towers as stated below to protect viewsheds from communication towers.

2. History

- The current height restrictions for WCF's are the same as building height restrictions in the zoning districts (excluding camouflaged towers).

3. Comprehensive Plan GSAs, public input, Sustainability Audit, and PC and BOS Direction

-Staff received public comment from an organization and an individual representing the wireless industry. Those comments are included with this memorandum as attachment 1 & 2.

4. Solutions and Policy Options

- The Consultant has stated that the typical residential setback for municipalities similar to James City County is 300 feet (such as Hanover County). Staff does not recommend further modification to the residential setback policy (except to what was discussed in section A). Additionally, the consultant recommends *the residential setback requirement apply to occupied schools and day care centers*. Staff is supportive of this provision.

- The following are new Consultant recommended setbacks:

- (a) *All tower structures shall be a minimum of 1000' from a designated scenic By-Way as determined by the Virginia Department of Transportation.*
- (b) *All towers shall be located from a designated wetlands area a minimum of the height of the structure.*

- (c) *Any property listed on the county, state or federal register as a “historic” property, the tower/WCF shall be camouflaged and shall be setback approximately 300’ from any building structure.*

The three scenic By-Ways in James City County are the Colonial Parkway, Greensprings Road and Route 5. Staff supports the concept of keeping towers out of scenic view sheds; however, should the 1,000 foot restriction proposed by the consultant in (a) be adopted, the Constance Avenue tower (JCC case No. SUP-26-2009) may not have been approved due to its proximity to the Colonial Parkway. The Treasure Island tower (JCC case No. SUP-19-09) is over 2,000 feet from the Parkway and the Ingram Road tower (JCC case No. SUP-28-09) is roughly 500 feet away from Route 5. Staff finds a more feasible setback to be 400’ for any tower higher than the by-right height limitations in a district from any scenic By-Way. Staff finds item (b) unnecessary because of the County’s stringent RPA policies, and is supportive of provision (c).

Recommendation

- Staff recommends the Policy Committee endorse item (c) and a proposed 400’ tower setback policy for towers exceeding the by-right height limitations along scenic By-Ways to protect viewsheds.

D. Planning Director Camouflaged Determination

1. Description of Issue

- The zoning ordinance currently authorizes the Planning Director to permit towers up to 120’ by-right if it is determined to be camouflaged. The camouflaged definition presents three options as follows:

“Camouflaged structure. Any WCF disguised or hidden so that all of its components are unnoticeable to the casual observer, or otherwise not have the appearance of an antenna or tower, and which meets at least one of the following (1) the structure has the appearance, scale and height of other structures that are generally permitted in the district in which it is to be located; (2) the structure has the appearance of vegetation native to eastern Virginia; or (3) the structure is completely surrounded by a minimum of a 100-foot, undisturbed buffer of mature trees, or a buffer consisting of other elements such as evergreen trees, other structures or topography that provide at least the equivalent visual effect of a 100-foot undisturbed buffer of mature deciduous trees, that in combination with the design and color of the structure, renders the structure unnoticeable to the casual observer.”

Within the WCF ordinance, there are additional requirements that apply in instances where the buffer is being provided to camouflage the WCF, and in instances where the WCF is intended to have the appearance of vegetation native to eastern Virginia. The consultant offered recommendations that could help clarify this authority and provide additional options to reduce visibility.

2. History

- The camouflaged provision has only been used ½ dozen times in the past ten years, and has stringent visibility and buffering criterion.

3. Comprehensive Plan GSAs, public input, Sustainability Audit, and PC and BOS Direction

- Noted above

4. Solutions and Policy Options

- The Consultant recommends the addition of the following provisions to the camouflaged facilities section of the ordinance:

- (a) For applications using camouflaged option 2 (appearance of vegetation native to eastern Virginia), the consultant recommends that an additional provision be added that the tower shall be no more than 10' above the surrounding tree line.
- (b) For applications using camouflaged option 1 (appearance of other structures generally permitted in the district), the consultant recommends that a "Design Ratio to Proportion" provision be added for the height as follows:
 - *2:1 Ratio: Any camouflaged WCF should be no taller than twice or two (2) times the permitted height Above Ground Level of an existing adjacent structure up to 70 feet.*

Staff finds item (a) too restrictive and could reduce the Planning Directors ability to approve camouflaged towers. However, staff does recommend language stating that camouflaged towers utilizing option 2 have similar appearance, scale and height of surrounding vegetation. Regarding item (b) the Planning Director could administratively approve an application up to 70' for camouflaged applications where towers are hidden to look like a location appropriate structure (see attachment 3). This is an example where a communication tower is made to look like a silo next to an existing silo. The current ordinance may permit a tower disguised as a silo already; however, the inclusion of this language would require another proportional object (such as a real silo) to be in the vicinity so the proposed camouflaged tower doesn't appear out of scale. Note that this requirement doesn't require a tower to be camouflaged as a silo, a silo is only an example.

- (c) For all camouflaged applications, the consultant recommends that a provision be added regarding professional design requirements:
 - i. *All camouflaged WCF's shall include a detailed Landscaping Plan and Profile Views encompassing native tree buffer, native vegetation, Correct Ratio to Proportion of existing tree buffers or structures, and artistic view of the proposed facility in profile.*
 - ii. *Landscape Architect shall be professionally licensed in the Commonwealth of Virginia and shall have experience in historic design.*

Requiring a landscape architect to produce renderings of a proposal would ensure that a trained designer produces any documentation. This would help ensure that any example renderings produced by an applicant look nearly identical to the tower after it is constructed.

Recommendation

- Staff recommends the Policy Committee endorse the aforementioned policy options as stated above.

E. Other Potential options for the WCF Ordinance

1. Description of Issue

Staff and the consultant have researched ordinances from other localities and have found provisions that appear applicable for James City County. Below are noteworthy concepts the County may want to address in the WCF Ordinance update.

2. History

- Not applicable to this section

3. Comprehensive Plan GSAs, public input, Sustainability Audit, and PC and BOS Direction

-See Sec 'A' above

4. Solutions and Policy Options

- Staff has noted in other WCF ordinances provisions for “Carrier on Wheels” or “Cell on Wheels” (COWs). These are portable self contained cell sites that can be moved to a location and set up to provide personal wireless services on a temporary basis. A COW is normally vehicle mounted and contains a telescoping boom as the Antenna support structure and its use is only temporary. Staff is considering language regulating the time in which a COW can be used during an event, detailing where they can be placed and requiring them to be bonded.
- Some zoning ordinances have a minimum number of antenna positions that must be on a tower based on its height. Staff is supportive of this concept
- Some ordinances have minimum standards for propagation coverage maps. Currently staff requests the applicant provide maps showing current and proposed coverage; however, there aren't any clear standards. Staff is supportive of adopting minimum standards for propagation maps.
- The consultant has recommended cumulative RF Reports. These are reports that take into account emissions from the proposed antennas and antennas already existing on a tower. Staff is supportive of this concept.
- A common by-right height for WCF towers is 80.' The consultant noted that the County's by-right height limitations for towers is low and often unusable to the industry. Staff is unaware of any complaints from the industry regarding the current by-right tower height limits. Staff finds the County's opportunities for co-location, building mounted, alternatively mounted antennas and predictable SUP process adequate; raising the by-right tower height limits appears to be unnecessary. Higher by-right tower limits could result in unsightly towers that neither staff nor the Board could regulate.

F. Future of WCF's

1. Description of Issue

The consultant believes that in the future neighborhoods will need their own communication tower as providers have discovered that wireless service is significantly cheaper than underground cables. Media (and possibly even electricity) could be transmitted from each neighborhoods antenna to individual small antennas on every home.

2. History

- Not applicable to this section

3. Comprehensive Plan GSAs, public input, Sustainability Audit, and PC and BOS Direction

- See Sec 'A' above

4. Solutions and Policy Options

- As this is theoretical only, staff has not recommended any ordinance changes based on this prediction.

II. Conclusion

Staff requests the Policy Committee provide input on the policy options stated above.

Attachments:

1. Planning Commission forum comments from Steven Romine
2. Comments from David Neiman on behalf of J4C
3. Example of 2:1 ratio
4. Table of Proposed Non-traditional antenna network requirements

Planning Commission Forum
Zoning/Subdivision Ordinance Update
August 24, 2010

[Prepared comments made by Stephen R. Romine of LeClairRyan on behalf of Verizon Wireless]

As you know, Verizon Wireless is a FCC licensed wireless telecommunications carrier. It provides a vital service to the citizens of James City County and is a well regarded corporate citizen.

1. Verizon has been actively engaged in the recent Comprehensive Plan review and adoption process.
2. Verizon understands the desire to review existing County ordinances and to evaluate changes that may be incorporated.
3. Verizon is interested in providing the industry perspective to the process as the Wireless Communication Facilities Ordinance is examined. I believe everyone is aware of the significant benefits a robust communications network will have for County businesses and citizens.
4. Verizon is familiar with the current ordinance and intends to have constructive suggestions on improvements as the County undertakes this study.
5. We look forward to working with the staff and Planning Commission and being an active participant in the process. We trust the end result will encourage and promote the enhancement of wireless services to the citizens and businesses of James City County.

My name is David Neiman and I live at 105 Broomfield Circle in James City County.

I'm representing the James City County Citizens' Coalition and we appreciate the opportunity to speak at this forum .

J4C believes that our wireless ordinance is well written and we support efforts to improve cell phone service in our county. However, we would like to see some changes in the ordinance to lessen the negative impact that some of these efforts may inadvertently have on county residents.

First, J4C understands the desire of carriers to extend their "by right" authority to initiatives such as the placement of wireless antennas hidden in chimneys and atop existing structures. However, we very strongly disagree that carriers should be able to build towers up to 120 feet 'by-right" in residential districts once these towers are deemed to be camouflaged by the planning director.

This is our major objection to the current wireless ordinance.

This objection is not intended to reflect negatively on our planning director. The "by right" authority for the construction of camouflaged towers can and will have a very large impact on many county citizens. This can readily be seen by the number of times it has been raised before various county bodies. The current "by right" authority for camouflaged towers in residential districts is too permissive and does not require the degree of public scrutiny that such a structures clearly warrant.

Camouflaged towers 120 feet high in residential neighborhoods aren't in the same category as antennas hidden in chimneys or installed on existing building. All applications for the construction of camouflaged towers in residential areas should be submitted under the SUP process and not permitted "by right". The SUP process will elicit greater justification from the carriers and provide for

legislative review with greater involvement of the public. Unlike many of the areas where the carriers understandably want increased “by right” authority, the controversial nature of camouflaged towers in residential areas and the large number of citizens affected by them make a very strong case in this instance for replacing “by right” authority with the SUP process

Next, J4C believes that areas zoned R-4 be should be included with residential zones R1, R2, R5 and R6 where tower mounted WCF’s higher than 120 feet are prohibited.

We believe that the rationale that resulted in the 2005 ordinance changes separating R-4 districts from these other residential areas and permitting the construction in r-4 districts of tower mounted WCF’s up to 120 feet under SUP’s was essentially flawed. R4 areas like Governor’s Land, Ford’s Colony, Greensprings and Kingsmill do have extensive open space. However, this space is generally not sufficient to accommodate tower mounted WCF’s over 120’ without having a significant impact of residents’ view shed. This is in part because while golf courses provide much of the open space, homes are routinely located along most fairways and maintenance areas, while buffered, are frequently located near homes.

We submit that the broadly based negative reaction to the proposal to build a 180 foot tower in Kingsmill several years ago is typical of residents’ reaction that would undoubtedly result from any proposal to build tower mounted WCF over 120 in any R4 zoned area. Our ordinance should be changed to prohibit the construction of tower mounted WCF’s up to 120 feet high in R-4 Districts.

Third, J4C believes that the setback for towers in residentially zoned districts should be increased from 400 to 1000 feet.

If you compare the reduced impact of the Greensprings tower which is approximately 1300 feet from the nearest residence with the impact of the proposed Kingsmill towers that would be approximately 400 feet from the nearest residence, it is clear that a significantly greater setback distance is desirable in residential districts. When you see a cell phone tower every time you walk out of your front door, look out your living room window or sit on your deck, four hundred feet is a very short distance.

J4C has several recommendations for changes to the Processing and Submittal Requirements section of our current ordinance

We think that applicants at pre-application meetings should be required to address pertinent alternative technologies, as well as pertinent changes in the capabilities of their networks, when applying to construct new towers. These are dynamic areas that could effect the need for new facilities and its scope. Carriers should be required to address their implications, if any, when they make application for new WCF's in the county.

J4C realizes that the issue of health implications of the electromagnetic radiation from cell towers is unresolved . However, we think that in addition to a statement from a certified engineer on the amount of electromagnetic radiation that will be emitted from a WCF, actual radiation from a facility should be

monitored after six months of operation and yearly thereafter to ensure compliance with FCC standards.

As the last Sec 24-128 item, we believe that all the technical evidence from tower applicants should not only be provided to the planning division in writing but that it should be evaluated where appropriate with the help of independent telecommunications consultants. Much of the information provided by WCF applicants is highly technical and in many areas such as propagation patterns it is generated by the applicants themselves. Most other counties in Virginia have arrangements with outside consultants to help in the evaluation of wireless issues applications for WCF's. J4C contends that there needs to be more technical expertise on the county side of the table when our planners deal with these issues and that our ordinance should be changed to appropriately.

Next-balloon tests. We think that they are a good tool but that they could be improved. Specifically, we think that adjacent property owners should be advised individually two weeks before a scheduled test in writing or via the internet. Notices in the local paper are just too easy to miss. Secondly, a balloon test should not be accepted unless the balloon is located vertically above the proposed tower base and at the proposed tower height. Otherwise photos fail to show the true visual impact of the proposed tower and can be misleading to county residents.

Our last proposed change is a bit broad. We don't understand the reason Performance Standards for WCF's separate from the county wireless ordinance. The Performance Standards contains good information, but the document was

adopted over twelve years ago in 1998. Moreover, it's confusing when you try to read it and our wireless ordinance. We believe that the many good points contained in the Performance Standards could be retained and the confusion reduced, if it were incorporated into the county wireless ordinance as part of the current revision

Most of the points that I've addressed are covered in the written input that J4C provided to the Board of Supervisors and the Planning staff. If there are any questions we would be happy to answer them.

Finally, we'd like to make a plea for the county Wireless Communications Master Plan. We think that the long term view provided by such a plan would be very valuable and we would welcome the opportunity to participate, along with other interested parties, to help reflect the citizens' perspective.

From J4C, thank you again for the opportunity to speak.



**Example of 2:1 ratio of WCF to look like a silo matching existing silo on farm.
Spotsylvania County, Virginia: Wilderness Battlefield -NPS**

Attachment 3

Attachment 4: Multi-Antenna or Non Traditional Antenna Network

Districts Permitted		
Zoning District	By Right (max antenna mounting height)	S.U.P. Required (max antenna mounting height)
General Agriculture, A-1	<34'	>35 feet
Rural Residential, R-8	< 34'	>35 feet
R-1, R-2, R-4 R-5, R-6, MU,PUD	Not Permitted	All applications
Limited Business, LB	Not Permitted	All applications
General Business, B-1	< 59'	>60 feet
Industrial (M-1, M-2, M-3)	< 59'	>60 feet

General requirements:

- To the greatest extent possible antennas, should be mounted on structures not associated with the wireless communications faculty.
- Antennas shall be limited to the height limitation of the underlying zoning districts unless otherwise approved by the Board of Supervisors (SUP)
- Panel and parabolic dish antennas shall be screened or camouflaged from views from residentially zoned areas and public rights-of-way in a manner that is architecturally compatible with the building in which they are located.
- All panel or dish antennas shall be no more than 5' measured to the outermost point of the antenna from any surface of the mounting structure at the point of attachment.
- Equipment enclosures shall be camouflaged or screened from view by landscaping, wall or fence.

Camouflaged Antenna Support Structures. These are structures whose primary function is to deploy an antenna.

- Shall meet the setbacks of the zoning district
- Shall be camouflaged to appear as a naturally occurring tree or other typical feature such as a light/telephone pole.
- Panel or parabolic antennas shall be screened from view from all right-of-way and residential areas.

MEMORANDUM

DATE: April 25, 2011

TO: Policy Committee

FROM: Leanne Reidenbach, Senior Planner

SUBJECT: Administrative policy and procedures manual

As requested by the Policy Committee at its meeting on April 13, 2011, staff has reviewed the administrative policy and procedures manual that is given to new Planning Commissioners and received feedback from the Deputy County Attorney (Attachment 1). The list of materials provided to the Planning Commission in the policy and procedures manual has been revised to reflect only those policies and guidelines that are (1) adopted by the Board of Supervisors, (2) adopted by the Planning Commission, or (3) recommended by the Policy Committee and endorsed by the Planning Commission. The table of contents (Attachment 2) reflects these changes through a revised organization. Documents that are for staff purposes only (such as procedures for dealing with churches and small developers) and plans/materials that are large and either available on the web site or provided elsewhere in new Planning Commissioner training materials (such as the Greenway Master Plan and adopted watershed management plans) have also been eliminated from the manual.

The majority of these policies and procedures are currently available on the Planning Divisions webpage at <http://www.jccegov.com/planning/policy.html>. In the coming weeks, staff will be making sure that the policies provided to the Planning Commission in the manual are all available on the County webpage.

Attachment 1:

E-mail text from Adam Kinsman, Deputy County Attorney, regarding the difference between policies and ordinances

Recently, Jack asked me to give a general outline of the differences between an ordinances and policies. I note that this is informational only and is given without the benefit of any context in which to place the information.

Ordinances are adopted by the Board of Supervisors pursuant to the authority granted by the General Assembly and set forth in the Virginia Code. Ordinances are adopted and changed only after a meeting and vote by the Board of Supervisors. If there is a conflict between an Ordinance and policy document, the Ordinance will control.

Policy documents may be adopted by the Board, the Commission, staff, or any other committee or group. When a policy affects the entire County operation, it is generally prepared by the County Administrator and is known as an "Administrative Regulation." A copy of Administrative Regulation No. 51 is attached. The authority to adopt policy documents may be explicitly or implicitly found in many places, including the Virginia Code, the County Charter, the County Code, Board ordinance, etc. Policies are most often adopted to encourage consistent treatment of a regularly-encountered set of facts (see, for example, the attached AR on parking restrictions). Policy documents are generally more detailed than Ordinances. Policy documents are also more easily changed; policy adopted by the Board may be changed by the Board at its discretion. Policy developed by the Commission, staff, or other committees may be changed without Board action, though the Board in its discretion may direct that any non-Board policy be changed. The County Charter also gives the County Administrator the authority to change staff-created policy.

Whether a policy or an ordinance (or both) is preferable depends upon the given set of facts. Consider the Board-adopted proffer policy. There is no explicit authority in the Virginia Code to adopt an ordinance setting what impacts a developer must mitigate when requesting a rezoning of his or her property. The Virginia Code does, however, direct the Board to consider the impacts created by a proposed rezoning. In response, the Board has adopted a policy which states that if school impacts are to be offset, a certain amount of dollars should be proffered depending upon the proposed type of residential unit. Of course, if the developer does not proffer the amount set forth in the policy, this does not render his application void or automatically denied; rather, the Board may consider the fact that the proffers to not meet the policy as one of the factors when it makes its decision. Contrast this with a developer who does not meet the requirements of the zoning ordinance: the application must be denied (or a waiver to the ordinance must be granted).

Another more recent example is affordable housing. The Virginia Code allows localities to adopt affordable housing ordinances. If the Board adopted such an ordinance, then developers are required to provide affordable housing in the manner set forth in the ordinance. An alternative to an affordable housing ordinance is an affordable housing policy. In this case, the Board could adopt a policy for affordable housing, much like the Board's proffer policy. This would apply to legislative cases (whereas an ordinance could apply to all cases) and would be a statement of the Board's desire to see the inclusion of affordable housing in an application.

I hope that you find this broad, general discussion of policies and ordinances helpful. Should you have a question based upon a particular set of facts, please do not hesitate to contact me.

Adam

**PLANNING COMMISSIONER
ADMINISTRATIVE POLICY AND PROCEDURES**

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